United States Department of the Interior
Bureau of Land Management
Office of Law Enforcement and Security

Principal Criminal Laws & Regulations Enforced by BLM

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TABLE OF CONTENTS

CHAPTER I - LAW ENFORCEMENT AUTHORITY 7
Federal Land Policy and Management Act of 1976 7
Taylor Grazing Act of 1934 9
Wild Free-Roaming Horse and Burro Act of 1971 9
Sikes Act of 1974 10
Land and Water Conservation Fund Act of 1964 10
Federal Land Recreation Enhancement Act, December 8, 2004 11
Oath & Affirmations, Act of October 14, 1940 11
Federal Law Enforcement Officers' Good Samaritan Act of 1998 (P.L. 105-277) . 12
CHAPTER II - PENALTIES 13
Federal Land Policy and Management Act of 1976 13
Wild Free-Roaming Horse and Burro Act of 1971 14
Sikes Act of 1974 14
Land and Water Conservation Fund Act of 1964 14
Federal Land Recreation Enhancement Act, December 8, 2004 15
National Trails Act of 1968 15
Wild and Scenic Rivers Act of 1968 15
Taylor Grazing Act of 1934 16
Sentencing Reform Act, Oct. 12, 1984 16
CHAPTER III - PROTECTION OF PROPERTY, PERSONS, AND EMPLOYEES 19
Assaulting, resisting, or impeding certain officers or employees, Act of June 25, 1948 19
Protection of officers and employees of the United States, Act of June 25, 1948 . 19
Conspiracy to commit offense or to defraud United States, Act of June 25, 1948 19
Conspiracy to impede or injure officer, Act of June 25, 1948 20
Public money, property or records, Act of June 25, 1948 20
Employee of United States converting property of another, June 25, 1948 20
Possession of firearms and dangerous weapons in Federal facilities, Act of November 29, 1990 21
False statements or entries generally, Act of June 25, 1948 22
Government property or contracts, Act of June 25, 1948 22
Obstruction of criminal investigations, Act of Nov. 3, 1967 23
Survey marks destroyed or removed, Act of Mar. 4, 1909 24
Surveys interrupted, Act of Mar. 4, 1909 24
Bids at land sales, Act of Mar. 4, 1909 24
Deception of prospective purchasers, Act of Feb. 23, 1917 25
Hazardous or injurious devices on Federal lands, Act of Nov. 18, 1988 25
Unlawful Inclosures of Public Land, Act of 1885 27

43 CFR 8365 Public Health, Safety, and Comfort 27
CHAPTER IV - WILD HORSES AND BURROS 29
Wild Free-Roaming Horse and Burro Act, December 15, 1971 29
Wild Horse Annie Act of September 8, 1959 30
43 CFR 4700 - Protection, Management, and Control of Wild Free-roaming Horses and Burros 30
CHAPTER V. - OIL AND GAS RESOURCES 33
Federal Land Policy and Management Act, 1976 33
Federal Oil and Gas Royalty Management Act, 1982 33
43 CFR 3192 Cooperative Agreements 35
CHAPTER VI - MINERALS, MINING USE, AND OCCUPANCY 37
Federal Land Policy and Management Act of 1976 37
Mining Law of 1872 37
Surface Management Act of 1955 37
Mineral Leasing Act Amendments of 1987 37
Coal depredations - Act of July 3, 1926 39
30 USC 611 - Common varieties of sand, stone, gravel, pumice, pumicite, or cinders, and petrified wood 39
43 CFR 3603.1 - Unauthorized Use (mineral materials general) 40
43 CFR 3715 - Use and occupancy under the mining laws 40
43 CFR 3809 - Surface Management 47
CHAPTER VII - CULTURAL, SCIENTIFIC, AND CAVE RESOURCES 55
16 USC 433 - Antiquities Act, 1906 55
16 USC 470 - Archaeological Resources Protection Act, 1979 55
The Native American Graves Protection and Repatriation Act, 1990 59
Federal Cave Resources Protection Act, 1988 60
43 CFR Part 7 - Protection of Archeological Resources 62
43 CFR 8223 - Research natural areas 66
43 CFR 8360 Property and resources 68
CHAPTER VIII - FISH AND WILDLIFE RESOURCES 71
Sikes Act - 1974 71
Migratory Bird Treaty Act - 1918 71
Lacey Act - May 25, 1900 73
Endangered Species Act, 1973 76
Bald Eagle Act, 1940 81
Recreational Hunting Safety Act, 1994 82
43 CFR 24.4(i)(3) - Resource management and public activities on Federal lands 84
50 CFR Part 20 - Migratory Bird Hunting 84

Subpart A - Introduction 84
Subpart B - Definitions 85
Subpart C - Taking 87
Subpart D - Possession 89
Subpart E - Transportation Within the United States 90
Subpart H - In Violation of Federal, State, and Foreign Law 91
43 CFR 9264.1 Grazing administration--exclusive of Alaska (Other Federal and State laws and regulations concerning conservation and protection) 91
CHAPTER IX - FOREST AND VEGETATIVE RESOURCES 93
Federal Land Policy and Management Act of 1976 93
Timber removed or transported, Act of Mar. 4, 1909 93
Trees cut or injured, Act of Mar. 4, 1909 93
Trees boxed for pitch or turpentine, Act of Mar. 4, 1909 93
Lacey Act - May 25, 1900 94
43 CFR 5400 - Sales of forest products 96
43 CFR 5420 – Preparation for Sale; General 98
43 CFR 5500 - Free use of timber 102
CHAPTER X - RANGELANDS 105
Taylor Grazing Act, 1934 105
Federal Land Policy and Management Act, 1976 105
Fences destroyed; livestock entering - Act of Mar. 4, 1909 105
43 CFR 4100 - Grazing administration - exclusive of Alaska 106
43 CFR 4300 Grazing Administration; Alaska; Reindeer; General 110
CHAPTER XI - FIRES 113
18 USC 1855 - Timber set afire, Act of Mar. 4, 1909 113
18 USC 1856 - Fires left unattended and unextinguished, Act of Mar. 4, 1909 .. 113
42 USC 1856a - Reciprocal Fire Protection Act of 1955 113
43 USC 1735 (FLPMA) - Cost of suppression and damages collection 114
43 CFR 9212 - Wildfire Prevention 114
CHAPTER XII - PUBLIC USE AND COLLECTION 117
43 CFR 3604 - Free Use of Mineral Materials 117
43 CFR 3622 - Free Use of Petrified Wood 119
43 CFR 8360 Visitor Services; Rules of Conduct; Property & Resources 120
CHAPTER XIII - RECREATION RULES OF CONDUCT - ALL PUBLIC LANDS 123
43 CFR 8365 Rules of Conduct 123
CHAPTER XIV - RECREATION RULES OF CONDUCT – DEVELOPED RECREATION SITES & AREAS 125
43 CFR 8365 Rules of Conduct; Developed Recreation Sites & Areas 125

CHAPTER XV - MOTOR VEHICLES 127
National Trails Act, 1968 127
Executive Order No. 11644, Use of Off-road Vehicles on Public Lands, Feb. 8, 1972 128
43 CFR 8340 Off-road vehicles 129
43 CFR 8351 - Designated National Area; National Scenic Trails 133
43 CFR 8360 - Visitor Services; Rules of Conduct 133
43 CFR 8360 - Visitor Services; Rules of Conduct; Developed Recreation Sites & Areas 134
CHAPTER XVI - SPECIAL RECREATION USE, PERMITS, & FEES 137
Federal Lands Recreation Enhancement Act, December 8, 2004 137
43 CFR 2930 - Permits for Recreation; General 138
43 CFR 2932 - Special Recreation Permits for Commercial Use, Competitive Events, Organized Groups, and Recreation Use in Special Areas 139
43 CFR 2933--Recreation Use Permits for Fee Areas 144
43 CFR 9268.3 - Recreation Management--Procedures 146
CHAPTER XVII - WILDERNESS 149
Federal Land Policy and Management Act, 1976 149
Wilderness Act, 1964 149
43 CFR 6300 Wilderness Management 149
CHAPTER XVIII - LAND USE AUTHORIZATIONS 153
Unlawful Inclosures of Public Land Act, 1885 153
Federal Land Policy and Management Act, 1976 154
43 CFR 2800 - Rights of Way; General 154
43 CFR 2812 - Tramroads & Logging Roads; O&C and Coos Bay Revested Lands 156
43 CFR 2880 - Rights of Way; Under Mineral Leasing Act; Oil & Natural Gas Pipelines and Related Facilities; General 157
43 CFR 2920 Leases, Permits, Easements 159
43 CFR 9262 - Land Resource Management 161
CHAPTER XIX – HAZARDOUS MATERIALS, DUMPING, SANITATION AND POLLUTION 163
Resource Conservation and Recovery Act, 1976 163
Clean Water Act, 1948 165
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) 168
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 171
43 CFR 8360 - Visitor Services; Rules of Conduct; Sanitation 174

CHAPTER XX - DRUG ENFORCEMENT 175
Controlled Substances Act, 1970 175
43 CFR 8365.1-4 - Visitor Services; Rules of Conduct; Public Health, Safety, and Comfort 176
CHAPTER XXI - CLOSURES, RESTRICTIONS, AND SUPPLEMENTARY RULES 177
Federal Land Policy and Management Act, 1976 177
Administrative Procedures Act, 1946 177
Federal Land Policy and Management Act, 1976 178
43 CFR 6302 Wilderness Areas 178
43 CFR 8351 National Wild and Scenic Rivers 179
43 CFR 8364.1 Closure and Restriction Orders 180
43 CFR 8365.1-6 - Supplementary Rules 181
43 CFR 9212.2 - Fire Prevention Orders 181
INDEX 183

CHAPTER I - LAW ENFORCEMENT AUTHORITY

Federal Land Policy and Management Act of 1976

43 USC 1733

(c)

(1) When the Secretary determines that assistance is necessary in enforcing Federal laws and regulations relating to the public lands or their resources he shall offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximum feasible reliance upon local law enforcement officials in enforcing such laws and regulations. The Secretary shall negotiate on reasonable terms with such officials who have authority to enter into such contracts to enforce such Federal laws and regulations. In the performance of their duties under such contracts such officials and their agents are authorized to carry firearms; execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; search without warrant or process any person, place, or conveyance according to any Federal law or rule of law; and seize without warrant or process any evidentiary item as provided by Federal law. The Secretary shall provide such law enforcement training as he deems necessary in order to carry out the contracted for responsibilities. While exercising the powers and authorities provided by such contract pursuant to this section, such law enforcement officials and their agents shall have all the immunities of Federal law enforcement officials.

NOTE: This section enables the BLM to contract with State and local agencies to provide enforcement of Federal laws and regulations, but only when the BLM determines that assistance in this area is necessary. Under such contracts, the State and local agency would receive reimbursements for the services rendered. However, any State or local officers performing under the contract must meet the law enforcement training requirements of the Department of the Interior. The Department of the Interior requires basic training at the Federal Law Enforcement Training Center. State and local agencies may receive reimbursements for services rendered in enforcing their own State and local laws under a law enforcement agreement pursuant to the authority of 43 USC 1733(d) below. The above section also describes the law enforcement responsibilities and authorities of the BLM law enforcement officers that have been authorized pursuant to 43 USC 1733(c)(2) below.

(2) The Secretary may authorize Federal personnel or appropriate local officials to carry out his law enforcement responsibilities with respect to the public lands and their resources. Such designated personnel shall receive the training and have the responsibilities and authority provided for in paragraph (1) of this subsection.

(d) In connection with the administration and regulation of the use and occupancy of the public lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or subdivision. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of the public lands.

NOTE: Pursuant to BLM law enforcement General Orders 03 and 23, written law enforcement agreements with appropriate State and local agencies are required to implement this authority. BLM law enforcement officers must not enforce State and local laws without a written law enforcement agreement with the State and local agency that has authority to grant State law enforcement authority to Federal law enforcement officers.

(e) Nothing in this section shall prevent the Secretary from promptly establishing a uniformed desert ranger force in the California Desert Conservation Area established pursuant to section 1781 of this title for the purpose of enforcing Federal laws and regulations relating to the public lands and resources managed by him in such area. The officers and members of such ranger force shall have the same responsibilities and authority as provided for in paragraph (1) of subsection (c) of this section.

(f) Nothing in this Act shall be construed as reducing or limiting the enforcement authority vested in the Secretary by any other statute.

43 USC 1702

(e) The term "public lands" means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except—

(1) lands located on the Outer Continental Shelf; and

(2) lands held for the benefit of Indians, Aleuts, and Eskimos.

NOTE [1]: The law enforcement activities of the BLM are generally to protect the public lands, protection of the property and resources located on or coming from those lands. These activities may extend off the public lands, when the violation relates to the public lands or resources, such as: hot pursuit, untitled horses and burros under private care on private property, resources and property located on private property when they were illegally taken from public lands, and when reasonably necessary to protect adjacent Federal property or navigable waters (see: United States v. Lindsey, 595 F. 2d 5, 6 (1979)). In some regulations, the BLM has identified the scope of its law enforcement program extending to related waters, water surface, and waterways. Those regulations are: 43 CFR 8351.2-1, 8364.1(b)(1), 8560.1-1, 8372.0-7, and 9212.2.

NOTE [2] The FLPMA applies to the public lands and resources and not to private lands, State lands, or other Federal lands through use of memoranda of understanding or cooperative agreements. Pursuant to 43 USC 1715(c) of FLPMA, such lands become "public lands" when the lands and interests in lands are acquired

by the BLM pursuant to § 205 (acquisitions) and § 206 (exchanges). It is generally understood that interest in lands is acquired through a legal conveyance such as easements, rights-of-way, leases, etc.

Original section 701(g)(6)

(g) Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or—

(6) as a limitation upon any State criminal statute or upon the police power of the respective States, or as derogating the authority of a local police officer in the performance of his duties, or as depriving any State or political subdivision thereof of any right it may have to exercise civil and criminal jurisdiction on the national resource lands; or as amending, limiting, or infringing the existing laws providing grants of lands to the States.

Taylor Grazing Act of 1934

43 USC 315(a) Protection, administration, regulation, and improvement of districts; rules and regulations; study of erosion and flood control; offenses

The Secretary of the Interior shall make provision for the protection, administration, regulation, and improvement of such grazing districts as may be created under the authority of section 315 of this title, and he shall make such rules and regulations and establish such service, enter into such cooperative agreements, and do any and all things necessary to accomplish the purposes of this subchapter and to insure the objects of such grazing districts, namely, to regulate their occupancy and use, to preserve the land and its resources from destruction or unnecessary injury, to provide for the orderly use, improvement, and development of the range; and the Secretary of the Interior is authorized to continue the study of erosion and flood control and to perform such work as may be necessary amply to protect and rehabilitate the areas subject to the provisions of this subchapter, through such funds as may be made available for that purpose, and any willful violation of the provisions of this subchapter or of such rules and regulations thereunder after actual notice thereof shall be punishable by a fine of not more than $500.

Wild Free-Roaming Horse and Burro Act of 1971

16 USC 1338

(b) Any employee designated by the Secretary of the Interior or the Secretary of Agriculture shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of this chapter or any regulation made pursuant thereto, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction, and shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this chapter or regulations made pursuant thereto. Any judge of a court established under the laws of the United States, or any United States magistrate may, within his

respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

Sikes Act of 1974

16 USC 670 j

(b)

(1) For the purpose of enforcing subsection (a) of this section, the Secretary of the Interior and the Secretary of Agriculture may designate any employee of their respective departments, and any State officer or employee authorized under a cooperative agreement to enforce subsection (a) of this section, to (i) carry firearms; (ii) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; (iii) make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view; (iv) search without warrant or process any person, place, or conveyance as provided by law; and (v) seize without warrant or process any evidentiary item as provided by law.

(2) Upon the sworn information by a competent person, any United States magistrate or court of competent jurisdiction may issue process for the arrest of any person charged with committing any offense under subsection (a) of this section.

(3) Any person charged with committing any offense under subsection (a) of this section may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401 of Title 18.

(c) All guns, traps, nets, and other equipment, vessels, vehicles, and other means of transportation used by any person when engaged in committing an offense under subsection (a) of this section shall be subject to forfeiture to the United States and may be seized and held pending the prosecution of any person arrested for committing such offense. Upon conviction for such offense, such forfeiture may be adjudicated as a penalty in addition to any other provided for committing such offense.

Land and Water Conservation Fund Act of 1964

16 USC 460 l-6a

(e) In accordance with the provisions of this section, the heads of appropriate departments and agencies may prescribe rules and regulations for areas under their administration for the collection of any fee established pursuant to this section. Persons authorized by the heads of such Federal agencies to enforce any such rules or regulations issued under this subsection may, within areas under the administration or authority of such agency head and with or, if the offense is committed in his presence, without a warrant, arrest any person who violates such rules and regulations. Any person so arrested may be tried and sentenced by the United States magistrate judge specifically

designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided in subsections (b), (c), (d), and (e) of section 3401 of Title 18. Any violations of the rules and regulations issued under this subsection shall be punishable by a fine of not more than $100.

NOTE: This section of the Land and Water Conservation Fund Act (LWCFA) was repealed per section 813 of the Federal Land Recreation Enhancement Act of 2004 (16 USC 6812), however regulations promulgated under authority of the LWCFA remain in effect until new regulations are completed. (16 USC 6812(f)

Federal Land Recreation Enhancement Act, December 8, 2004

16 USC 6811 - Enforcement and Protection of Receipts

(a) ENFORCEMENT AUTHORITY.—The Secretary concerned shall enforce payment of the recreation fees authorized by this Act.

(b) EVIDENCE OF NONPAYMENT.—If the display of proof of payment of a recreation fee, or the payment of a recreation fee within a certain time period is required, failure to display such proof as required or to pay the recreation fee within the time period specified shall constitute nonpayment.

(c) JOINT LIABILITY.—The registered owner and any occupant of a vehicle charged with a nonpayment violation involving the vehicle shall be jointly liable for penalties imposed under this section, unless the registered owner can show that the vehicle was used without the registered owner's express or implied permission.

(d) LIMITATION ON PENALTIES.—The failure to pay a recreation fee established under this Act shall be punishable as a Class A or Class B misdemeanor, except that in the case of a first offense of nonpayment, the fine imposed may not exceed $100, notwithstanding section 3571(e) of title 18, United States Code.

Oath & Affirmations, Act of October 14, 1940

43 USC 1466

Special agents and such other employees of the Division of Investigations, Department of the Interior of the United States, as are designated by the Secretary of the Interior for that purpose, are authorized and empowered to administer to or take from any person an oath, affirmation, affidavit, or deposition whenever necessary in the performance of their official duties. Any such oath, affirmation, affidavit, or deposition administered or taken by or before a special agent or such other employee of the Division of Investigations, Department of the Interior, designated by the Secretary of the Interior, when certified under his hand, shall have like force and effect as if administered or taken before an officer having a seal.

Federal Law Enforcement Officers' Good Samaritan Act of 1998 (P.L. 105-277)

Sec. 627.

(a) Definitions.—In this section—

(1) the term ''crime of violence'' has the meaning given that term in section 16 of title 18, United States Code; and

(2) the term ''law enforcement officer'' means any employee described in subparagraph (A), (B), or (C) of section 8401(17) of title 5, United States Code; and any special agent in the Diplomatic Security Service of the Department of State.

(b) Rule of Construction.—Notwithstanding any other provision of law, for purposes of Chapter 171 of Title 28, United States Code, or any other provision of law relating to tort liability, a law enforcement officer shall be construed to be acting within the scope of his or her office or employment, if the officer takes reasonable action, including the use of force, to—

(1) protect an individual in the presence of the officer from a crime of violence;

(2) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

(3) prevent the escape of any individual who the officer reasonably believes to have committed in the presence of the officer a crime of violence

18 USC 16 - Crime of violence defined

The term "crime of violence" means—

(a) an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(b) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

NOTE: The Good Samaritan Act provides that a Federal law enforcement officer is deemed to be acting within the scope of his or her employment if they intervene in a crime of violence as defined above, to prevent bodily harm, or to prevent the escape of an individual who committed a crime of violence in his or her presence. It does not convey any authority to BLM Law Enforcement Officer's to enforce state or local laws.

CHAPTER II - PENALTIES

Federal Land Policy and Management Act of 1976

43 USC 1733

(a) The Secretary shall issue regulations necessary to implement the provisions of this Act with respect to the management, use, and protection of the public lands, including the property located thereon. Any person who knowingly and willfully violates any such regulation which is lawfully issued pursuant to this Act shall be fined no more than $1,000 or imprisoned no more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate judge designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of Title 18.

NOTE [1]: This section provides the general authority for issuing regulations with criminal penalties. The penalties provided make any such regulations class A misdemeanor offenses (see 18 USC 3559). This has caused some degree of confusion over whether the BLM can issue violation notices (Federal citations) for such offenses. This is because the procedures for misdemeanors and other petty offenses(Rule 58) provide "The trial of a misdemeanor may proceed on an indictment, information, or complaint or, in the case of a petty offense, on a citation or violation notice." Some U.S. District Courts have interpreted this as implying that only in petty offenses can a citation or violation notice be used. Other U.S. District Courts have determined that the citation can be used when the defendant pays the collateral amount (fine) and terminates the proceedings, but if a trial ensues then an indictment, information, or complaint must be used to initiate the trial. Also, the 1990 Advisory Committee Notes appended to this rule state, "The Committee envisions no major changes in the way in which the trial of misdemeanors and petty offenses are currently handled." This being the case, then the 1980 Advisory Committee Notes are applicable as well. Those Notes state: A misdemeanor case above the petty offense level may be initiated by citation or violation notice, and such document will suffice if a plea of guilty or nolo contendere is entered; but if such a case is to go to trial, then a complaint, information or indictment is necessary."

NOTE [2]: There are also other applicable Federal laws that provide authority for issuing regulations with criminal penalties on public lands. These laws, with the exception of the Wild Free-Roaming Horse and Burro Act, have penalties that are at or below the petty offense level. When the BLM identifies these sources of authority with the issuance of particular regulations these penalties may also be applicable to those regulations subject to the statutory conditions. These laws, particular regulations, and conditions are set out below.

(b) At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from utilizing public lands in violation of regulations issued by the Secretary under this Act.

Wild Free-Roaming Horse and Burro Act of 1971

16 USC 1338

(a) ...shall be subject to a fine of not more than $2,000, or imprisonment for not more than one year, or both. Any person so charged with such violation by the Secretary may be tried and sentenced by any United States commissioner or magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401 of Title 18.

Sikes Act of 1974

16 USC 670j

(a)

(1) Any person who hunts, traps, or fishes on any public land which is subject to a conservation and rehabilitation program implemented under this subchapter without having on his person a valid public land management area stamp, if the possession of such a stamp is required, shall be fined not more than $1,000, or imprisoned for not more than six months, or both.

(2) Any person who knowingly violates or fails to comply with any regulations prescribed under section 670h(c)(5) of this title shall be fined not more than $500, or imprisoned not more than six months, or both.

NOTE: These penalties may apply to regulations that identify the Sikes Act as an authority source in areas subject to a fish and wildlife conservation and rehabilitation program pursuant to a cooperative agreement with the State fish and wildlife agency. Those regulations are: 43 CFR 8341.1, 8343.1, subpart 8364, subpart 8365, 8372.0-7, and 9268.3(e)(1).

Land and Water Conservation Fund Act of 1964

16 USC 460 l-6a

(e) ... Any person so arrested may be tried and sentenced by the United States magistrate judge specifically designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided in subsections (b), (c), (d), and (e) of section 3401 of Title 18. Any violations of the rules and regulations issued under this subsection shall be punishable by a fine of not more than $100.

NOTE: This section of the Land and Water Conservation Fund Act (LWCFA) was repealed per section 813 of the Federal Land Recreation Enhancement Act of 2004 (16 USC 6812), however regulations promulgated under authority of the LWCFA remain in effect until new regulations are completed. (16 USC 6812(f)).

Federal Land Recreation Enhancement Act, December 8, 2004

16 USC 6811 - Enforcement and Protection of Receipts

(d) LIMITATION ON PENALTIES.—The failure to pay a recreation fee established under this Act shall be punishable as a Class A or Class B misdemeanor, except that in the case of a first offense of nonpayment, the fine imposed may not exceed $100, notwithstanding section 3571(e) of title 18, United States Code.

National Trails Act of 1968

16 USC 1246 (i)

The appropriate Secretary, with the concurrence of the heads of any other Federal agencies administering lands through which a national recreation, national scenic, or national historic trail passes, and after consultation with the States, local governments, and organizations concerned, may issue regulations, which may be revised from time to time, governing the use, protection, management, development, and administration of trails of the national trails system. In order to maintain good conduct on and along the trails located within federally administered areas and to provide for the proper government and protection of such trails, the Secretary of the Interior and the Secretary of Agriculture shall prescribe and publish such uniform regulations as they deem necessary and any person who violates such regulations shall be guilty of a misdemeanor, and may be punished by a fine of not more than $500, or by imprisonment not exceeding six months, or by both such fine and imprisonment. The Secretary responsible for the administration of any segment of any component of the National Trails System (as determined in a manner consistent with subsection (a)(1) of this section) may also utilize authorities related to units of the national park system or the national forest system, as the case may be, in carrying out his administrative responsibilities for such component.

NOTE: These penalties may apply to regulations that identify the National Trails System Act as an authority source in units of the National Trail System. Those regulations are: 43 CFR 8341.1, 8343.1, 8351.1-1, subpart 8364, subpart 8365, 8372.0-7, and 9268.3(e)(1).

Wild and Scenic Rivers Act of 1968

16 USC 1281 (c)

The Secretary of the Interior, in his administration of any component of the national wild and scenic rivers system, may utilize such general statutory authorities relating to areas of the national park system and such general statutory authorities otherwise available to him for recreation and preservation purposes and for the conservation and management of natural resources as he deems appropriate to carry out the purposes of this chapter.

NOTE: These penalties may apply to regulations that identify the National Wild and Scenic Rivers Act as an authority source in units of the National Wild and Scenic Rivers

System. Those regulations are: 43 CFR 8341.1, 8343.1, 8351.2-1, subpart 8364, subpart 8365, 8372.0-7, and 9268.3(e)(1).

Taylor Grazing Act of 1934

43 USC 315 a

The Secretary of the Interior shall make provision for the protection, administration, regulation, and improvement of such grazing districts as may be created under the authority of section 315 of this title, and he shall make such rules and regulations and establish such service, enter into such cooperative agreements, and do any and all things necessary to accomplish the purposes of this subchapter and to insure the objects of such grazing districts, namely, to regulate their occupancy and use, to preserve the land and its resources from destruction or unnecessary injury, to provide for the orderly use, improvement, and development of the range; and the Secretary of the Interior is authorized to continue the study of erosion and flood control and to perform such work as may be necessary amply to protect and rehabilitate the areas subject to the provisions of this subchapter, through such funds as may be made available for that purpose, and any willful violation of the provisions of this subchapter or of such rules and regulations there under after actual notice thereof shall be punishable by a fine of not more than $500.

NOTE: These penalties may apply to regulations that identify the Taylor Grazing Act as an authority source in grazing districts. Those regulations are: 43 CFR 4140.1(b), 4770.1, 5511.4, 8341.1, 8343.1, subpart 8364, subpart 8365, and 9264.1(h).

Sentencing Reform Act, Oct. 12, 1984

18 USC 3571 Sentence of Fine

(a) In general.--A defendant who has been found guilty of an offense may be sentenced to pay a fine.

(b) Fines for individuals.--Except as provided in subsection (e) of this section, an individual who has been found guilty of an offense may be fined not more than the greatest of—

(1) the amount specified in the law setting forth the offense;

(2) the applicable amount under subsection (d) of this section;

(3) for a felony, not more than $250,000;

(4) for a misdemeanor resulting in death, not more than $250,000;

(5) for a Class A misdemeanor that does not result in death, not more than $100,000;

(6) for a Class B or C misdemeanor that does not result in death, not more than $5,000; or

(7) for an infraction, not more than $5,000.

(c) Fines for organizations.--Except as provided in subsection (e) of this section, an organization that has been found guilty of an offense may be fined not more than the greatest of—

(1) the amount specified in the law setting forth the offense;

(2) the applicable amount under subsection (d) of this section;

(3) for a felony, not more than $500,000;

(4) for a misdemeanor resulting in death, not more than $500,000;

(5) for a Class A misdemeanor that does not result in death, not more than $200,000;

(6) for a Class B or C misdemeanor that does not result in death, not more than $10,000; and

(7) for an infraction, not more than $10,000.

(d) Alternative fine based on gain or loss.--If any person derives pecuniary gain from the offense, or if the offense results in pecuniary loss to a person other than the defendant, the defendant may be fined not more than the greater of twice the gross gain or twice the gross loss, unless imposition of a fine under this subsection would unduly complicate or prolong the sentencing process.

(e) Special rule for lower fine specified in substantive provision.--If a law setting forth an offense specifies no fine or a fine that is lower than the fine otherwise applicable under this section and such law, by specific reference, exempts the offense from the applicability of the fine otherwise applicable under this section, the defendant may not be fined more than the amount specified in the law setting forth the offense.

18 USC 3581. Sentence of imprisonment

(a) In General.--A defendant who has been found guilty of an offense may be sentenced to a term of imprisonment.

(b) Authorized Terms.--The authorized terms of imprisonment are—

(1) for a Class A felony, the duration of the defendant's life or any period of time;

(2) for a Class B felony, not more than twenty-five years;

(3) for a Class C felony, not more than twelve years;

(4) for a Class D felony, not more than six years;

(5) for a Class E felony, not more than three years;

(6) for a Class A misdemeanor, not more than one year;

(7) for a Class B misdemeanor, not more than six months;

(8) for a Class C misdemeanor, not more than thirty days; and

(9) for an infraction, not more than five days.

CHAPTER III - PROTECTION OF PROPERTY, PERSONS, AND EMPLOYEES

Assaulting, resisting, or impeding certain officers or employees, Act of June 25, 1948

18 USC 111

(a) In general.--Whoever—

(1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties; or

(2) forcibly assaults or intimidates any person who formerly served as a person designated in section 1114 on account of the performance of official duties during such person's term of service, shall, where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and in all other cases, be fined under this title or imprisoned not more than three years, or both.

(b) Enhanced penalty.--Whoever, in the commission of any acts described in subsection (a), uses a deadly or dangerous weapon (including a weapon intended to cause death or danger but that fails to do so by reason of a defective component) or inflicts bodily injury, shall be fined under this title or imprisoned not more than ten years, or both.

Protection of officers and employees of the United States, Act of June 25, 1948

18 USC 1114

Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished—

(1) in the case of murder, as provided under section 1111;

(2) in the case of manslaughter, as provided under section 1112; or

(3) in the case of attempted murder or manslaughter, as provided in section 1113.

Conspiracy to commit offense or to defraud United States, Act of June 25, 1948

18 USC 371

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both. If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only,

the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

Conspiracy to impede or injure officer, Act of June 25, 1948

18 USC 372

If two or more persons in any State, Territory, Possession, or District conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof, or to induce by like means any officer of the United States to leave the place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties, each of such persons shall be fined not more than $5,000 or imprisoned not more than six years, or both.

Public money, property or records, Act of June 25, 1948

18 USC 641

Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted-- Shall be fined under this title or imprisoned not more than ten years, or both; but if the value of such property does not exceed the sum of $1,000, he shall be fined under this title or imprisoned not more than one year, or both. The word "value" means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

Employee of United States converting property of another, June 25, 1948

18 USC 654

Whoever, being an officer or employee of the United States or of any department or agency thereof, embezzles or wrongfully converts to his own use the money or property of another which comes into his possession or under his control in the execution of such office or employment, or under color or claim of authority as such officer or employee, shall be fined under this title or not more than the value of the money and property thus embezzled or converted, whichever is greater, or imprisoned not more than ten years, or both; but if the sum embezzled is $1,000 or less, he shall be fined under this title or imprisoned not more than one year, or both.

Possession of firearms and dangerous weapons in Federal facilities, Act of November 29, 1990

18 USC 930

(a) Except as provided in subsection (d), whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal facility (other than a Federal court facility), or attempts to do so, shall be fined under this title or imprisoned not more than 1 year, or both.

(b) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon in a Federal facility, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both.

(c) A person who kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113.

(d) Subsection (a) shall not apply to—

(1) the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law;

(2) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or

(3) the lawful carrying of firearms or other dangerous weapons in a Federal facility incident to hunting or other lawful purposes.

(e)

(1) Except as provided in paragraph (2), whoever knowingly posses or causes to be present a firearm in a Federal court facility, or attempts to do so, shall be fined under this title, imprisoned not more than 2 years, or both.

(2) Paragraph (1) shall not apply to conduct which is described in paragraph (1) or (2) of subsection (d).

(f) Nothing in this section limits the power of a court of the United States to punish for contempt or to promulgate rules or orders regulating, restricting, or prohibiting the possession of weapons within any building housing such court or any of its proceedings, or upon any grounds appurtenant to such building.

(g) As used in this section:

(1) The term "Federal facility) means a building or part thereof owned or leased by the Federal Government, where Federal employees are regularly present for the purpose of performing their official duties.

(2) The term "dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, of is readily capable of, causing death or serious bodily injury, except that such term

does not include a pocket knife with a blade of less than 2 1/2 inches in length.

(3) The term "Federal court facility" means the courtroom, judges' chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of the court clerks, the United States attorney, and the United States marshal, probation and parole offices, and adjoining corridors of any court of the United States.

(h) Notice of the provisions of subsections (a) and (b) shall be posted conspicuously at each public entrance to each Federal facility, and notice of subsection (e) shall be posted conspicuously at each public entrance to each Federal court facility, and no person shall be convicted of an offense under subsection (a) or (e) with respect to a Federal facility if such notice is not so posted at such facility, unless such person had actual notice of subsection (a) or (e), as the case may be.

False statements or entries generally, Act of June 25, 1948

18 USC 1001

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title or imprisoned not more than 5 years, or both.

Government property or contracts, Act of June 25, 1948

18 USC 1361

Whoever willfully injures or commits any depredation against any property of the United States, or of any department or agency thereof, or any property which has been or is being manufactured or constructed for the United States, or any department or agency thereof, or attempts to commit any of the foregoing offenses, shall be punished as follows: If the damage or attempted damage to such property exceeds the sum of $1,000, by a fine under this title or imprisonment for not more than ten years, or both; if the damage or attempted damage to such property does not exceed the sum of $1,000, by a fine under this title or by imprisonment for not more than one year, or both.

Obstruction of criminal investigations, Act of Nov. 3, 1967

18 USC 1510

(a) Whoever willfully endeavors by means of bribery to obstruct, delay, or prevent the communication of information relating to a violation of any criminal statute of the United States by any person to a criminal investigator shall be fined under this title, or imprisoned not more than five years, or both.

(b)

(1) Whoever, being an officer of a financial institution, with the intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that financial institution, or information that has been furnished to the grand jury in response to that subpoena, shall be fined under this title or imprisoned not more than 5 years, or both.

(2) Whoever, being an officer of a financial institution, directly or indirectly notifies—

(A) a customer of that financial institution whose records are sought by a grand jury subpoena; or

(B) any other person named in that subpoena; about the existence or contents of that subpoena or information that has been furnished to the grand jury in response to that subpoena, shall be fined under this title or imprisoned not more than one year, or both.

(3) As used in this subsection—

(A) the term "an officer of a financial institution" means an officer, director, partner, employee, agent, or attorney of or for a financial institution; and

(B) the term "subpoena for records" means a Federal grand jury subpoena or a Department of Justice subpoena (issued under section 3486 of title 18), for customer records that has been served relating to a violation of, or a conspiracy to violate—

(i) section 215, 656, 657, 1005, 1006, 1007, 1014, 1344, 1956, 1957, or chapter 53 of title 31; or

(ii) section 1341 or 1343 affecting a financial institution.

(c) As used in this section, the term "criminal investigator" means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations of or prosecutions for violations of the criminal laws of the United States.

(d)

(1) Whoever—

(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce, or

(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined as provided by this title or imprisoned not more than 5 years, or both.

(2) As used in paragraph (1), the term "subpoena for records" means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033 of this title.

Survey marks destroyed or removed, Act of Mar. 4, 1909

18 USC 1858

Whoever willfully destroys, defaces, changes, or removes to another place any section corner, quarter-section corner, or meander post, on any Government line of survey, or willfully cuts down any witness tree or any tree blazed to mark the line of a Government survey, or willfully defaces, changes, or removes any monument or bench mark of any Government survey, shall be fined under this title or imprisoned not more than six months, or both.

Surveys interrupted, Act of Mar. 4, 1909

18 USC 1859

Whoever, by threats or force, interrupts, hinders, or prevents the surveying of the public lands, or of any private land claim which has been or may be confirmed by the United States, by the persons authorized to survey the same in conformity with the instructions of the Director of the Bureau of Land Management, shall be fined under this title or imprisoned not more than three years, or both.

Bids at land sales, Act of Mar. 4, 1909

18 USC 1860

Whoever bargains, contracts, or agrees, or attempts to bargain, contract, or agree with another that such other shall not bid upon or purchase any parcel of lands of the United States offered at public sale; or Whoever, by intimidation, combination, or unfair management, hinders, prevents, or attempts to hinder or prevent, any person from bidding upon or purchasing any tract of land so offered for sale-- Shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Deception of prospective purchasers, Act of Feb. 23, 1917

18 USC 1861

Whoever, for a reward paid or promised to him in that behalf, undertakes to locate for an intending purchaser, settler, or entryman any public lands of the United States subject to disposition under the public-land laws, and who willfully and falsely represents to such intending purchaser, settler, or entryman that any tract of land shown to him is public land of the United States subject to sale, settlement, or entry, or that it is of a particular surveyed description, with intent to deceive the person to whom such representation is made, or who, in reckless disregard of the truth, falsely represents to any such person that any tract of land shown to him is public land of the United States subject to sale, settlement, or entry, or that it is of a particular surveyed description, thereby deceiving the person to whom such representation is made, shall be fined under this title or imprisoned not more than one year, or both.

Hazardous or injurious devices on Federal lands, Act of Nov. 18, 1988

18 USC 1864

(a) Whoever—

(1) with the intent to violate the Controlled Substances Act,

(2) with the intent to obstruct or harass the harvesting of timber, or

(3) with reckless disregard to the risk that another person will be placed in danger of death or bodily injury and under circumstances manifesting extreme indifference to such risk, uses a hazardous or injurious device on Federal land, on an Indian reservation, or on an Indian allotment while the title to such allotment is held in trust by the United States or while such allotment remains inalienable by the allottee without the consent of the United States shall be punished under subsection (b).

(b) An individual who violates subsection (a) shall—

(1) if death of an individual results, be fined under this title or imprisoned for any term of years or for life, or both;

(2) if serious bodily injury to any individual results, be fined under this title or imprisoned for not more than 40 years, or both;

(3) if bodily injury to any individual results, be fined under this title or imprisoned for not more than 20 years, or both;

(4) if damage to the property of any individual results or if avoidance costs have been incurred exceeding $10,000, in the aggregate, be fined under this title or imprisoned for not more than 20 years, or both; and

(5) in any other case, be fined under this title or imprisoned for not more than one year.

(c) Any individual who is punished under subsection (b)(5) after one or more prior convictions under any such subsection shall be fined under this title or imprisoned for not more than 20 years, or both.

(d) As used in this section—

(1) the term "serious bodily injury" means bodily injury which involves—

(A) a substantial risk of death;

(B) extreme physical pain;

(C) protracted and obvious disfigurement; and

(D) protracted loss or impairment of the function of bodily member, organ, or mental faculty;

(2) the term "bodily injury" means—

(A) a cut, abrasion, bruise, burn, or disfigurement;

(B) physical pain;

(C) illness;

(D) impairment of the function of a bodily member, organ, or mental faculty; or

(E) any other injury to the body, no matter how temporary;

(3) the term "hazardous or injurious device" means a device, which when assembled or placed, is capable of causing bodily injury, or damage to property, by the action of any person making contact with such device subsequent to the assembly or placement. Such term includes guns attached to trip wires or other triggering mechanisms, ammunition attached to trip wires or other triggering mechanisms, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, lines or wires, lines or wires with hooks attached, nails placed so that the sharpened ends are positioned in an upright manner, or tree spiking devices including spikes, nails, or other objects hammered, driven, fastened, or otherwise placed into or on any timber, whether or not severed from the stump; and

(4) the term "avoidance costs" means costs incurred by any individual for the purpose of—

(A) detecting a hazardous or injurious device; or

(B) preventing death, serious bodily injury, bodily injury, or property damage likely to result from the use of a hazardous or injurious device in violation of subsection (a).

(e) Any person injured as the result of a violation of subsection (a) may commence a civil action on his own behalf against any person who is alleged to be in violation of subsection (a). The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, in such civil actions. The court may award, in addition to monetary damages for any injury resulting from an alleged violation of subsection (a), costs of litigation, including reasonable attorney and expert witness fees, to any prevailing or substantially prevailing party, whenever the court determines such award is appropriate.

Unlawful Inclosures of Public Land, Act of 1885

43 USC 1063

No person, by force, threats, intimidation, or by any fencing or inclosing, or any other unlawful means, shall prevent or obstruct, or shall combine and confederate with others to prevent or obstruct, any person from peaceably entering upon or establishing a settlement or residence on any tract of public land subject to settlement or entry under the public land laws of the United States, or shall prevent or obstruct free passage or transit over or through the public lands: Provided, This section shall not be held to affect the right or title of persons, who have gone upon, improved, or occupied said lands under the land laws of the United States, claiming title thereto, in good faith.

43 CFR 8365 Public Health, Safety, and Comfort

43 CFR 8360.0-7 - Penalties

Violations of any regulations in this part by a member of the public, except for the provisions of § 8365.1-7, are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. Violations of supplementary rules authorized by § 8365.1-6 are punishable in the same manner.

43 CFR 8365.1 - Public Lands – general

The rules in this subsection shall apply to use and occupancy of all public lands under the jurisdiction of the Bureau of Land Management. Additional rules for developed sites and areas are found in Sec. 8365.2 of this title.

43 CFR 8365.1-4(a) - Public health, safety, and comfort

(a) No person shall cause a public disturbance or create a risk to other persons on public lands by engaging in activities which include, but are not limited to, the following:

(1) Making unreasonable noise;

(2) Creating a hazard or nuisance;

(3) Refusing to disperse, when directed to do so by an authorized officer;

(4) Resisting arrest or issuance of citation by an authorized officer engaged in performance of official duties; interfering with any Bureau of Land Management employee or volunteer engaged in performance of official duties; or

(5) Assaulting, committing a battery upon, or

(6) Knowingly giving any false or fraudulent report of an emergency situation or crime to any Bureau of Land Management employee or volunteer engaged in the performance of official duties.

CHAPTER IV - WILD HORSES AND BURROS

Wild Free-Roaming Horse and Burro Act, December 15, 1971

16 USC 1332 - Definitions

As used in this chapter—

(a) “Secretary" means the Secretary of the Interior when used in connection with public lands administered by him through the Bureau of Land Management and the Secretary of Agriculture in connection with public lands administered by him through the Forest Service;

(b) “wild free-roaming horses and burros" means all unbranded and unclaimed horses and burros on public lands of the United States;

(c) “range" means the amount of land necessary to sustain an existing herd or herds of wild free-roaming horses and burros, which does not exceed their known territorial limits, and which is devoted principally but not necessarily exclusively to their welfare in keeping with the multiple-use management concept for the public lands;

(d) “herd" means one or more stallions and his mares; and

(e) “public lands" means any lands administered by the Secretary of the Interior through the Bureau of Land Management or by the Secretary of Agriculture through the Forest Service.

(f) “excess animals" means wild free-roaming horses or burros

(1) which have been removed from an area by the Secretary pursuant to applicable law or,

(2) which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area.

16 USC 1338(a) - Criminal provisions

(a) Any person who—

(1) willfully removes or attempts to remove a wild free-roaming horse or burro from the public lands, without authority from the Secretary, or

(2) converts a wild free-roaming horse or burro to private use, without authority from the Secretary, or

(3) maliciously causes the death or harassment of any wild free-roaming horse or burro, or

(4) processes or permits to be processed into commercial products the remains of a wild free-roaming horse or burro, or

(5) sells, directly or indirectly, a wild free-roaming horse or burro maintained on private or leased land pursuant to section 1334 of this title, or the remains thereof, or

(6) willfully violates a regulation issued pursuant to this chapter,

shall be subject to a fine of not more than $2,000, or imprisonment for not more than one year, or both. Any person so charged with such violation by

the Secretary may be tried and sentenced by any United States commissioner or magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401 of Title 18.

Wild Horse Annie Act of September 8, 1959

18 USC 47

(a) Whoever uses an aircraft or a motor vehicle to hunt, for the purpose of capturing or killing, any wild unbranded horse, mare, colt, or burro running at large on any of the public land or ranges shall be fined under this title, or imprisoned not more than six months, or both.

(b) Whoever pollutes or causes the pollution of any watering hole on any of the public land or ranges for the purpose of trapping, killing, wounding, or maiming any of the animals referred to in subsection (a) of this section shall be fined under this title, or imprisoned not more than six months, or both.

(c) As used in subsection (a) of this section—

(1) The term "aircraft" means any contrivance used for flight in the air; and

(2) The term "motor vehicle" includes an automobile, automobile truck, automobile wagon, motorcycle, or any other self-propelled vehicle designed for running on land.

43 CFR 4700 - Protection, Management, and Control of Wild Free-roaming Horses and Burros

43 CFR 4700.0-5 - Definitions

As used in this part, the term:

(a) *Act* means the Act of December 15, 1971, as amended (16 USC 1331-1340), commonly referred to as the Wild Free-Roaming Horse and Burro Act.

(b) *Authorized officer* means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described herein.

(c) *Commercial exploitation* means using a wild horse or burro because of its characteristics of wildness for direct or indirect financial gain. Characteristics of wildness include the rebellious and feisty nature of such animals and their defiance of man as exhibited in their undomesticated and untamed state. Use as saddle or pack stock and other uses that require domestication of the animal are not commercial exploitation of the animals because of their characteristics of wildness.

NOTE: This includes use of a wild horse(s) or burro(s) as bucking stock in a rodeo.

(d) *Herd area* means the geographic area identified as having been used by a herd as its habitat in 1971.

(e) *Humane treatment* means handling compatible with animal husbandry practices accepted in the veterinary community, without causing unnecessary stress or suffering to a wild horse or burro.

(f) *Inhumane treatment* means any intentional or negligent action or failure to act that causes stress, injury, or undue suffering to a wild horse or burro and is not compatible with animal husbandry practices accepted in the veterinary community.

(g) *Lame wild horse or burro* means a wild horse or burro with one or more malfunctioning limbs that permanently impair its freedom of movement.

(h) *Old wild horse or burro* means a wild horse or burro characterized because of age by its physical deterioration and inability to fend for itself, suffering, or closeness to death.

(i) *Private maintenance* means the provision of proper care and humane treatment to excess wild horses and burros by qualified individuals under the terms and conditions specified in a Private Maintenance and Care Agreement.

(j) *Public lands* means any lands or interests in lands administered by the Secretary of the Interior through the Bureau of Land Management.

(k) *Sick wild horse or burro* means a wild horse or burro with failing health, infirmity or disease from which there is little chance of recovery.

(l) *Wild horses and burros* means all unbranded and unclaimed horses and burros that use public lands as all or part of their habitat, that have been removed from these lands by the authorized officer, or that have been born of wild horses or burros in authorized BLM facilities, but have not lost their status under section 3 of the Act. Foals born to a wild horse or burro after approval of a Private Maintenance and Care Agreement are not wild horses or burros. Such foals are the property of the adopter of the parent mare or jenny. Where it appears in this part the term wild horses and burros is deemed to include the term free- roaming.

43 CFR 4770.1 - Prohibited acts

The following acts are prohibited:

(a) Maliciously or negligently injuring or harassing a wild horse or burro;

(b) Removing or attempting to remove a wild horse or burro from the public lands without authorization from the authorized officer;

(c) Destroying a wild horse or burro without authorization from the authorized officer except as an act of mercy;

(d) Selling or attempting to sell, directly or indirectly, a wild horse or burro or its remains;

(e) Commercially exploiting a wild horse or burro;

(f) Treating a wild horse or burro inhumanely;

(g) Violating a term or condition of the Private Maintenance and Care Agreement;

(h) Branding a wild horse or burro;

(i) Removing or altering a freeze mark on a wild horse or burro;

(j) Violating an order, term, or condition established by the authorized officer under this part.

43 CFR 4770.4 - Arrest

The Director of the Bureau of Land Management may authorize an employee who witnesses a violation of the Act or these regulations to arrest without warrant any person committing the violation, and to take the person immediately for examination or trial before an officer or court of competent jurisdiction. Any employee so authorized shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of the Act or these regulations.

43 CFR 4770.5 - Criminal penalties

Any person who commits any act prohibited in § 4770.1 of these regulations shall be subject to a fine of not more than $2,000 or imprisonment for not more than 1 year, or both, for each violation. Any person so charged with such violation by the authorized officer may be tried and sentenced by a United States Commissioner or magistrate, designated for that purpose by the court by which he/she was appointed, in the same manner and subject to the same conditions as provided in § 18 USC 3401.

CHAPTER V. - OIL AND GAS RESOURCES

Federal Land Policy and Management Act, 1976

43 USC 1733(g)

The use, occupancy, or development of any portion of the public lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

Federal Oil and Gas Royalty Management Act, 1982

30 USC 1712

(c) Possession of documentation by transporters of oil or gas by motor vehicle or pipeline

(1) Any person engaged in transporting by motor vehicle any oil from any lease site, or allocated to any such lease site, shall carry, on his person, in his vehicle, or in his immediate control, documentation showing, at a minimum, the amount, origin, and intended first destination of the oil.

(2) Any person engaged in transporting any oil or gas by pipeline from any lease site, or allocated to any lease site, on Federal or Indian lands shall maintain documentation showing, at a minimum, amount, origin, and intended first destination of such oil or gas.

30 USC 1717 - Hearings and investigations

(a) In carrying out his duties under this chapter the Secretary may conduct any investigation or other inquiry necessary and appropriate and may conduct, after notice, any hearing or audit, necessary and appropriate to carrying out his duties under this chapter. In connection with any such hearings, inquiry, investigation, or audit, the Secretary is also authorized where reasonably necessary—

(1) to require by special or general order, any person to submit in writing such affidavits and answers to questions as the Secretary may reasonably prescribe, which submission shall be made within such reasonable period and under oath or otherwise, as may be necessary;

(2) to administer oaths;

(3) to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, production and financial records, documents, matter, and materials, as the Secretary may request;

(4) to order testimony to be taken by deposition before any person who is designated by the Secretary and who has the power to administer oaths, and to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection; and

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) In case of refusal to obey a subpoena served upon any person under this section, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Attorney General at the request of the Secretary and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary. Any failure to obey such order of the court may be punished by such court as contempt thereof and subject to a penalty of up to $10,000 a day.

30 USC 1718 - Inspections

(a)

(1) On any lease site on Federal or Indian lands, any authorized and properly identified representative of the Secretary may stop and inspect any motor vehicle that he has probable cause to believe is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site, for the purpose of determining whether the driver of such vehicle has documentation related to such oil as required by law.

(2) Any authorized and properly identified representative of the Secretary, accompanied by any appropriate law enforcement officer, or an appropriate law enforcement officer alone, may stop and inspect any motor vehicle which is not on a lease site if he has probable cause to believe the vehicle is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site. Such inspection shall be for the purpose of determining whether the driver of such vehicle has the documentation required by law.

(b) Authorized and properly identified representatives of the Secretary may without advance notice, enter upon, travel across and inspect lease sites on Federal or Indian lands and may obtain from the operator immediate access to secured facilities on such lease sites, for the purpose of making any inspection or investigation for determining whether there is compliance with the requirements of the mineral leasing laws and this chapter. The Secretary shall develop guidelines setting forth the coverage and the frequency of such inspections.

(c) For the purpose of making any inspection or investigation under this chapter, the Secretary shall have the same right to enter upon or travel across any lease site as the lessee or operator has acquired by purchase, condemnation, or otherwise.

30 USC 1719 - False information; unauthorized removal, etc., of oil or gas; purchase, sale, etc., of stolen oil or gas.

(d) Any person who—

(1) knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information;

(2) knowingly or willfully takes or removes, transports, uses or diverts any oil or gas from any lease site without having valid legal authority to do so; or

(3) purchases, accepts, sells, transports, or conveys to another, any oil or gas knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted, shall be liable for a penalty of up to $25,000 per violation for each day such violation continues.

30 USC 1720 - Criminal penalties

Any person who commits an act for which a civil penalty is provided in section 1719(d) of this title shall, upon conviction, be punished by a fine of not more than $50,000, or by imprisonment for not more than 2 years, or both.

43 CFR 3192 Cooperative Agreements

43 CFR 3192.13 - What responsibilities must BLM keep?

(a) Under cooperative agreements, BLM continues to—

(1) issue Notices of Incidents of Non-Compliance that impose monetary assessments and penalties;

(2) collect assessments and penalties;

(3) calculate and distribute shared civil penalties;

(4) train and certify Tribal or State inspectors;

(5) issue and regulate inspector identification cards; and

(6) identify leases to be inspected, taking into account the priorities of the Tribe. Priorities for allotted lands will be established through consultation with the BIA office with jurisdiction over the lands in the agreement.

(b) If BLM enters into a cooperative agreement, that agreement does not affect BLM's right to enter lease sites to conduct inspections, enforcement, investigations, or other activities necessary to supervise lease operations.

CHAPTER VI - MINERALS, MINING USE, AND OCCUPANCY

Federal Land Policy and Management Act of 1976

43 USC 1733(g)

The use, occupancy, or development of any portion of the public lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

Mining Law of 1872

30 USC 22

Except as otherwise provided, all valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, shall be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

Surface Management Act of 1955

30 USC 612

(a) Any mining claim hereafter located under the mining laws of the United States shall not be used, prior to issuance of patent therefor, for any purposes other than prospecting, mining or processing operations and uses reasonably incident thereto.

(b) Rights under any mining claim hereafter located under the mining laws of the United States shall be subject, prior to issuance of patent therefor, to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof (except mineral deposits subject to location under the mining laws of the United States)....

Mineral Leasing Act Amendments of 1987

30 USC 195

(a) It shall be unlawful for any person:

(1) to organize or participate in any scheme, arrangement, plan, or agreement to circumvent or defeat the provisions of this chapter or its implementing regulations, or

(2) to seek to obtain or to obtain any money or property by means of false statements of material facts or by failing to state material facts concerning:

(A) the value of any lease or portion thereof issued or to be issued under this chapter;

(B) the availability of any land for leasing under this chapter;

(C) the ability of any person to obtain leases under this chapter; or

(D) the provisions of this chapter and its implementing regulations.

(b) Any person who knowingly violates the provisions of subsection (a) of this section shall be punished by a fine of not more than $500,000, imprisonment for not more than five years, or both.

(c) Whenever it shall appear that any person is engaged, or is about to engage, in any act which constitutes or will constitute a violation of subsection (a) of this section, the Attorney General may institute a civil action in the district court of the United States for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located, for a temporary restraining order, injunction, civil penalty of not more than $100,000 for each violation, or other appropriate remedy, including but not limited to, a prohibition from participation in exploration, leasing, or development of any Federal mineral, or any combination of the foregoing.

(d)

(1) Whenever a corporation or other entity is subject to civil or criminal action under this section, any officer, employee, or agent of such corporation or entity who knowingly authorized, ordered, or carried out the proscribed activity shall be subject to the same action.

(2) Whenever any officer, employee, or agent of a corporation or other entity is subject to civil or criminal action under this section for activity conducted on behalf of the corporation or other entity, the corporation or other entity shall be subject to the same action, unless it is shown that the officer, employee, or agent was acting without the knowledge or consent of the corporation or other entity.

(e) The remedies, penalties, fines, and imprisonment prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies, penalties, fines, and imprisonment prescribed in this section shall be in addition to any other remedies, penalties, fines, and imprisonment afforded by any other law or regulation.

(f)

(1) A State may commence a civil action under subsection (c) of this section against any person conducting activity within the State in violation of this section. Civil actions brought by a State shall only be brought in the United States district court for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order appropriate remedies and penalties as described in subsection (c) of this section.

(2) A State shall notify the Attorney General of the United States of any civil action filed by the State under this subsection within 30 days of filing of the action. The Attorney General of the United States shall notify a State of any civil action arising from activity conducted within that State filed by the Attorney General under this subsection within 30 days of filing of the action.

(3) Any civil penalties recovered by a State under this subsection shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate. If a civil action is jointly brought by the Attorney General and a State, by more than one State or by the Attorney General and more than one State, any civil penalties recovered as a result of the joint action shall be shared by the parties bringing the action in the manner determined by the court rendering judgment in such action.

(4) If a State has commenced a civil action against a person conducting activity within the State in violation of this section, the Attorney General may join in such action but may not institute a separate action arising from the same activity under this section. If the Attorney General has commenced a civil action against a person conducting activity within a State in violation of this section, that State may join in such action but may not institute a separate action arising from the same activity under this section.

(5) Nothing in this section shall deprive a State of jurisdiction to enforce its own civil and criminal laws against any person who may also be subject to civil and criminal action under this section.

Coal depredations - Act of July 3, 1926

18 USC 1851

Whoever mines or removes coal of any character, whether anthracite, bituminous, or lignite, from beds or deposits in lands of, or reserved to the United States, with intent wrongfully to appropriate, sell, or dispose of the same, shall be fined under this title or imprisoned not more than one year, or both. This section shall not interfere with any right or privilege conferred by existing laws of the United States.

30 USC 611 - Common varieties of sand, stone, gravel, pumice, pumicite, or cinders, and petrified wood

No deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders and no deposit of petrified wood shall be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located under such mining laws: Provided, however, That nothing herein shall affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such a deposit. “Common varieties" as used in this subchapter and sections 601 and 603 of this title does not include deposits of

such materials which are valuable because the deposit has some property giving it distinct and special value and does not include so-called “block pumice" which occurs in nature in pieces having one dimension of two inches or more. “Petrified wood" as used in this subchapter and sections 601 and 603 of this title means agatized, opalized, petrified, or silicified wood, or any material formed by the replacement of wood by silica or other matter.

43 CFR 3603.1 - Unauthorized Use (mineral materials general)

Except when authorized by sale or permit under law and the regulations of the Department of the Interior, the extraction, severance or removal of mineral materials from public lands under the jurisdiction of the Department of the Interior is unauthorized use. Unauthorized users shall be liable for damages to the United States, and shall be subject to prosecution for such unlawful acts.

43 CFR 3715 - Use and occupancy under the mining laws

43 CFR 3715.0-5 - How are certain terms in this subpart defined?

As used in this subpart the term:

Mining laws means all laws that apply to mining of locatable minerals on public lands and which make public lands available for development of locatable minerals. This includes, but is not limited to, the general authorities relating to mining of locatable minerals or to the public lands on which this subpart is based and case law which interprets those authorities.

Mining operations means all functions, work, facilities, and activities reasonably incident to mining or processing of mineral deposits. It includes building roads and other means of access to a mining claim or millsite on public lands.

Occupancy means full or part-time residence on the public lands. It also means activities that involve residence; the construction, presence, or maintenance of temporary or permanent structures that may be used for such purposes; or the use of a watchman or caretaker for the purpose of monitoring activities. Residence or structures include, but are not limited to, barriers to access, fences, tents, motor homes, trailers, cabins, houses, buildings, and storage of equipment or supplies.

Permanent structure means a structure fixed to the ground by any of the various types of foundations, slabs, piers, poles, or other means allowed by building codes. The term also includes a structure placed on the ground that lacks foundations, slabs, piers, or poles, and that can only be moved through disassembly into its component parts or by techniques commonly used in house moving. The term does not apply to tents or lean-tos.

Public lands means lands open to the operation of the mining laws which BLM administers, including lands covered by unpatented mining claims or millsites.

Prospecting or exploration means the search for mineral deposits by geological, geophysical, geochemical, or other techniques. It also includes, but is not limited to, sampling, drilling, or developing surface or underground workings to evaluate the type, extent, quantity, or quality of mineral values present.

Reasonably incident means the statutory standard “prospecting, mining, or processing operations and uses reasonably incident thereto" (30 USC 612). It is a shortened version of the statutory standard. It includes those actions or expenditures of labor and resources by a person of ordinary prudence to prospect, explore, define, develop, mine, or beneficiate a valuable mineral deposit, using methods, structures, and equipment appropriate to the geological terrain, mineral deposit, and stage of development and reasonably related activities.

Substantially regular work means work on, or that substantially and directly benefits, a mineral property, including nearby properties under your control. The work must be associated with the search for and development of mineral deposits or the processing of ores. It includes active and continuing exploration, mining, and beneficiation or processing of ores. It may also include assembly or maintenance of equipment, work on physical improvements, and procurement of supplies, incidental to activities meeting the conditions of Sec. Sec. 3715.2 and 3715.2-1. It may also include off-site trips associated with these activities. The term also includes a seasonal, but recurring, work program.

Unnecessary or undue degradation, as applied to unauthorized uses, means those activities that are not reasonably incident and are not authorized under any other applicable law or regulation. As applied to authorized uses, the term is used as defined in 43 CFR 3802.0-5 and 3809.0-5.

43 CFR 3715.2 - What activities do I have to be engaged in to allow me to occupy the public lands?

In order to occupy the public lands under the mining laws for more than 14 calendar days in any 90-day period within a 25-mile radius of the initially occupied site, you must be engaged in certain activities. Those activities that are the reason for your occupancy must:

(a) Be reasonably incident;

(b) Constitute substantially regular work;

(c) Be reasonably calculated to lead to the extraction and beneficiation of minerals;

(d) Involve observable on-the-ground activity that BLM may verify under Sec. 3715.7; and

(e) Use appropriate equipment that is presently operable, subject to the need for reasonable assembly, maintenance, repair or fabrication of replacement parts.

43 CFR 3715.2-1 - What additional characteristic(s) must my occupancy have?

In addition to the requirements specified in Sec. 3715.2, your occupancy must involve one or more of the following:

(a) Protecting exposed, concentrated or otherwise accessible valuable minerals from theft or loss;

(b) Protecting from theft or loss appropriate, operable equipment which is regularly used, is not readily portable, and cannot be protected by means other than occupancy;

(c) Protecting the public from appropriate, operable equipment which is regularly used, is not readily portable, and if left unattended, creates a hazard to public safety;

(d) Protecting the public from surface uses, workings, or improvements which, if left unattended, create a hazard to public safety; or

(e) Being located in an area so isolated or lacking in physical access as to require the mining claimant, operator, or workers to remain on site in order to work a full shift of a usual and customary length. A full shift is ordinarily 8 hours and does not include travel time to the site from a community or area in which housing may be obtained.

43 CFR 3715.2-2 - How do I justify occupancy by a caretaker or watchman?

If you assert the need for a watchman or caretaker to occupy the public lands to protect valuable or hazardous property, equipment, or workings, you must show that the need for the occupancy is both reasonably incident and continual. You must show that a watchman or caretaker is required to be present either whenever the operation is not active or whenever you or your workers are not present on the site.

43 CFR 3715.2-3 - Under what circumstances will BLM allow me to temporarily occupy a site for more than 14 days?

BLM may allow temporary occupancy at a single site to extend beyond the 14-day period described in Sec. 3715.1 if you need to secure the site beyond 14 days through the use of a watchman as allowed by Sec. 3715.2-2, and you have begun consultation with BLM under Sec. 3715.3. If BLM decides not to concur in the occupancy, the temporary occupancy must stop.

43 CFR 3715.3 - Must I consult with BLM before occupancy?

Before beginning occupancy, you must consult with BLM about the requirements of this subpart.

43 CFR 3715.3-1 - At what point may I begin occupancy?

You must not begin occupancy until—

(a) You have complied with either 43 CFR part 3800, subpart 3802 or 3809 and this subpart, and BLM has completed its review and made the required determinations under the applicable subparts, and

(b) You have obtained all federal, state and local mining, reclamation, and waste disposal permits, approvals, or other authorizations for the particular use or occupancy as required under this subpart.

43 CFR 3715.3-2 - What information must I provide to BLM about my proposed occupancy?

You must give BLM a detailed map that identifies the site and the placement of the items specified in paragraphs (c), (d), and (e) of this section, and a written description of the proposed occupancy that describes in detail:

(a) How the proposed occupancy is reasonably incident;

(b) How the proposed occupancy meets the conditions specified in Sec. 3715.2 and Sec. 3715.2-1;

(c) Where you will place temporary or permanent structures for occupancy;

(d) The location of and reason you need enclosures, fences, gates, and signs intended to exclude the general public;

(e) The location of reasonable public passage or access routes through or around the area to adjacent public lands; and

(f) The estimated period of use of the structures, enclosures, fences, gates, and signs, as well as the schedule for removal and reclamation when operations end.

43 CFR 3715.3-3 - How does BLM process the information I submit about my proposed occupancy?

BLM will review all proposed occupancies and all proposed enclosures, fences, gates, or signs intended to exclude the general public to determine if your proposed occupancy or use will conform to the provisions of Sec. Sec. 3715.2, 3715.2-1 and 3715.5. BLM will complete its review of a proposed occupancy not involving a plan of operations within 30 business days of receipt of the materials, unless it concludes that the determination cannot be made until:

(a) 30 business days after it prepares necessary environmental documents, and

(b) 30 business days after it has complied with section 106 of the National Historic Preservation Act, Section 7 of the Endangered Species Act, and/or other applicable statutes, if applicable.

43 CFR 3715.3-4 - How will BLM notify me of the outcome of its review process?

At the conclusion of the review, BLM will make a written determination of concurrence or non-concurrence, and will send it to you. For operations conducted under a plan of operations, BLM will include this written determination in the decision that approves, modifies, or rejects the plan.

43 CFR 3715.3-5 - What will BLM's notification include?

(a) BLM will include in each determination of concurrence a statement requiring you to continue to comply with Sec. Sec. 3715.2, 3715.2-1 and 3715.5.

(b) BLM will specify in each determination of non-concurrence how the proposed occupancy fails to meet the conditions of Sec. 3715.2, Sec. 3715.2-1 or Sec. 3715.5, and will provide you an opportunity to modify the proposed occupancy or appeal the determination under Sec. 3715.9.

43 CFR 3715.3-6 - May I begin occupancy if I have not received concurrence from BLM?

If you have not received concurrence from BLM, you must not begin occupancy even though you have submitted, or plan to submit, an amended occupancy proposal or an appeal.

43 CFR 3715.4 - What if I have an existing use or occupancy?

(a) By August 18, 1997, all existing uses and occupancies must meet the applicable requirements of this subpart. If not, BLM will either issue you a notice of noncompliance or order any existing use or occupancy failing to meet the requirements of this subpart to suspend or cease under Sec. 3715.7-1. BLM will also order you to reclaim the land under 43 CFR part 3800, subpart 3802 or 3809 to BLM's satisfaction within a specified, reasonable time, unless otherwise expressly authorized.

(b) If you are occupying the public lands under the mining laws on August 15, 1996, you may continue your occupancy for one year after that date, without being subject to the procedures this subpart imposes, if:

(1) You notify BLM by October 15, 1996 of the existence of the occupancy using a format specified by BLM; and

(2) BLM has no pending trespass action against you concerning your occupancy.

(c) The one-year grace period provided in paragraph (b) of this section will not apply if at any time BLM determines that your use or occupancy is not reasonably incident and the continued presence of the use or occupancy is a threat to health, safety or the environment. In this situation, BLM will order an immediate temporary suspension of activities under Sec. 3715.7-1(a).

(d) If you have no existing occupancies, but are engaged in uses of the public lands under the mining law, you are subject to the standards in Sec. 3715.5. BLM will determine if your existing uses comply with those standards during normal inspection visits to the area and during BLM review of notices and plans of operations filed under 43 CFR part 3800.

43 CFR 3715.5 - What standards apply to my use or occupancy?

(a) Your use or occupancy must be reasonably incident. In all uses and occupancies, you must prevent or avoid “unnecessary or undue degradation" of the public lands and resources.

(b) Your uses must conform to all applicable federal and state environmental standards and you must have obtained all required permits before beginning, as required under 43 CFR part 3800. This means getting permits and authorizations and meeting standards required by state and federal law, including, but not limited to, the Clean Water Act (33 USC 1251 et seq.), Clean Air Act (42 USC 7401 et seq.), and the Resource Conservation and Recovery Act (42 USC 6901 et seq.), as required under 43 CFR part 3800.

(c) Your occupancies must conform to all applicable federal and state environmental standards and you must have obtained all required permits before beginning, as required under this subpart and 43 CFR part 3800. This means getting permits and authorizations and meeting standards required by state and federal law, including, but not limited to, the Clean Water Act (33 USC 1251 et seq.), Clean Air Act (42 USC 7401 et seq.), and the Resource Conservation and Recovery Act (42 USC 6901 et seq.), as required under this subpart and 43 CFR part 3800.

(d) If you're prospecting or exploration activities involve only surface activities, you must not place permanent structures on the public lands. Any temporary structures you place on the public lands during prospecting or exploration will be allowed only for the duration of the activities, unless BLM expressly and in writing allows them to remain longer. If your prospecting or exploration activities involve subsurface activities, you may place permanent structures on the public lands, if BLM concurs.

(e) All permanent and temporary structures you place on the public lands must conform to the applicable state or local building, fire, and electrical codes, and occupational safety and health and mine safety standards. If state or local codes require, you must obtain a certificate of occupancy or its equivalent before you begin use or occupancy involving permanent structures. If state or local law requires, you must also acquire appropriate sewerage and sanitation permits before the occupancy or use of a permanent structure placed on the public lands.

43 CFR 3715.6 - What things does BLM prohibit under this subpart?

Except where other applicable laws or regulations allow, BLM prohibits the following:

(a) Placing, constructing, maintaining or using residences or structures for occupancy not meeting:

(1) The conditions of occupancy under §§ 3715.2 or 3715.2-1; or

(2) Any of the standards of occupancy under § 3715.5;

(b) Beginning occupancy before the filing, review, and approval or modification of a plan of operation as required under 43 CFR part 3800, subparts 3802 or 3809;

(c) Beginning occupancy before consultation with BLM as required by § 3715.3 for activities that do not require a plan of operations under 43 CFR part 3800, subpart 3802 or that are defined as casual use or notice activities under 43 CFR part 3800, subpart 3809;

(d) Beginning occupancy without receiving a determination of concurrence because the proposed occupancy or fencing will not conform to the provisions of § 3715.2, § 3715.2-1 or § 3715.5;

(e) Not complying with any order issued under this subpart within the time frames the order provides;

(f) Preventing or obstructing free passage or transit over or through the public lands by force, threats, or intimidation; provided, however, that reasonable security and safety measures in accordance with this subpart are allowed;

(g) Placing, constructing, or maintaining enclosures, gates, or fences, or signs intended to exclude the general public, without BLM's concurrence;

(h) Causing a fire or safety hazard or creating a public nuisance;

(i) Not complying with the notification and other requirements under § 3715.4 relating to an existing occupancy; and

(j) Conducting activities on the public lands that are not reasonably incident, including, but not limited to: non-mining related habitation, cultivation, animal maintenance or pasturage, and development of small trade or manufacturing concerns; storage, treatment, processing, or disposal of non-mineral, hazardous or toxic materials or waste that are generated elsewhere and brought onto the public lands; recycling or reprocessing of manufactured material such as scrap electronic parts, appliances, photographic film, and chemicals; searching for buried treasure, treasure trove or archaeological specimens; operating hobby and curio shops; cafes; tourist stands; and hunting and fishing camps.

NOTE: The administrative process of notice of noncompliance should be utilized prior to implementing criminal law enforcement actions on these regulations to make certain that the operator has had an opportunity to comply and that the violations continue to be "knowingly and willfully" violated. In situations where there is doubt if the uses of the public land are or are not "reasonably incident," a surface use determination report should be prepared by the responsible BLM resource specialist.

43 CFR 3715.7 - How will the BLM inspect my use or occupancy and enforce this subpart?

(a) BLM field staff is authorized to physically inspect all structures, equipment, workings, and uses located on the public lands. The inspection may include verification of the nature of your use and occupancy to ensure that your use or occupancy is, or continues to be, reasonably incident and in compliance with §§ 3715.2, 3715.2-1, 3715.4-1, and 3715.5.

(b) BLM will not inspect the inside of structures used solely for residential purposes, unless an occupant or a court of competent jurisdiction gives permission.

43 CFR 3715.8 - What penalties are available to BLM for violations of this subpart?

The penalties for individuals and organizations are as follows:

(a) Individuals. If you knowingly and willfully violate the requirements of this subpart, you may be subject to arrest and trial under section 303(a) of FLPMA (§ 43 USC 1733(a)) and/or section 4 of the Unlawful Occupancy and Inclosures of Public Lands Act (§ 43 USC 1064). If you are convicted, you will be subject to a fine of not more than $100,000 or the alternative fine provided for in the applicable provisions of § 18 USC 3571, or imprisonment not to exceed 12 months, or both, for each offense.

(b) Organizations. If an organization or corporation knowingly or willfully violates the requirements of this subpart, it is subject to trial and, if convicted, will be subject to a fine of not more than $200,000, or the alternative fine provided for in the applicable provisions of § 18 USC 3571.

43 CFR 3715.8-1 - What happens if I make false statements to BLM?

You are subject to arrest and trial before a United States District Court if, in any matter under this subpart, you knowingly and willfully falsify, conceal or cover up by any trick, scheme or device a material fact, or make any false, fictitious or fraudulent statements or representations, or make or use any false writings or document knowing the same to contain any false, fictitious or fraudulent statement or entry. If you are convicted, you will be fined not more than $250,000 or the alternative fine provided for in the applicable provisions of § 18 USC 3571, or imprisoned not more than 5 years, or both.

43 CFR 3809 - Surface Management

43 CFR 3809.5 - How does BLM define certain terms used in this subpart?

Casual use means activities ordinarily resulting in no or negligible disturbance of the public lands or resources. For example—

(1) Casual use generally includes the collection of geochemical, rock, soil, or mineral specimens using hand tools; hand panning; or non- motorized sluicing. It may include use of small portable suction dredges. It also generally includes use of metal detectors, gold spears and other battery-operated devices for sensing the presence of minerals, and hand and battery-operated drywashers. Operators may use motorized vehicles for casual use activities provided the use is consistent with the regulations governing such use (part 8340 of this title), off-road vehicle use designations contained in BLM land-use plans, and the terms of temporary closures ordered by BLM.

(2) Casual use does not include use of mechanized earth-moving equipment, truck-mounted drilling equipment, motorized vehicles in areas when designated as closed to “off-road vehicles" as defined in Sec. 8340.0-5 of this title, chemicals, or explosives. It also does not include “occupancy" as defined in Sec. 3715.0-5 of this title or operations in areas where the cumulative effects of the activities result in more than negligible disturbance.

Exploration means creating surface disturbance greater than casual use that includes sampling, drilling, or developing surface or underground workings to evaluate the type, extent, quantity, or quality of mineral values present. Exploration does not include activities where material is extracted for commercial use or sale.

Minimize means to reduce the adverse impact of an operation to the lowest practical level. During review of operations, BLM may determine that it is practical to avoid or eliminate particular impacts.

Mining claim means any unpatented mining claim, millsite, or tunnel site located under the mining laws. The term also applies to those mining claims and millsites located in the California Desert Conservation Area that were patented after the enactment of the Federal Land Policy and Management Act of October 21, 1976. Mining “claimant" is defined in Sec. 3833.0-5 of this title. Mining laws means the Lode Law of July 26, 1866, as amended (14 Stat. 251); the Placer Law of July 9, 1870, as amended (16 Stat. 217); and the Mining Law of May 10, 1872, as amended (17 Stat. 91); as well as all laws supplementing and amending those laws, including the Building Stone Act of August 4, 1892, as amended (27 Stat. 348); the Saline Placer Act of January 31, 1901 (31 Stat. 745); the Surface Resources Act of 1955 (30 USC 611-614); and the Federal Land Policy and Management Act of 1976 (43 USC 1701 et seq.).

Mitigation, as defined in 40 CFR 1508.20, may include one or more of the following:

(1) Avoiding the impact altogether by not taking a certain action or parts of an action;

(2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

(3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and

(5) Compensating for the impact by replacing, or providing substitute, resources or environments.

Operations means all functions, work, facilities, and activities on public lands in connection with prospecting, exploration, discovery and assessment work, development, extraction, and processing of mineral deposits locatable under the mining laws; reclamation of disturbed areas; and all other reasonably incident uses, whether on a mining claim or not, including the construction of roads, transmission lines, pipelines, and other means of access across public lands for support facilities.

Operator means a person conducting or proposing to conduct operations.

Person means any individual, firm, corporation, association, partnership, trust, consortium, joint venture, or any other entity conducting operations on public lands.

Project area means the area of land upon which the operator conducts operations, including the area required for construction or maintenance of roads, transmission lines, pipelines, or other means of access by the operator.

Public lands, as defined in 43 USC 1702, means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the BLM, without regard to how the United States acquired ownership, except-- (1) Lands located on the Outer Continental Shelf; and (2) Lands held for the benefit of Indians, Aleuts, and Eskimos.

Reclamation means taking measures required by this subpart following disturbance of public lands caused by operations to meet applicable performance standards and achieve conditions required by BLM at the conclusion of operations. For a definition of "reclamation" applicable to operations conducted under the mining laws on Stock Raising Homestead Act lands, see part 3810, subpart 3814 of this title. Components of reclamation include, where applicable:

(1) Isolation, control, or removal of acid-forming, toxic, or deleterious substances;

(2) Regrading and reshaping to conform to adjacent landforms, facilitate revegetation, control drainage, and minimize erosion;

(3) Rehabilitation of fisheries or wildlife habitat;

(4) Placement of growth medium and establishment of self-sustaining revegetation;

(5) Removal or stabilization of buildings, structures, or other support facilities;

(6) Plugging of drill holes and closure of underground workings; and

(7) Providing for post-mining monitoring, maintenance, or treatment.

Riparian area is a form of wetland transition between permanently saturated wetlands and upland areas. These areas exhibit vegetation or physical characteristics reflective of permanent surface or subsurface water influence. Typical riparian areas include lands along, adjacent to, or contiguous with perennially and intermittently flowing rivers and streams, glacial potholes, and the shores of lakes and reservoirs with stable water levels. Excluded are areas such as ephemeral streams or washes that do not exhibit the presence of vegetation dependent upon free water in the soil.

Tribe means, and Tribal refers to, a Federally recognized Indian tribe.

Unnecessary or undue degradation means conditions, activities, or practices that:

(1) Fail to comply with one or more of the following: the performance standards in Sec. 3809.420, the terms and conditions of an approved plan of operations, operations described in a complete notice, and other Federal and state laws related to environmental protection and protection of cultural resources;

(2) Are not “reasonably incident" to prospecting, mining, or processing operations as defined in Sec. 3715. 0-5 of this chapter; or

(3) Fail to attain a stated level of protection or reclamation required by specific laws in areas such as the California Desert Conservation Area, Wild and Scenic Rivers, BLM-administered portions of the National Wilderness System, and BLM-administered National Monuments and National Conservation Areas.

43 CFR 3809.420 - What performance standards apply to my notice or plan of operations?

The following performance standards apply to your notice or plan of operations:

(a) General performance standards—

(1) Technology and practices. You must use equipment, devices, and practices that will meet the performance standards of this subpart.

(2) Sequence of operations. You must avoid unnecessary impacts and facilitate reclamation by following a reasonable and customary mineral exploration, development, mining and reclamation sequence.

(3) Land-use plans. Consistent with the mining laws, your operations and post-mining land use must comply with the applicable BLM land-use plans and activity plans, and with coastal zone management plans under 16 USC 1451, as appropriate.

(4) Mitigation. You must take mitigation measures specified by BLM to protect public lands.

(5) Concurrent reclamation. You must initiate and complete reclamation at the earliest economically and technically feasible time on those portions of the disturbed area that you will not disturb further.

(6) Compliance with other laws. You must conduct all operations in a manner that complies with all pertinent Federal and state laws.

(b) Specific standards—

(1) Access routes. Access routes shall be planned for only the minimum width needed for operations and shall follow natural contours, where practicable to minimize cut and fill. When the construction of access routes involves slopes that require cuts on the inside edge in excess of 3 feet, the operator may be required to consult with the authorized officer concerning the most appropriate location of the access route prior to commencing operations. An operator is entitled to access to his operations consistent with provisions of the mining laws. Where a notice or a plan of operations is required, it shall specify the location of access routes for operations and other conditions necessary to prevent unnecessary or undue degradation. The authorized officer may require the operator to use existing roads to minimize the number of access routes, and, if practicable, to construct access roads within a designated transportation or utility corridor. When commercial hauling is involved and

the use of an existing road is required, the authorized officer may require the operator to make appropriate arrangements for use and maintenance.

(2) Mining wastes. All tailings, dumps, deleterious materials or substances, and other waste produced by the operations shall be disposed of so as to prevent unnecessary or undue degradation and in accordance with applicable Federal and state Laws.

(3) Reclamation.

(i) At the earliest feasible time, the operator shall reclaim the area disturbed, except to the extent necessary to preserve evidence of mineralization, by taking reasonable measures to prevent or control on-site and off-site damage of the Federal lands.

(ii) Reclamation shall include, but shall not be limited to:

(A) Saving of topsoil for final application after reshaping of disturbed areas have been completed;

(B) Measures to control erosion, landslides, and water runoff;

(C) Measures to isolate, remove, or control toxic materials;

(D) Reshaping the area disturbed, application of the topsoil, and revegetation of disturbed areas, where reasonably practicable; and

(E) Rehabilitation of fisheries and wildlife habitat.

(iii) When reclamation of the disturbed area has been completed, except to the extent necessary to preserve evidence of mineralization, the authorized officer shall be notified so that an inspection of the area can be made.

(4) Air quality. All operators shall comply with applicable Federal and state air quality standards, including the Clean Air Act (42 USC 1857 et seq.).

(5) Water quality. All operators shall comply with applicable Federal and state water quality standards, including the Federal Water Pollution Control Act, as amended (30 USC 1151 et seq.).

(6) Solid wastes. All operators shall comply with applicable Federal and state standards for the disposal and treatment of solid wastes, including regulations issued pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (42 USC 6901 et seq.). All garbage, refuse or waste shall either be removed from the affected lands or disposed of or treated to minimize, so far as is practicable, its impact on the lands.

(7) Fisheries, wildlife and plant habitat. The operator shall take such action as may be needed to prevent adverse impacts to threatened or endangered species, and their habitat which may be affected by operations.

(8) Cultural and paleontological resources.

(i) Operators shall not knowingly disturb, alter, injure, or destroy any scientifically important paleontological remains or any historical or archaeological site, structure, building or object on Federal lands.

(ii) Operators shall immediately bring to the attention of the authorized officer any cultural and/or paleontological resources that might be altered or destroyed on Federal lands by his/her operations, and shall leave such discovery intact until told to proceed by the authorized officer. The authorized officer shall evaluate the discoveries brought to his/her attention, take action to protect or remove the resource, and allow operations to proceed within 10 working days after notification to the authorized officer of such discovery.

(iii) The Federal Government shall have the responsibility and bear the cost of investigations and salvage of cultural and paleontology values discovered after a plan of operations has been approved, or where a plan is not involved.

43 CFR 3809.605 - What are prohibited acts under this subpart?

Prohibited acts include, but are not limited to, the following:

(a) Causing any unnecessary or undue degradation;

(b) Beginning any operations, other than casual use, before you file a notice as required by § 3809.21 or receive an approved plan of operations as required by § 3809.412;

(c) Conducting any operations outside the scope of your notice or approved plan of operations;

(d) Beginning operations prior to providing a financial guarantee that meets the requirements of this subpart;

(e) Failing to meet the requirements of this subpart when you stop conducting operations under a notice (§ 3809.334), when your notice expires (§ 3809.335), or when you stop conducting operations under an approved plan of operations (§ 3809.424);

(f) Failing to comply with any applicable performance standards in § 3809.420;

(g) Failing to comply with any enforcement actions provided for in § 3809.601; or

(h) Abandoning any operation prior to complying with any reclamation required by this subpart or any order provided for in § 3809.601.

43 CFR 3809.700 - What criminal penalties apply to violations of this subpart?

The criminal penalties established by statute for individuals and organizations are as follows:

(a) Individuals. If you knowingly and willfully violate the requirements of this subpart, you may be subject to arrest and trial under section 303(a) of FLPMA (43 USC 1733(a)). If you are convicted, you will be subject to a fine of not more than $100,000 or the alternative fine provided for in the applicable provisions of 18 USC 3571, or imprisonment not to exceed 12 months, or both, for each offense; and

(b) Organizations. If an organization or corporation knowingly and willfully violates the requirements of this subpart, it is subject to trial and, if convicted, will be subject to a fine of not more than $200,000 or the alternative fine provided for in the applicable provisions of 18 USC 3571.

43 CFR 3809.701 - What happens if I make false statements to BLM?

Under Federal statute (18 USC 1001), you are subject to arrest and trial before a United States District Court if, in any matter under this subpart, you knowingly and willfully falsify, conceal, or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, or fraudulent statements or representations, or make or use any false writings or documents knowing the same to contain any false, fictitious, or fraudulent statement or entry. If you are convicted, you will be subject to a fine of not more than $250,000 or the alternative fine provided for in the applicable provisions of 18 USC 3571 or imprisonment for not more than 5 years, or both.

CHAPTER VII - CULTURAL, SCIENTIFIC, AND CAVE RESOURCES

16 USC 433 - Antiquities Act, 1906

Any person who shall appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the United States, without the permission of the Secretary of the Department of the Government having jurisdiction over the lands on which said antiquities are situated, shall, upon conviction, be fined in a sum of not more than $500 or be imprisoned for a period of not more than ninety days, or shall suffer both fine and imprisonment, in the discretion of the court.

NOTE: This Act was found to be unconstitutional in the 9th U.S. Circuit Court of Appeals in 1974.

16 USC 470 - Archaeological Resources Protection Act, 1979

16 USC 470bb - Definitions

As used in this chapter—

(1) The term “archaeological resource" means any material remains of past human life or activities which are of archaeological interest, as determined under uniform regulations promulgated pursuant to this chapter. Such regulations containing such determination shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items. Non-fossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources, under the regulations under this paragraph, unless found in archaeological context. No item shall be treated as an archaeological resource under regulations under this paragraph unless such item is at least 100 years of age.

(2) The term “Federal land manager" means, with respect to any public lands, the Secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over such lands. In the case of any public lands or Indian lands with respect to which no department, agency, or instrumentality has primary management authority, such term means the Secretary of the Interior. If the Secretary of the Interior consents, the responsibilities (in whole or in part) under this chapter of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary of the Interior with respect to any land managed by such other Secretary or agency head, and in any such case, the term “Federal land manager" means the Secretary of the Interior.

(3) The term “public lands" means—

(A) lands which are owned and administered by the United States as part of—

(i) the national park system,

(ii) the national wildlife refuge system, or

(iii) the national forest system; and

(B) all other lands the fee title to which is held by the United States, other than lands on the Outer Continental Shelf and lands which are under the jurisdiction of the Smithsonian Institution.

(4) The term “Indian lands" means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for any subsurface interests in lands not owned or controlled by an Indian tribe or an Indian individual.

(5) The term “Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (85 Stat. 688) [43 USC 1601 et seq.].

(6) The term “person" means an individual, corporation, partnership, trust, institution, association, or any other private entity or any officer, employee, agent, department, or instrumentality of the United States, of any Indian tribe, or of any State or political subdivision thereof.

(7) The term “State" means any of the fifty States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

16 USC 470ee - Prohibited acts and criminal penalties

(a) No person may excavate, remove, damage, or otherwise alter or deface, or attempt to excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under section 470cc of this title, a permit referred to in section 470cc(h)(2) of this title, or the exemption contained in section 470cc(g)(1) of this title.

(b) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or removed from public lands or Indian lands in violation of—

(1) the prohibition contained in subsection (a) of this section, or

(2) any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

(c) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange, in interstate or foreign commerce, any archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance, or permit in effect under State or local law.

(d) Any person who knowingly violates, or counsels, procures, solicits, or employs any other person to violate, any prohibition contained in subsection (a), (b), or (c) of this section shall, upon conviction, be fined not more than $10,000 or imprisoned not more than one year, or both: Provided, however, That if the commercial or archaeological value of the archaeological resources involved and the cost of restoration and repair of such resources exceeds the sum of $500, such person shall be fined not more than $20,000 or imprisoned not more than two years, or both. In the case of a second or subsequent such violation upon conviction such person shall be fined not more than $100,000, or imprisoned not more than five years, or both.

(e) The prohibitions contained in this section shall take effect on October 31, 1979.

(f) Nothing in subsection (b) (1) of this section shall be deemed applicable to any person with respect to an archaeological resource which was in the lawful possession of such person prior to October 31, 1979.

(g) Nothing in subsection (d) of this section shall be deemed applicable to any person with respect to the removal of arrowheads located on the surface of the ground.

NOTE: This section exempts the removal of arrowheads on the surface from the criminal penalties of ARPA. However, arrowheads still meet the definition of an archeological resource under the Act and their unauthorized collection is still prohibited. Enforcing that prohibition becomes dependent upon the criminal penalties available under the FLPMA. 43 CFR 8365.1-5(a) identified below should be used for this purpose.

16 USC 470ff - Civil penalties

(a)

(1) Any person who violates any prohibition contained in an applicable regulation or permit issued under this chapter may be assessed a civil penalty by the Federal land manager concerned. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Federal land manager concerned.

(2) The amount of such penalty shall be determined under regulations promulgated pursuant to this chapter, taking into account, in addition to other factors—

(A) the archaeological or commercial value of the archaeological resource involved, and

(B) the cost of restoration and repair of the resource and the archaeological site involved.

Such regulations shall provide that, in the case of a second or subsequent violation by any person, the amount of such civil penalty may be double the amount which would have been assessed if such violation were the first violation by such person. The amount of any penalty assessed under this subsection for any violation shall not exceed an amount equal to

double the cost of restoration and repair of resources and archaeological sites damaged and double the fair market value of resources destroyed or not recovered.

(3) No penalty shall be assessed under this section for the removal of arrowheads located on the surface of the ground.

(b)

(1) Any person aggrieved by an order assessing a civil penalty under subsection (a) of this section may file a petition for judicial review of such order with the United States District Court for the District of Columbia or for any other district in which such a person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued. The court shall hear such action on the record made before the Federal land manager and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and such person has not filed a petition for judicial review of the order in accordance with paragraph (1), or

(B) after a court in an action brought under paragraph (1) has entered a final judgment upholding the assessment of a civil penalty, the Federal land managers may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In such action, the validity and amount of such penalty shall not be subject to review.

(c) Hearings held during proceedings for the assessment of civil penalties authorized by subsection (a) of this section shall be conducted in accordance with section 554 of title 5. The Federal land manager may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Federal land manager or to appear and produce documents before the Federal land manager, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

16 USC 470gg - Enforcement

(a) Upon the certification of the Federal land manager concerned, the Secretary of the Treasury is directed to pay from penalties and fines collected under sections 470ee and 470ff of this title an amount equal to one-half of such penalty or fine, but not to exceed $500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which such penalty or fine was paid. If several persons provided such information, such amount shall be divided among such persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) All archaeological resources with respect to which a violation of subsection (a), (b), or (c) of section 470ee of this title occurred and which are in the possession of any person, and all vehicles and equipment of any person which were used in connection with such violation, may be (in the discretion of the court or administrative law judge, as the case may be) subject to forfeiture to the United States upon—

(1) such person's conviction of such violation under section 470ee of this title,

(2) assessment of a civil penalty against such person under section 470ff of this title with respect to such violation, or

(3) a determination by any court that such archaeological resources, vehicles, or equipment were involved in such violation.

(c) In cases in which a violation of the prohibition contained in subsection (a), (b), or (c) of section 470ee of this title involve archaeological resources excavated or removed from Indian lands, the Federal land manager or the court, as the case may be, shall provide for the payment to the Indian or Indian tribe involved of all penalties collected pursuant to section 470ff of this title and for the transfer to such Indian or Indian tribe of all items forfeited under this section.

The Native American Graves Protection and Repatriation Act, 1990

18 USC 1170

(a) Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit, the human remains of a Native American without the right of possession to those remains as provided in the Native American Graves Protection and Repatriation Act shall be fined in accordance with this title, or imprisoned not more than 12 months, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, or imprisoned not more than 5 years, or both.

(b) Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit any Native American cultural items obtained in violation of the Native American Grave Protection and Repatriation Act shall be fined in accordance with this title, imprisoned not more than one year, or both, and in the case of a

second or subsequent violation, be fined in accordance with this title, imprisoned not more than 5 years, or both.

Federal Cave Resources Protection Act, 1988

16 USC 4302 - Definitions

For purposes of this chapter:

(1) *Cave*. The term “cave" means any naturally occurring void, cavity, recess, or system of interconnected passages which occurs beneath the surface of the earth or within a cliff or ledge (including any cave resource therein, but not including any vug, mine, tunnel, aqueduct, or other manmade excavation) and which is large enough to permit an individual to enter, whether or not the entrance is naturally formed or manmade. Such term shall include any natural pit, sinkhole, or other feature which is an extension of the entrance.

(2) *Federal lands*. The term “Federal lands" means lands the fee title to which is owned by the United States and administered by the Secretary of Agriculture or the Secretary of the Interior.

(3) *Indian lands.* The term “Indian lands" means lands of Indian tribes or Indian individuals which are either held in trust by the United States for the benefit of an Indian tribe or subject to a restriction against alienation imposed by the United States.

(4) *Indian tribe.* The term “Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims settlement \1\ Act (43 USC 1601 et seq.

(5) *Cave resource*. The term “cave resource" includes any material or substance occurring naturally in caves on Federal lands, such as animal life, plant life, paleontological deposits, sediments, minerals, speleogens, and speleothems.

(6) *Secretary*. The term “Secretary" means the Secretary of Agriculture or the Secretary of the Interior, as appropriate.

(7) *Speleothem*. The term “speleothem" means any natural mineral formation or deposit occurring in a cave or lava tube, including but not limited to any stalactite, stalagmite, helictite, cave flower, flowstone, concretion, drapery, rimstone, or formation of clay or mud.

(8) *Speleogen*. The term “speleogen" means relief features on the walls, ceiling, and floor of any cave or lava tube which are part of the surrounding bedrock, including but not limited to anastomoses, scallops, meander niches, petromorphs and rock pendants in solution caves and similar features unique to volcanic caves.

16 USC 4306 - Prohibited acts and criminal penalties

(a)

(1) Any person who, without prior authorization from the Secretary knowingly destroys, disturbs, defaces, mars, alters, removes or harms any significant cave or alters the free movement of any animal or plant life into or out of any significant cave located on Federal lands, or enters a significant cave with the intention of committing any act described in this paragraph shall be punished in accordance with subsection (b) of this section.

(2) Any person who possesses, consumes, sells, barters or exchanges, or offers for sale, barter or exchange, any cave resource from a significant cave with knowledge or reason to know that such resource was removed from a significant cave located on Federal lands shall be punished in accordance with subsection (b) of this section.

(3) Any person who counsels, procures, solicits, or employs any other person to violate any provisions of this subsection shall be punished in accordance with section (b) of this section.

(4) Nothing in this section shall be deemed applicable to any person who was in lawful possession of a cave resource from a significant cave prior to November 18, 1988.

(b) The punishment for violating any provision of subsection (a) of this section shall be imprisonment of not more than one year or a fine in accordance with the applicable provisions of Title 18, or both. In the case of a second or subsequent violation, the punishment shall be imprisonment of not more than 3 years or a fine in accordance with the applicable provisions of Title 18, or both.

16 USC 4307 - Civil penalties

(a)

(1) The Secretary may issue an order assessing a civil penalty against any person who violates any prohibition contained in this chapter, any regulation promulgated pursuant to this chapter, or any permit issued under this chapter. Before issuing such an order, the Secretary shall provide such person written notice and the opportunity to request a hearing on the record within 30 days. Each violation shall be a separate offense, even if such violations occurred at the same time.

(2) The amount of such civil penalty shall be determined by the Secretary taking into account appropriate factors, including (A) the seriousness of the violation; (B) the economic benefit (if any) resulting from the violation; (C) any history of such violations; and (D) such other matters as the Secretary deems appropriate. The maximum fine permissible under this section is $10,000.

(b) Any person aggrieved by an assessment of a civil penalty under this section may file a petition for judicial review of such assessment with the United States District Court for the District of Columbia or for the district in which the violation occurred. Such a petition shall be filed within the 30-day period beginning on the date the order assessing the civil penalty was issued.

(c) If any person fails to pay an assessment of a civil penalty—

(1) within 30 days after the order was issued under subsection (a), or

(2) if the order is appealed within such 30-day period, within 10 days after court has entered a final judgment in favor of the Secretary under subsection (b) of this section, the Secretary shall notify the Attorney General and the Attorney General shall bring a civil action in an appropriate United States district court to recover the amount of penalty assessed (plus costs, attorney's fees, and interest at currently prevailing rates from the date the order was issued or the date of such final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(d) The Secretary may issue subpoenas in connection with proceedings under this subsection compelling the attendance and testimony of witnesses and subpoenas duces tecum, and may request the Attorney General to bring an action to enforce any subpoena under this section. The district courts shall have jurisdiction to enforce such subpoenas and impose sanctions.

43 CFR Part 7 - Protection of Archeological Resources

43 CFR 7.1 - Purpose

(a) The regulations in this part implement provisions of the Archaeological Resources Protection Act of 1979, as amended (§ 16 USC 470aa-mm) by establishing the uniform definitions, standards, and procedures to be followed by all Federal land managers in providing protection for archaeological resources, located on public lands and Indian lands of the United States. These regulations enable Federal land managers to protect archaeological resources, taking into consideration provisions of the American Indian Religious Freedom Act (92 Stat. 469; § 42 USC 1996), through permits authorizing excavation and/or removal of archaeological resources, through civil penalties for unauthorized excavation and/or removal, through provisions for the preservation of archaeological resource collections and data, and through provisions for ensuring confidentiality of information about archaeological resources when disclosure would threaten the archaeological resources.

(b) The regulations in this part do not impose any new restrictions on activities permitted under other laws, authorities, and regulations relating to mining, mineral leasing, reclamation, and other multiple uses of the public lands.

43 CFR 7.2 - Authority

(a) The regulations in this part are promulgated pursuant to section 10(a) of the Archaeological Resources Protection Act of 1979 (§ 16 USC 470ii), which requires that the Secretaries of the Interior, Agriculture and Defense and the Chairman of the Board of the Tennessee Valley Authority jointly develop uniform rules and regulations for carrying out the purposes of the Act.

(b) In addition to the regulations in this part, section 10(b) of the Act (§ 16 USC 470ii) provides that each Federal land manager shall promulgate such rules and regulations, consistent with the uniform rules and regulations in this part, as may be necessary for carrying out the purposes of the Act.

43 CFR 7.3 - Definitions

As used for purposes of this part:

(a) "Archaeological resource" means any material remains of human life or activities which are at least 100 years of age, and which are of archaeological interest.

(1) "Of archaeological interest" means capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation and explanation.

(2) "Material remains" means physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which such evidence is situated.

(3) The following classes of material remains (and illustrative examples), if they are at least 100 years of age, are of archaeological interest and shall be considered archaeological resources unless determined otherwise pursuant to paragraph (a)(4) or (a)(5) of this section:

(i) Surface or subsurface structures, shelters, facilities, or features (including, but not limited to, domestic structures, storage structures, cooking structures, ceremonial structures, artificial mounds, earthworks, fortifications, canals, reservoirs, horticultural/agricultural gardens or fields, bedrock mortars or grinding surfaces, rock alignments, cairns, trails, borrow pits, cooking pits, refuse pits, burial pits or graves, hearths, kilns, post molds, wall trenches, middens);

(ii) Surface or subsurface artifact concentrations or scatters;

(iii) Whole or fragmentary tools, implements, containers, weapons and weapon projectiles, clothing, and ornaments (including, but not limited to, pottery and other ceramics, cordage, basketry and other weaving, bottles and other glassware, bone, ivory, shell, metal, wood, hide, feathers, pigments, and flaked, ground, or pecked stone);

(iv) By-products, waste products, or debris resulting from manufacture or use of human-made or natural materials;

(v) Organic waste (including, but not limited to, vegetal and animal remains, coprolites);

(vi) Human remains (including, but not limited to, bone, teeth, mummified flesh, burials, cremations);

(vii) Rock carvings, rock paintings, intaglios and other works of artistic or symbolic representation;

(viii) Rockshelters and caves or portions thereof containing any of the above material remains;

(ix) All portions of shipwrecks (including, but not limited to, armaments, apparel, tackle, cargo);

(x) Any portion or piece of any of the foregoing.

(4) The following material remains shall not be considered of archaeological interest, and shall not be considered to be archaeological resources for purposes of the Act and this part, unless found in a direct physical relationship with archaeological resources as defined in this section:

(i) Paleontological remains;

(ii) Coins, bullets, and unworked minerals and rocks.

(5) The Federal land manager may determine that certain material remains, in specified areas under the Federal land manager's jurisdiction, and under specified circumstances, are not or are no longer of archaeological interest and are not to be considered archaeological resources under this part. Any determination made pursuant to this subparagraph shall be documented. Such determination shall in no way affect the Federal land manager's obligations under other applicable laws or regulations.

(6) For the disposition following lawful removal or excavations of Native American human remains and "cultural items", as defined by the Native American Graves Protection and Repatriation Act (NAGPRA; Pub.L. 101-601; 104 Stat. 3050; § 25 USC 3001-§ 13), the Federal land manager is referred to NAGPRA and its implementing regulations.

(b) "Arrowhead" means any projectile point which appears to have been designed for use with an arrow.

(c) "Federal land manager" means:

(1) With respect to any public lands, the secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over such lands, including persons to whom such management authority has been officially delegated;

(2) In the case of Indian lands, or any public lands with respect to which no department, agency or instrumentality has primary management authority, such term means the Secretary of the Interior;

(3) The Secretary of the Interior, when the head of any other agency or instrumentality has, pursuant to section 3(2) of the Act and with the consent of the Secretary of the Interior, delegated to the Secretary of the Interior the responsibilities (in whole or in part) in this part.

(d) "Public lands" means:

(1) Lands which are owned and administered by the United States as part of the national park system, the national wildlife refuge system, or the national forest system; and

(2) All other lands the fee title to which is held by the United States, except lands on the Outer Continental Shelf, lands under the jurisdiction of the Smithsonian Institution, and Indian lands.

(e) "Indian lands" means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for subsurface interests not owned or controlled by an Indian tribe or Indian individual.

(f) "Indian tribe" as defined in the Act means any Indian tribe, band, nation, or other organized group or community, including any Alaska village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (85 Stat. 688). In order to clarify this statutory definition for purposes of this part, "Indian tribe" means:

(1) Any tribal entity which is included in the annual list of recognized tribes published in the Federal Register by the Secretary of the Interior pursuant to 25 CFR Part 54;

(2) Any other tribal entity acknowledged by the Secretary of the Interior pursuant to 25 CFR Part 54 since the most recent publication of the annual list; and

(3) Any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and any Alaska Native village or tribe which is recognized by the Secretary of the Interior as eligible for services provided by the Bureau of Indian Affairs.

(g) "Person" means an individual, corporation, partnership, trust, institution, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the United States, or of any Indian tribe, or of any State or political subdivision thereof.

(h) "State" means any of the fifty states, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(i) "Act" means the Archaeological Resources Protection Act of 1979 (§ 16 USC 470aa-mm).

43 CFR 7.4 - Prohibited acts and criminal penalties

(a) Under section 6(a) of the Act, no person may excavate, remove, damage, or otherwise alter or deface, or attempt to excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under § 7.8 or exempted by § 7.5(b) of this part.

(b) No person may sell, purchase, exchange, transport, or receive any archaeological resource, if such resource was excavated or removed in violation of:

(1) The prohibitions contained in paragraph (a) of this section; or

(2) Any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

(c) Under section (d) of the Act, any person who knowingly violates or counsels, procures, solicits, or employs any other person to violate any prohibition contained in section 6 (a), (b), or (c) of the Act will, upon conviction, be fined not more than $10,000.00 or imprisoned not more than one year, or both: provided, however, that if the commercial or archaeological value of the archaeological resources involved and the cost of restoration and repair of such resources exceeds the sum of $500.00, such person will be fined not more than $20,000.00 or imprisoned not more than two years, or both. In the case of a second or subsequent such violation upon conviction such person will be fined not more than $100,000.00, or imprisoned not more than five years, or both.

43 CFR 8223 - Research natural areas

43 CFR 8223.0-5 - Definitions

(a) "Research natural area" means an area that is established and maintained for the primary purpose of research and education because the land has one or more of the following characteristics: (1) A typical representation of a common plant or animal association; (2) an unusual plant or animal association; (3) a threatened or endangered plant or animal species; (4) a typical representation of common geologic, soil, or water features; or (5) outstanding or unusual geologic, soil, or water features.

43 CFR 8223.1 - Use of research natural areas

(a) No person shall use, occupy, construct, or maintain facilities in a research natural area except as permitted by law, other Federal regulations, or authorized under provisions of this Subpart 8223.

(b) No person shall use, occupy, construct, or maintain facilities in a manner inconsistent with the purpose of the research natural area.

(c) Scientists and educators shall use the area in a manner that is nondestructive and consistent with the purpose of the research natural area.

43 CFR 8224.0-5 - Definitions

As used in this subpart, the term:

(a) *Authorized officer* means any employee of the Bureau of Land Management designated to perform the duties described in this subpart:

(b) *Fossil* means the remains or trace(s) of an organism or assemblage of organisms which have been preserved by natural processes in the earth's crust. The term does not mean energy minerals, such as coal, oil and gas, oil shale, bitumen, lignite, asphaltum and tar sands, even though they are of biologic origin:

(c) *Fossil Forest or Fossil Forest Research Natural Area* means those public lands as described in section 103(a) of the San Juan Basin Wilderness Protection Act of 1984 (Pub. L. 98-603, 98 Stat. 3155).

43 CFR 8224.1 - Use of the Fossil Forest Research Natural Area

(a) Fossils may be collected, excavated, or removed only under a permit issued under § 2920.2-2 of this title by the Director, New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, NM 87504-1419. Permits shall be issued only to institutions and individuals engaged in research, museum, or educational projects that are approved by the authorized officer and that provide for detailed recordation, reporting, care of specimens, and availability of specimens to other scientists and museums.

(b) Petrified wood shall not be collected and removed from the Fossil Forest either for free use as permitted under § 3622.3 of this title or for commercial sale as permitted under § 3610.1.

(c) The Fossil Forest is closed to motorized use, except as permitted by the authorized officer.

(d) Except as otherwise provided in paragraphs (a), (b), and (c) of this section, the provisions of Part 8360 of this title apply to recreational use in the Fossil Forest.

(e) Rights-of-way may be approved only for temporary projects which do not significantly disturb the surface of the land or impair the existing values of the area.

(f) The grazing of livestock where such use was established before October 30, 1984, shall be allowed to continue under the regulations on the grazing of livestock on public lands in Part 4100 of this title, so long as it does not disturb the natural, educational, and scientific research values of the Fossil Forest. Grazing permits or leases may be modified under § 4130.6-3 of this title, if necessary to protect these resources.

(g) The lands in Fossil Forest shall not be sold or exchanged except as authorized by section 105(b) of the San Juan Basin Wilderness Protection Act of 1984 (Pub.L. 98-603, 98 Stat. 3157).

(h) The Fossil Forest is closed to the operation of the mining laws and to disposition under the mineral leasing laws and geothermal leasing laws, as of October 30, 1984, subject to valid existing rights.

(i) Operations on oil and gas leases issued before October 30, 1984, are subject to the applicable provisions of Group 3100 of this title, including those set forth in § 3162.5-1, and such other terms, stipulations, and conditions as the authorized officer deems necessary to avoid significant disturbance of the land surface or impairment of the area's existing natural, educational, and scientific research values, including paleontological study, excavation, and interpretation.

(j) The regulations in 43 CFR Part 7 apply to the management and protection of archaeological resources in Fossil Forest.

(k) The paleontological resources of the Fossil Forest shall not be willfully destroyed, defaced, damaged, vandalized, or otherwise altered.

43 CFR 8224.2 - Penalties

(a) Any person who willfully violates any prohibition under either § 8224.1(b), (c) or (k) of this title shall be subject to a fine not to exceed $1,000 or imprisonment of not to exceed 12 months, or both.

(b) Any person who willfully and without authorization collects or removes paleontological resources whose value is greater than $100, for which a permit is required under § 8224.1(a) or (b) of this title, shall be subject to a fine not to exceed $10,000, or imprisonment not to exceed 10 years, or both (§ 18 USC 641).

43 CFR 8360 Property and resources

43 CFR 8360.0-7 - Penalties

Violations of any regulations in this part by a member of the public, except for the provisions of § 8365.1-7, are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. Violations of supplementary rules authorized by § 8365.1-6 are punishable in the same manner.

43 CFR 8365.1-5 - Property and resources

(a) On all public lands, unless otherwise authorized, no person shall:

(1) Willfully deface, disturb, remove or destroy any personal property, or structures, or any scientific, cultural, archaeological or historic resource, natural object or area;

(2) Willfully deface, remove or destroy plants or their parts, soil, rocks or minerals, or cave resources, except as permitted under paragraph (b) or (c) of this paragraph; or

(3) Use on the public lands explosive, motorized or mechanical devices, except metal detectors, to aid in the collection of specimens permitted under paragraph (b) or (c) of this paragraph.

NOTE: Definitions have not been codified for scientific, cultural, or historic resource. Scientific resources does include vertebrate fossils and petrified wood. Cultural or historic resources certainly includes any artifact that meets the definition of archeological resource. The definition of archeological resource is found in the Archeological Resource Protection Act and for the purposes of the above section does include arrowheads. Chapter XII of this booklet should be consulted to determine what resources may be collected.

b) Except on developed recreation sites and areas, or where otherwise prohibited and posted, it is permissible to collect from the public lands reasonable amounts of the following for noncommercial purposes:

(1) Commonly available renewable resources such as flowers, berries, nuts, seeds, cones and leaves;

(2) Nonrenewable resources such as rocks, mineral specimens, common invertebrate fossils and semiprecious gemstones;

(3) Petrified wood as provided under subpart 3622 of this title;

(4) Mineral materials as provided under subpart 3604; and

(5) Forest products for use in campfires on the public lands. Other collection of forest products shall be in accordance with the provisions of Group 5500 of this title.

(c) The collection of renewable or nonrenewable resources from the public lands for sale or barter to commercial dealers may be done only after obtaining a contract or permit from an authorized officer in accordance with part 3600 or 5400 of this chapter.

CHAPTER VIII - FISH AND WILDLIFE RESOURCES

Sikes Act - 1974

16 USC 670j(a)

(1) Any person who hunts, traps, or fishes on any public land which is subject to a conservation and rehabilitation program implemented under this subchapter without having on his person a valid public land management area stamp, if the possession of such a stamp is required, shall be fined not more than $1,000, or imprisoned for not more than six months, or both.

(2) Any person who knowingly violates or fails to comply with any regulations prescribed under section 670h(c)(5) of this title shall be fined not more than $500, or imprisoned not more than six months, or both.

Migratory Bird Treaty Act - 1918

16 USC 703 - Taking, killing, or possessing migratory birds unlawful

Unless and except as permitted by regulations made as hereinafter provided in this subchapter, it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, or imported, deliver for transportation, transport or cause to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export, any migratory bird, any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or in part, of any such bird or any part, nest, or egg thereof, included in the terms of the conventions between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916 (39 Stat. 1702), the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment concluded March 4, 1972 and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environments concluded November 19, 1976.

16 USC 705 - Transportation or importation of migratory birds; when unlawful

It shall be unlawful to ship, transport, or carry, by any means whatever, from one State, Territory, or district to or through another State, Territory, or district, or to or through a foreign country, any bird, or any part, nest, or egg thereof, captured, killed, taken, shipped, transported, or carried at any time contrary to the laws of the State, Territory, or district in which it was captured, killed, or taken, or from which it was shipped, transported, or carried. It shall be unlawful to import any bird, or any part, nest, or egg thereof, captured, killed, taken, shipped, transported, or carried contrary to the laws of any

Province of the Dominion of Canada in which the same was captured, killed, or taken, or from which it was shipped, transported, or carried.

16 USC 706 - Arrests; search warrants

Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of this subchapter shall have power, without warrant, to arrest any person committing a violation of this subchapter in his presence or view and to take such person immediately for examination or trial before an officer or court of competent jurisdiction; shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this subchapter; and shall have authority, with a search warrant, to search any place. The several judges of the courts established under the laws of the United States, and United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. All birds, or parts, nests, or eggs thereof, captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this subchapter or of any regulation prescribed thereunder shall, when found, be seized and, upon conviction of the offender or upon judgment of a court of the United States that the same were captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this subchapter or of any regulation prescribed thereunder, shall be forfeited to the United States and disposed of by the Secretary of the Interior in such manner as he deems appropriate.

16 USC 707 - Violations and penalties; forfeitures

(a) Except as otherwise provided in this section, any person, association, partnership, or corporation who shall violate any provisions of said conventions or of this subchapter, or who shall violate or fail to comply with any regulation made pursuant to this subchapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $500 or be imprisoned not more than six months, or both.

(b) Whoever, in violation of this subchapter, shall knowingly—

(1) take by any manner whatsoever any migratory bird with intent to sell, offer to sell, barter or offer to barter such bird, or

(2) sell, offer for sale, barter or offer to barter, any migratory bird shall be guilty of a felony and shall be fined not more than $2,000 or imprisoned not more than two years, or both.

(c) All guns, traps, nets and other equipment, vessels, vehicles, and other means of transportation used by any person when engaged in pursuing, hunting, taking, trapping, ensnaring, capturing, killing, or attempting to take, capture, or kill any migratory bird in violation of this subchapter with the intent to offer for sale, or sell, or offer for barter, or barter such bird in violation of this subchapter shall be forfeited to the United States and may be seized and held pending the prosecution of any person arrested for violating this

subchapter and upon conviction for such violation, such forfeiture shall be adjudicated as a penalty in addition to any other provided for violation of this subchapter. Such forfeited property shall be disposed of and accounted for by, and under the authority of, the Secretary of the Interior.

Lacey Act - May 25, 1900

16 USC 3372 - Prohibited acts

(a) It is unlawful for any person--

(1) to import, export, transport, sell, receive, acquire, or purchase any fish or wildlife or plant taken, possessed, transported, or sold in violation of any law, treaty, or regulation of the United States or in violation of any Indian tribal law;

(2) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce—

(A) any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law, or

(B) any plant taken, possessed, transported, or sold in violation of any law or regulation of any State;

(3) within the special maritime and territorial jurisdiction of the United States (as defined in section 7 of Title 18)—

(A) to possess any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law or Indian tribal law, or

(B) to possess any plant taken, possessed, transported, or sold in violation of any law or regulation of any State;

(4) to attempt to commit any act described in paragraphs (1) through (4).

(b) It is unlawful for any person to import, export, or transport in interstate commerce any container or package containing any fish or wildlife unless the container or package has previously been plainly marked, labeled, or tagged in accordance with the regulations issued pursuant to paragraph (2) of section 3376(a) of this title.

(c)

(1) It is deemed to be a sale of fish or wildlife in violation of this chapter for a person for money or other consideration to offer or provide—

(A) guiding, outfitting, or other services; or

(B) a hunting or fishing license or permit; for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife.

(2) It is deemed to be a purchase of fish or wildlife in violation of this chapter for a person to obtain for money or other consideration—

(A) guiding, outfitting, or other services; or

(B) a hunting or fishing license or permit; for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife.

(d) It is unlawful for any person to make or submit any false record, account, or label for, or any false identification of, any fish, wildlife, or plant which has been, or is intended to be--

(1) imported, exported, transported, sold, purchased, or received from any foreign country; or

(2) transported in interstate or foreign commerce.

16 U.SC 3373(d) - Criminal penalties

(d)

(1) Any person who--

(A) knowingly imports or exports any fish or wildlife or plants in violation of any provision of this chapter (other than subsections (b) and (d) of section 3372 of this title), or

(B) violates any provision of this chapter (other than subsections (b) and (d) of section 3372 of this title) by knowingly engaging in conduct that involves the sale or purchase of, the offer of sale or purchase of, or the intent to sell or purchase, fish or wildlife or plants with a market value in excess of $350, knowing that the fish or wildlife or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty or regulation, shall be fined not more than $20,000, or imprisoned for not more than five years, or both. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said fish or wildlife or plants.

(2) Any person who knowingly engages in conduct prohibited by any provision of this chapter (other than subsections (b) and (d) of section 3372 of this title) and in the exercise of due care should know that the fish or wildlife or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty or regulation shall be fined not more than $10,000, or imprisoned for not more than one year, or both. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said fish or wildlife or plants.

(3) Any person who knowingly violates section 3372(d) of this title—

(A) shall be fined under Title 18, or imprisoned for not more than 5 years, or both, if the offense involves—

(i) the importation or exportation of fish or wildlife or plants; or

(ii) the sale or purchase, offer of sale or purchase, or commission of an act with intent to sell or purchase fish or wildlife or plants with a market value greater than $350; and

(B) shall be fined under Title 18, or imprisoned for not more than 1 year, or both, if the offense does not involve conduct described in subparagraph (A) of this subsection.

16 USC 3375 - Enforcement

(a) The provisions of this chapter and any regulations issued pursuant thereto shall be enforced by the Secretary, the Secretary of Transportation, or the Secretary of the Treasury. Such Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency or Indian tribe for purposes of enforcing this chapter.

(b) Any person authorized under subsection (a) of this section to enforce this chapter may carry firearms; may, when enforcing this chapter, make an arrest without a warrant, in accordance with any guidelines which may be issued by the Attorney General, for any offense under the laws of the United States committed in the person's presence, or for the commission of any felony under the laws of the United States, if the person has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; may search and seize, with or without a warrant, in accordance with any guidelines which may be issued by the Attorney General; Provided, That an arrest for a felony violation of this chapter that is not committed in the presence or view of any such person and that involves only the transportation, acquisition, receipt, purchase, or sale of fish or wildlife or plants taken or possessed in violation of any law or regulation of any State shall require a warrant; may make an arrest without a warrant for a misdemeanor violation of this chapter if he has reasonable grounds to believe that the person to be arrested is committing a violation in his presence or view; and may execute and serve any subpoena, arrest warrant, search warrant issued in accordance with rule 41 of the Federal Rules of Criminal Procedure, or other warrant of civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of this chapter. Any person so authorized, in coordination with the Secretary of the Treasury, may detain for inspection and inspect any vessel, vehicle, aircraft, or other conveyance or any package, crate, or other container, including its contents, upon the arrival of such conveyance or container in the United States or the customs waters of the United States from any point outside the United States or such customs waters, or, if such conveyance or container is being used for exportation purposes, prior to departure from the United States or the customs waters of the United States. Such person may also inspect and demand the production of any documents and permits required by the country of natal origin, birth, or re-export of the fish or wildlife. Any fish, wildlife, plant, property, or item seized shall be held by any person authorized by the Secretary pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such fish, wildlife, plants, property, or item pursuant to section 3374 of this title; except that the Secretary may, in lieu of holding such fish, wildlife, plant, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary.

Endangered Species Act, 1973

16 USC 1538(a) - Prohibited acts

(a)

(1) Except as provided in sections 1535(g)(2) and 1539 of this title, with respect to any endangered species of fish or wildlife listed pursuant to section 1533 of this title it is unlawful for any person subject to the jurisdiction of the United States to—

(A) import any such species into, or export any such species from the United States;

(B) take any such species within the United States or the territorial sea of the United States;

(C) take any such species upon the high seas;

(D) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of subparagraphs (B) and (C);

(E) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(F) sell or offer for sale in interstate or foreign commerce any such species; or

(G) violate any regulation pertaining to such species or to any threatened species of fish or wildlife listed pursuant to section 1533 of this title and promulgated by the Secretary pursuant to authority provided by this chapter.

(2) Except as provided in sections 1535(g)(2) and 1539 of this title, with respect to any endangered species of plants listed pursuant to section 1533 of this title, it is unlawful for any person subject to the jurisdiction of the United States to—

(A) import any such species into, or export any such species from, the United States;

(B) remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any such area; or remove, cut, dig up, or damage or destroy any such species on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law;

(C) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(D) sell or offer for sale in interstate or foreign commerce any such species; or

(E) violate any regulation pertaining to such species or to any threatened species of plants listed pursuant to section 1533 of this title and promulgated by the Secretary pursuant to authority provided by this chapter.

16 USC 1539 - Exceptions

(a) Permits

(1) The Secretary may permit, under such terms and conditions as he shall prescribe—

(A) any act otherwise prohibited by section 1538 of this title for scientific purposes or to enhance the propagation or survival of the affected species, including, but not limited to, acts necessary for the establishment and maintenance of experimental populations pursuant to subsection (j) of this section; or

(B) any taking otherwise prohibited by section 1538(a)(1)(B) of this title if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

(2)

(A) No permit may be issued by the Secretary authorizing any taking referred to in paragraph (1)(B) unless the applicant therefor submits to the Secretary a conservation plan that specifies—

(i) the impact which will likely result from such taking;

(ii) what steps the applicant will take to minimize and mitigate such impacts, and the funding that will be available to implement such steps;

(iii) what alternative actions to such taking the applicant considered and the reasons why such alternatives are not being utilized; and

(iv) such other measures that the Secretary may require as being necessary or appropriate for purposes of the plan.

(B) If the Secretary finds, after opportunity for public comment, with respect to a permit application and the related conservation plan that—

(i) the taking will be incidental; (ii) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking;

(iii) the applicant will ensure that adequate funding for the plan will be provided;

(iv) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and

(v) the measures, if any, required under subparagraph (A)(iv) will be met; and he has received such other assurances as he may require that the plan will be implemented, the Secretary shall issue the permit. The permit shall contain such terms and conditions as the Secretary deems necessary or appropriate to carry out the purposes of this paragraph, including, but not limited to, such reporting requirements as

the Secretary deems necessary for determining whether such terms and conditions are being complied with.

(C) The Secretary shall revoke a permit issued under this paragraph if he finds that the permittee is not complying with the terms and conditions of the permit.

(e) Alaska natives

(1) Except as provided in paragraph (4) of this subsection the provisions of this chapter shall not apply with respect to the taking of any endangered species or threatened species, or the importation of any such species taken pursuant to this section, by—

(A) any Indian, Aleut, or Eskimo who is an Alaskan Native who resides in Alaska; or

(B) any non-native permanent resident of an Alaskan native village; if such taking is primarily for subsistence purposes. Non-edible byproducts of species taken pursuant to this section may be sold in interstate commerce when made into authentic native articles of handicrafts and clothing; except that the provisions of this subsection shall not apply to any non-native resident of an Alaskan native village found by the Secretary to be not primarily dependent upon the taking of fish and wildlife for consumption or for the creation and sale of authentic native articles of handicrafts and clothing.

(2) Any taking under this subsection may not be accomplished in a wasteful manner.

(3) As used in this subsection—

(i) The term “subsistence" includes selling any edible portion of fish or wildlife in native villages and towns in Alaska for native consumption within native villages or towns; and

(ii) The term “authentic native articles of handicrafts and clothing" means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacing, beading, drawing, and painting.

(4) Notwithstanding the provisions of paragraph (1) of this subsection, whenever the Secretary determines that any species of fish or wildlife which is subject to taking under the provisions of this subsection is an endangered species or threatened species, and that such taking materially and negatively affects the threatened or endangered species, he may prescribe regulations upon the taking of such species by any such Indian, Aleut, Eskimo, or non-Native Alaskan resident of an Alaskan native village. Such regulations may be established with reference to species, geographical description of the area included, the season for taking, or any other factors related to the reason for establishing such regulations

and consistent with the policy of this chapter. Such regulations shall be prescribed after a notice and hearings in the affected judicial districts of Alaska and as otherwise required by section 1373 of this title, and shall be removed as soon as the Secretary determines that the need for their impositions has disappeared.

16 USC 1540(b) - Criminal violations

(b)

(1) Any person who knowingly violates any provision of this chapter, of any permit or certificate issued hereunder, or of any regulation issued in order to implement subsection (a)(1)(A), (B), (C), (D), (E), or (F); (a)(2)(A), (B), (C), or (D), (c), (d) (other than a regulation relating to record keeping, or filing of reports), (f), or (g) of section 1538 of this title shall, upon conviction, be fined not more than $50,000 or imprisoned for not more than one year, or both. Any person who knowingly violates any provision of any other regulation issued under this chapter shall, upon conviction, be fined not more than $25,000 or imprisoned for not more than six months, or both.

(2) The head of any Federal agency which has issued a lease, license, permit, or other agreement authorizing a person to import or export fish, wildlife, or plants, or to operate a quarantine station for imported wildlife, or authorizing the use of Federal lands, including grazing of domestic livestock, to any person who is convicted of a criminal violation of this chapter or any regulation, permit, or certificate issued hereunder may immediately modify, suspend, or revoke each lease, license, permit or other agreement. The Secretary shall also suspend for a period of up to one year, or cancel, any Federal hunting or fishing permits or stamps issued to any person who is convicted of a criminal violation of any provision of this chapter or any regulation, permit, or certificate issued hereunder. The United States shall not be liable for the payments of any compensation, reimbursement, or damages in connection with the modification, suspension, or revocation of any leases, licenses, permits, stamps, or other agreements pursuant to this section.

(3) Notwithstanding any other provision of this chapter, it shall be a defense to prosecution under this subsection if the defendant committed the offense based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual, from bodily harm from any endangered or threatened species.

16 USC 1540(e) - Enforcement

(e)

(1) The provisions of this chapter and any regulations or permits issued pursuant thereto shall be enforced by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, or all such Secretaries. Each such Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and

facilities of any other Federal agency or any State agency for purposes of enforcing this chapter.

(2) The judges of the district courts of the United States and the United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this chapter and any regulation issued thereunder.

(3) Any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, to enforce this chapter may detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation or exportation. Such person may make arrests without a warrant for any violation of this chapter if he has reasonable grounds to believe that the person to be arrested is committing the violation in his presence or view, and may execute and serve any arrest warrant, search warrant, or other warrant or civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of this chapter. Such person so authorized may search and seize, with or without a warrant, as authorized by law. Any fish, wildlife, property, or item so seized shall be held by any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such fish, wildlife, property, or item pursuant to paragraph (4) of this subsection; except that the Secretary may, in lieu of holding such fish, wildlife, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary, but upon forfeiture of any such property to the United States, or the abandonment or waiver of any claim to any such property, it shall be disposed of (other than by sale to the general public) by the Secretary in such a manner, consistent with the purposes of this chapter, as the Secretary shall by regulation prescribe.

(4)

(A) All fish or wildlife or plants taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, shipped, exported, or imported contrary to the provisions of this chapter, any regulation made pursuant thereto, or any permit or certificate issued hereunder shall be subject to forfeiture to the United States.

(B) All guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used to aid the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting, or importing of any fish or wildlife or plants in violation of this chapter, any regulation made pursuant thereto, or any permit or certificate issued thereunder shall be subject to forfeiture to the United States upon

conviction of a criminal violation pursuant to subsection (b)(1) of this section.

Bald Eagle Act, 1940

16 USC 668(a) - Prohibited acts; criminal penalties

Whoever, within the United States or any place subject to the jurisdiction thereof, without being permitted to do so as provided in this subchapter, shall knowingly, or with wanton disregard for the consequences of his act take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner, any bald eagle commonly known as the American eagle, or any golden eagle, alive or dead, or any part, nest, or egg thereof of the foregoing eagles, or whoever violates any permit or regulation issued pursuant to this subchapter, shall be fined not more than $5,000 or imprisoned not more than one year or both: Provided, That in the case of a second or subsequent conviction for a violation of this section committed after October 23, 1972, such person shall be fined not more than $10,000 or imprisoned not more than two years, or both: Provided further, That the commission of each taking or other act prohibited by this section with respect to a bald or golden eagle shall constitute a separate violation of this section: Provided further, That one-half of any such fine, but not to exceed $2,500, shall be paid to the person or persons giving information which leads to conviction: Provided further, That nothing herein shall be construed to prohibit possession or transportation of any bald eagle, alive or dead, or any part, nest, or egg thereof, lawfully taken prior to June 8, 1940, and that nothing herein shall be construed to prohibit possession or transportation of any golden eagle, alive or dead, or any part, nest, or egg thereof, lawfully taken prior to the addition to this subchapter of the provisions relating to preservation of the golden eagle.

16 USC 668b - Enforcement provisions

(a)

Arrest; search; issuance and execution of warrants and process Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of this subchapter may, without warrant, arrest any person committing in his presence or view a violation of this subchapter or of any permit or regulations issued hereunder and take such person immediately for examination or trial before an officer or court of competent jurisdiction; may execute any warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this subchapter; and may, with or without a warrant, as authorized by law, search any place. The Secretary of the Interior is authorized to enter into cooperative agreements with State fish and wildlife agencies or other appropriate State authorities to facilitate enforcement of this subchapter, and by said agreements to delegate such enforcement authority to State law enforcement personnel as he deems appropriate for effective enforcement of this subchapter. Any judge of any court established under the laws of the United States, and any United States

magistrate judge may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

(b) Forfeiture All bald or golden eagles, or parts, nests, or eggs thereof, taken, possessed, sold, purchased, bartered, offered for sale, purchase, or barter, transported, exported, or imported contrary to the provisions of this subchapter, or of any permit or regulation issued hereunder, and all guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used to aid in the taking, possessing, selling, purchasing, bartering, offering for sale, purchase, or barter, transporting, exporting, or importing of any bird, or part, nest, or egg thereof, in violation of this subchapter or of any permit or regulation issued hereunder shall be subject to forfeiture to the United States.

Recreational Hunting Safety Act, 1994

16 USC 5201 - Obstruction of a lawful hunt

It is a violation of this section intentionally to engage in any physical conduct that significantly hinders a lawful hunt.

NOTE: This section clearly prohibits a certain type of conduct. However, the Act does not provide criminal penalties. If this type of behavior demands some sort of criminal law enforcement action, 43 CFR 4140.1(b)(7),"interfering with lawful uses or users..." or 43 CFR 8365.1-4(a)(2),"creating a hazard or a nuisance," should be utilized for this purpose.

16 USC 5202 - Civil penalties

(a) A person who violates section 5201 of this title shall be assessed a civil penalty in an amount computed under subsection (b) of this section.

(b) The penalty shall be—

(1) not more than $10,000, if the violation involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person; and

(2) not more than $5,000 for any other violation.

(c) The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 5201 of this title.

(d) Upon receipt of—

(1) a written complaint from an officer, employee, or agent of the Forest Service, Bureau of Land Management, National Park Service, United States Fish and Wildlife Service, or other Federal agency that a person violated section 5201 of this title; or

(2) a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual allegations to create a reasonable belief that a violation of section 5201 of this title has occurred; the Secretary may request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty under this section.

(e) After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes", approved September 2, 1937 (§ 16 USC 669) (commonly known as the "Pitman-Robertson Wildlife Restoration Act"), to support the activities authorized by such Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) on Federal lands; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives on Federal lands.

16 USC 5203 - Other relief

Injunctive relief against a violation of section 5201 of this title may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation.

16 USC 5204 - Relationship to State and local law and civil actions

This chapter does not preempt a State law or local ordinance that provides for civil or criminal penalties for conduct that violates this chapter.

16 USC 5205 - Regulations

The Secretary may issue such regulations as are necessary to carry out this chapter.

16 USC 5206 - Rule of construction

Nothing in this chapter shall be construed to impair a right guaranteed to a person under the first article of amendment to the Constitution or limit any legal remedy for forceful interference with a person's lawful participation in speech or peaceful assembly.

16 USC 5207 - Definitions

As used in this chapter:

(1) The term "Federal lands" means—

(A) national forests;

(B) public lands;

(C) national parks; and

(D) wildlife refuges.

(2) The term "lawful hunt" means the taking or harvesting (or attempted taking or harvesting) of wildlife or fish, on Federal lands, which—

(A) is lawful under the laws applicable in the place it occurs; and

(B) does not infringe upon a right of an owner of private property.

(3) The term "national forest" means lands included in the National Forest System (as defined in section 1609(a) of this title).

(4) The term "national park" means lands and waters included in the National Park System (as defined in section 1c(a) of this title).

(5) The term "public lands" has the same meaning as is provided in section 1702(e) of Title 43.

(6) The term "Secretary" means—

(A) the Secretary of Agriculture with respect to national forests; and

(B) the Secretary of the Interior with respect to—

(i) public lands;

(ii) national parks; and

(iii) wildlife refuges.

(7) The term "wildlife refuge" means lands and waters included in the National Wildlife Refuge System (as established by section 668dd of this title).

(8) The term "conduct" does not include speech protected by the first article of amendment to the Constitution.

43 CFR 24.4(i)(3) - Resource management and public activities on Federal lands

Federal agencies of the Department of the Interior shall:

(3) Provide for public use of Federal lands in accordance with State and Federal laws, and permit public hunting, fishing and trapping within statutory and budgetary limitations and in a manner compatible with the primary objectives for which the lands are administered. The hunting, fishing, and trapping, and the possession and disposition of fish, game, and fur animals, shall be conducted in all other respects within the framework of applicable State and Federal laws, including requirements for the possession of appropriate State licenses or permits.

50 CFR Part 20 - Migratory Bird Hunting

Subpart A - Introduction

50 CFR 20.1 - Scope of regulations

(a) In general. The regulations contained in this part relate only to the hunting of migratory game birds, and crows.

(b) Procedural and substantive requirements. Migratory game birds may be taken, possessed, transported, shipped, exported, or imported only in accordance with the restrictions, conditions, and requirements contained in this part. Crows may be taken, possessed, transported, exported, or imported only in accordance with Subpart H of this part and the restrictions, conditions, and requirements prescribed in § 20.133.

50 CFR 20.2 - Relation to other provisions

(a) Migratory bird permits. The provisions of this part shall not be construed to alter the terms of any permit or other authorization issued pursuant to part 21 of this subchapter.

(b) Migratory bird hunting stamps. The provisions of this part are in addition to the provisions of this part are in addition to the provisions of the Migratory Bird Hunting Stamp Act of 1934 (48 Stat. 451, as amended; § 16 USC 718a).

(c) National wildlife refuges. The provisions of this part are in addition to, and are not in lieu of, any other provision of law respecting migratory game birds under the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927, as amended; § 16 USC 668dd) or any regulation made pursuant thereto.

(d) State Laws for the protection of migratory birds. No statute or regulation of any State shall be construed to relieve a person from the restrictions, conditions, and requirements contained in this part, however, nothing in this part shall be construed to prevent the several States from making and enforcing laws or regulations not inconsistent with these regulations and the conventions between the United States and any foreign country for the protection of migratory birds or with the Migratory Bird Treaty Act, or which shall give further protection to migratory game birds.

Subpart B - Definitions

50 CFR 20.11 - Meaning of terms

For the purpose of this part, the following terms shall be construed, respectively, to mean and to include:

(a) "Migratory game birds" means those migratory birds included in the terms of conventions between the United States and any foreign country for the protection of migratory birds, for which open seasons are prescribed in this part and belong to the following families:

(1) Anatidae (ducks, geese [including brant] and swans);

(2) Columbidae (doves and pigeons);

(3) Gruidae (cranes);

(4) Rallidae (rails, coots and gallinules); and

(5) Scolopacidae (woodcock and snipe).

A list of migratory birds protected by the international conventions and the Migratory Bird Treaty Act appears in § 10.13 of this subchapter.

(b) "Seasons"—

(1) "Open season" means the days on which migratory game birds may lawfully be taken. Each period prescribed as an open season shall be construed to include the first and last days thereof.

(2) "Closed season" means the days on which migratory game birds shall not be taken.

(c) "Bag limits"—

(1) "Aggregate bag limit" means a condition of taking in which two or more usually similar species may be bagged (reduced to possession) by the hunter in predetermined or unpredetermined quantities to satisfy a maximum take limit.

(2) "Daily bag limit" means the maximum number of migratory game birds of single species or combination (aggregate) of species permitted to be taken by one person in any one day during the open season in any one specified geographic area for which a daily bag limit is prescribed.

(3) "Aggregate daily bag limit" means the maximum number of migratory game birds permitted to be taken by one person in any one day during the open season when such person hunts in more than one specified geographic area and/or for more than one species for which a combined daily bag limit is prescribed. The aggregate daily bag limit is equal to, but shall not exceed, the largest daily bag limit prescribed for any one species or for any one specified geographic area in which taking occurs.

(4) "Possession limit" means the maximum number of migratory game birds of a single species or a combination of species permitted to be possessed by any one person when lawfully taken in the United States in any one specified geographic area for which a possession limit is prescribed.

(5) "Aggregate possession limit" means the maximum number of migratory game birds of a single species or combination of species taken in the United States permitted to be possessed by any one person when taking and possession occurs in more than one specified geographic area for which a possession limit is prescribed. The aggregate possession limit is equal to, but shall not exceed, the largest possession limit prescribed for any one of the species or specified geographic areas in which taking and possession occurs.

(d) "Personal abode" means one's principal or ordinary home or dwelling place, as distinguished from one's temporary or transient place of abode or dwelling such as a hunting club, or any club house, cabin, tent or trailer house used as a hunting club, or any hotel, motel or rooming house used during a hunting, pleasure or business trip.

(e) "Migratory bird preservation facility" means:

(1) Any person who, at their residence or place of business and for hire or other consideration; or

(2) Any taxidermist, cold-storage facility or locker plant which, for hire or other consideration; or

(3) Any hunting club which, in the normal course of operations; receives, possesses, or has in custody any migratory game birds belonging to another person for purposes of picking, cleaning, freezing, processing, storage or shipment.

(f) "Paraplegic" means an individual afflicted with paralysis of the lower half of the body with involvement of both legs, usually due to disease of or injury to the spinal cord.

Subpart C - Taking

50 CFR 20.21 - Hunting methods

Migratory birds on which open seasons are prescribed in this part may be taken by any method except those prohibited in this section. No person shall take migratory game birds:

(a) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive, or stupefying substance;

(b) With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells;

(c) From or by means, aid, or use of a sinkbox or any other type of low floating device, having a depression affording the hunter a means of concealment beneath the surface of the water;

(d) From or by means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft of any kind, except that paraplegics and persons missing one or both legs may take from any stationary motor vehicle or stationary motor-driven land conveyance;

(e) From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off and/or the sails furled, and its progress therefrom has ceased: Provided, That a craft under power may be used to retrieve dead or crippled birds; however, crippled birds may not be shot from such craft under power except in the seaduck area as permitted in Subpart K of this part;

(f) By the use or aid of live birds as decoys; although not limited to, it shall be a violation of this paragraph for any person to take migratory waterfowl on an area where tame or captive live ducks or geese are present unless such birds are and have been for a period of 10 consecutive days prior to such taking, confined within an enclosure which substantially reduces the audibility of their calls and totally conceals such birds from the sight of wild migratory waterfowl;

(g) By the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds;

(h) By means or aid of any motor-driven land, water, or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of any migratory bird;

(i) By the aid of baiting, or on or over any baited area. As used in this paragraph, "baiting" shall mean the placing, exposing, depositing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed so as to constitute for such birds a lure, attraction or enticement to, on, or over any areas where hunters are attempting to take them; and "baited area" means any area where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed whatsoever capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered; and such area shall remain a baited area for 10 days following complete removal of all such corn, wheat or other grain, salt, or other feed. However, nothing in this paragraph shall prohibit:

(1) The taking of all migratory game birds, including waterfowl, on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; and

(2) The taking of all migratory game birds, except waterfowl, on or over any lands where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed has been distributed or scattered as the result of bona fide agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes: Provided, That manipulation for wildlife management purposes does not include the distributing or scattering of grain or other feed once it has been removed from or stored on the field where grown;

(j) While possessing shot (either in shotshells or as loose shot for muzzleloading) other than steel shot, bismuth-tin (97 parts bismuth: 3 parts tin with <1 percent residual lead) shot or such shot approved as nontoxic by the Director pursuant to procedures set forth in 20.134, provided that:

(1) This restriction applies only to the taking of Anatidae (ducks, geese [including brant] and swans), coots (Fulica americana) and any species that make up aggregate bag limits during concurrent seasons with the former in areas described in Section 20.108 as nontoxic shot zones, and

(2) [Reserved]

50 CFR 20.22 - Closed seasons

No person shall take migratory game birds during the closed season.

50 CFR 20.23 - Shooting hours

No person shall take migratory game birds except during the hours open to shooting as prescribed in Subpart K of this part.

50 CFR 20.24 - Daily limit

No person shall take in any 1 calendar day, more than the daily bag limit or aggregate daily bag limit, whichever applies.

50 CFR 20.25 - Wanton waste of migratory game birds

No person shall kill or cripple any migratory game bird pursuant to this part without making a reasonable effort to retrieve the bird, and retain it in his actual custody, at the place where taken or between that place and either (a) his automobile or principal means of land transportation; or (b) his personal abode or temporary or transient place of lodging; or (c) a migratory bird preservation facility; or (d) a post office; or (e) a common carrier facility.

Subpart D - Possession

50 CFR 20.31 - Prohibited if taken in violation of Subpart C

No person shall at any time, by any means, or in any manner, possess or have in custody any migratory game bird or part thereof, taken in violation of any provision of Subpart C of this part.

50 CFR 20.32 - During closed season

No person shall possess any freshly killed migratory game birds during the closed season.

50 CFR 20.33 - Possession limit

No person shall possess more migratory game birds taken in the United States than the possession limit or the aggregate possession limit, whichever applies.

50 CFR 20.34 - Opening day of a season

No person on the opening day of the season shall possess any freshly killed migratory game birds in excess of the daily bag limit, or aggregate daily bag limit, whichever applies.

50 CFR 20.35 - Field possession limit

No person shall possess, have in custody, or transport more than the daily bag limit or aggregate daily bag limit, whichever applies, of migratory game birds, tagged or not tagged, at or between the place where taken and either

(a) his automobile or principal means of land transportation; or

(b) his personal abode or temporary or transient place of lodging; or

(c) a migratory bird preservation facility; or

(d) a post office; or

(e) a common carrier facility.

50 CFR 20.36 - Tagging requirement

No person shall put or leave any migratory game birds at any place (other than at his personal abode), or in the custody of another person for picking, cleaning, processing, shipping, transportation, or storage (including temporary storage), or for the purpose of having taxidermy services performed, unless such birds have a tag attached, signed by the hunter, stating his address, the

total number and species of birds, and the date such birds were killed. Migratory game birds being transported in any vehicle as the personal baggage of the possessor shall not be considered as being in storage or temporary storage.

50 CFR 20.37 - Custody of birds of another

No person shall receive or have in custody any migratory game birds belonging to another person unless such birds are tagged as required by 50 CFR 20.36.

50 CFR 20.38 - Possession of live birds

Every migratory game bird wounded by hunting and reduced to possession by the hunter shall be immediately killed and become a part of the daily bag limit. No person shall at any time, or by any means, possess or transport live migratory game birds taken under authority of this part.

50 CFR 20.39 - Termination of possession

Subject to all other requirements of this part, the possession of birds taken by any hunter shall be deemed to have ceased when such birds have been delivered by him to another person as a gift; or have been delivered by him to a post office, a common carrier, or a migratory bird preservation facility and consigned for transport by the Postal Service or a common carrier to some person other than the hunter.

50 CFR 20.40 - Gift of migratory game birds

No person may receive, possess, or give to another, any freshly killed migratory game birds as a gift, except at the personal abodes of the donor or donee, unless such birds have a tag attached, signed by the hunter who took the birds, stating such hunter's address, the total number and species of birds and the date such birds were taken.

Subpart E - Transportation Within the United States

50 CFR 20.41 - Prohibited if taken in violation of Subpart C

No person shall at any time, by any means, or in any manner, transport any migratory game bird or part thereof, taken in violation of any provision of subpart C of this part.

50 CFR 20.42 - Transportation of birds of another

No person shall transport migratory game birds belonging to another person unless such birds are tagged as required by § 20.36.

50 CFR20.43 - Species identification requirement

No person shall transport within the United States any migratory game birds, except doves and band-tailed pigeons (Columba fasciata), unless the head or one fully feathered wing remains attached to each such bird at all times while being transported from the place where taken until they have arrived at the personal abode of the possessor or a migratory bird preservation facility.

50 CFR 20.44 - Marking package or container

No person shall transport by the Postal Service or a common carrier migratory game birds unless the package or container in which such birds are transported has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

Subpart H - In Violation of Federal, State, and Foreign Law

50 CFR 20.71 - Violation of Federal law

No person shall at any time, by any means or in any manner, take, possess, transport, or export any migratory bird, or any part, nest, or egg of any such bird, in violation of any act of Congress or any regulation issued pursuant thereto.

50 CFR 20.72 - Violation of State law

No person shall at any time, by any means or in any manner, take, possess, transport, or export any migratory bird, or any part, nest, or egg of any such bird, in violation of any applicable law or regulation of any State.

50 CFR 20.73 - Violation of foreign law

No person shall at any time, by any means, or in any manner, import, possess, or transport, any migratory bird, or any part, nest, or egg of any such bird taken, bought, sold, transported, possessed, or exported contrary to any applicable law or regulation of any foreign country, or State or province thereof.

43 CFR 9264.1 Grazing administration--exclusive of Alaska (Other Federal and State laws and regulations concerning conservation and protection)

Persons performing the following prohibited acts on public and other lands under Bureau of Land Management control may be subject to criminal penalties under § 9264.1 (k) of this title:

(h) Violating any Federal or State laws or regulations concerning conservation or protection of natural and cultural resources or the environment including, but not limited to, those relating to air and water quality, protection of fish and wildlife, plants, and the use of chemical toxicants;

NOTE: The regulations found at 43 CFR 9264.1 were last updated September 21, 1982. These regulations have since been updated and therefore superceded by 43 CFR 4140. 43 CFR 9264.1(h) was not included in the updated version of 43 CFR 4140, therefore it is an invalid regulation and violation notices should not be written against it.

CHAPTER IX - FOREST AND VEGETATIVE RESOURCES

Federal Land Policy and Management Act of 1976

43 USC 1733(g)

The use, occupancy, or development of any portion of the public lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

Timber removed or transported, Act of Mar. 4, 1909

18 USC 1852

Whoever cuts, or wantonly destroys any timber growing on the public lands of the United States; or Whoever removes any timber from said public lands, with intent to export or to dispose of the same; or Whoever, 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 so cut or removed from said lands, or lumber manufactured therefrom-- Shall be fined under this title or imprisoned not more than one year, or both. This section shall not prevent any minor 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; nor shall it interfere with or take away any right or privilege under any existing law of the United States to cut or remove timber from any public lands.

Trees cut or injured, Act of Mar. 4, 1909

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 fined under this title or imprisoned not more than one year, or both.

Trees boxed for pitch or turpentine, Act of Mar. 4, 1909

18 USC 1854

Whoever cuts, chips, chops, or boxes any tree upon any lands belonging to the United States, or upon any lands covered by or embraced in any unperfected settlement, application, filing, entry, selection, or location, made under any law of the United States, for the purpose of obtaining from such tree any pitch, turpentine, or other substance; or Whoever buys, trades for, or in any manner acquires any pitch, turpentine, or other substance, or any

article or commodity made from any such pitch, turpentine, or other substance, with knowledge that the same has been so unlawfully obtained--Shall be fined under this title or imprisoned not more than one year, or both.

Lacey Act - May 25, 1900

16 USC 3372 - Prohibited acts

(a) It is unlawful for any person--

(1) to import, export, transport, sell, receive, acquire, or purchase any fish or wildlife or plant taken, possessed, transported, or sold in violation of any law, treaty, or regulation of the United States or in violation of any Indian tribal law;

(2) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce—

(A) any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law, or

(B) any plant taken, possessed, transported, or sold in violation of any law or regulation of any State;

(3) within the special maritime and territorial jurisdiction of the United States (as defined in section 7 of Title 18)—

(A) to possess any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law or Indian tribal law, or

(B) to possess any plant taken, possessed, transported, or sold in violation of any law or regulation of any State;

(4) to attempt to commit any act described in paragraphs (1) through (4).

(d) It is unlawful for any person to make or submit any false record, account, or label for, or any false identification of, any fish, wildlife, or plant which has been, or is intended to be--

(1) imported, exported, transported, sold, purchased, or received from any foreign country; or

(2) transported in interstate or foreign commerce.

16 U.SC 3373(d) - Criminal penalties

(d)

(1) Any person who--

(A) knowingly imports or exports any fish or wildlife or plants in violation of any provision of this chapter (other than subsections (b) and (d) of section 3372 of this title), or

(B) violates any provision of this chapter (other than subsections (b) and (d) of section 3372 of this title) by knowingly engaging in conduct that involves the sale or purchase of, the offer of sale or purchase of, or the intent to sell or purchase, fish or wildlife or plants with a market value in excess of $350, knowing that the fish or wildlife or plants were

taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty or regulation, shall be fined not more than $20,000, or imprisoned for not more than five years, or both. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said fish or wildlife or plants.

(2) Any person who knowingly engages in conduct prohibited by any provision of this chapter (other than subsections (b) and (d) of section 3372 of this title) and in the exercise of due care should know that the fish or wildlife or plants were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty or regulation shall be fined not more than $10,000, or imprisoned for not more than one year, or both. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said fish or wildlife or plants.

(3) Any person who knowingly violates section 3372(d) of this title—

(A) shall be fined under Title 18, or imprisoned for not more than 5 years, or both, if the offense involves—

(i) the importation or exportation of fish or wildlife or plants; or

(ii) the sale or purchase, offer of sale or purchase, or commission of an act with intent to sell or purchase fish or wildlife or plants with a market value greater than $350; and

(B) shall be fined under Title 18, or imprisoned for not more than 1 year, or both, if the offense does not involve conduct described in subparagraph (A) of this subsection.

16 USC 3375 - Enforcement

(a) The provisions of this chapter and any regulations issued pursuant thereto shall be enforced by the Secretary, the Secretary of Transportation, or the Secretary of the Treasury. Such Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency or Indian tribe for purposes of enforcing this chapter.

(b) Any person authorized under subsection (a) of this section to enforce this chapter may carry firearms; may, when enforcing this chapter, make an arrest without a warrant, in accordance with any guidelines which may be issued by the Attorney General, for any offense under the laws of the United States committed in the person's presence, or for the commission of any felony under the laws of the United States, if the person has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; may search and seize, with or without a warrant, in accordance with any guidelines which may be issued by the Attorney General; Provided, That an arrest for a felony violation of this chapter that is not committed in the

presence or view of any such person and that involves only the transportation, acquisition, receipt, purchase, or sale of fish or wildlife or plants taken or possessed in violation of any law or regulation of any State shall require a warrant; may make an arrest without a warrant for a misdemeanor violation of this chapter if he has reasonable grounds to believe that the person to be arrested is committing a violation in his presence or view; and may execute and serve any subpoena, arrest warrant, search warrant issued in accordance with rule 41 of the Federal Rules of Criminal Procedure, or other warrant of civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of this chapter. Any person so authorized, in coordination with the Secretary of the Treasury, may detain for inspection and inspect any vessel, vehicle, aircraft, or other conveyance or any package, crate, or other container, including its contents, upon the arrival of such conveyance or container in the United States or the customs waters of the United States from any point outside the United States or such customs waters, or, if such conveyance or container is being used for exportation purposes, prior to departure from the United States or the customs waters of the United States. Such person may also inspect and demand the production of any documents and permits required by the country of natal origin, birth, or re-export of the fish or wildlife. Any fish, wildlife, plant, property, or item seized shall be held by any person authorized by the Secretary pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such fish, wildlife, plants, property, or item pursuant to section 3374 of this title; except that the Secretary may, in lieu of holding such fish, wildlife, plant, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary.

43 CFR 5400 - Sales of forest products

43 CFR 5400.0-5 - Definitions

Except as the context may otherwise indicate, as the terms are used in Parts 5400-5490 of this chapter and in contracts issued thereunder:

Affiliate means a business entity including but not limited to an individual, partnership, corporation, or association, which controls or is controlled by a purchaser, or, along with a purchaser, is controlled by a third business entity.

Authorized Officer means an employee of the Bureau of Land Management, to whom has been delegated the authority to take action.

Bureau means the Bureau of Land Management, Department of the Interior. Commercial use means use intended for resale, barter, or trade, or for profit.

Director means the Director of the Bureau of Land Management.

Fair Market value means the price forest products will return when offered for competitive sale on the open market. Determination of fair market value will be made in accordance with procedures in BLM Manual 9354. Federal lands means all lands administered by the Department of the Interior west of the 100th meridian in the contiguous 48 States with the exception of tribal and

trust allotted lands managed by the Bureau of Indian Affairs on behalf of the Indians.

Federal timber means timber sold by the Bureau of Land Management as used under these regulations.

Incidental use means personal use of other vegetative resources on the site where they are obtained, or, if they are transported to a secondary location, personal use of the resources within a reasonable period of time by the person obtaining them.

Loading point means any landing or other area in which logs are capable of being loaded for transportation out of the contract area: Provided, however, That right-of-way timber which has been cut shall not be considered to be at a loading point until such time as logs from any source are actually transported over that portion of the right-of-way.

Nonwillful means an action which is inadvertent, mitigated in character by the belief that the conduct is reasonable or legal.

O. and C. Lands means the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands and other lands administered by the Bureau of Land Management under the provisions of the Act of August 28, 1937 (50 Stat. 874).

Operating season means the time of the year in which operations of the type required to complete the contract are normally conducted in the location encompassing the subject timber sale, or the time of the year specified in the timber sale contract when such operations are permitted.

Operating time means a period of time during the operating season.

Other vegetative resources means all vegetative material that is not normally measured in board feet, but can be sold or removed from public lands by means of the issuance of a contract or permit.

Permit means authorization in writing by the authorized officer or other person authorized by the United States Government, and is a contract between the permittee and the United States.

Personal use means use other than for sale, barter, trade, or obtaining a profit.

Product value means the stumpage value of timber or the fair market value of other vegetative resources.

Public lands means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership.

Purchaser means a business entity including, but not limited to, an individual, partnership, corporation, or association that buys Federal timber or other vegetative resources.

Sale value means the contract value of the stumpage sold under the contract.

Set-aside means a designation of timber for sale which is limited to bidding by small business concerns as defined by the Small Business Administration in its regulations (13 CFR part 121) under the authority of section 15 of the Small Business Act of July 18, 1958 (72 Stat. 384).

Substitution means:

(1) The purchase of a greater volume of Federal timber by an individual purchaser than has been his historic pattern within twelve (12) months of the sale of export by the same purchaser of a greater volume of his private timber than has been his historic pattern during the preceding twelve (12) months, exclusive of Federal timber purchased by negotiated sale for right-of-way purposes, and

(2) The increase of both the purchase of Federal timber and export of timber from private lands tributary to the plant for which Bureau of Land Management timber covered by a specific contract is delivered or expected to be delivered.

Third party scaling means the measurement of logs by a scaling organization, other than a Government agency, approved by the Bureau.

Timber means standing trees, downed trees or logs which are capable of being measured in board feet.

Trespass means the severance, removal, or unlawful use of timber or other vegetative resources without the consent (authorization) of the Federal Government, or failure to comply with contract or permit requirements that causes direct injury or damage to timber or other vegetative resources, or undue environmental degradation.

Trespasser means any person, partnership, association, or corporation responsible for committing a trespass.

Unprocessed timber means:

(1) Any logs except those of utility grade or below, such as sawlogs, peeler logs, and pulp logs;

(2) Cants or squares to be subsequently remanufactured exceeding eight and three-quarters (8\3/4\) inches in thickness;

(3) Split or round bolts, or other roundwood not processed to standards and specifications suitable for end product use.

Willful means a knowing act or omission that constitutes the voluntary or conscious performance of a prohibited act or indifference to or reckless disregard for the law.

43 CFR 5420 – Preparation for Sale; General

43 CFR 5420.0-6 - Policy

All timber or other vegetative resources to be sold shall be appraised and in no case shall be sold at less than the appraised value. Measurement shall be by tree cruise, log scale, weight, or such other form of measurement as may be determined to be in the public interest.

43 CFR 5422.1 - Cruise sales

As the general practice, the Bureau will sell timber on a tree cruise basis.

43 CFR 5422.2 - Scale sales

(a) Scaling by the Bureau will be used from time to time for administrative reasons. Such reasons would include but not be limited to the following: To improve cruising standards; check accuracy of cruising practices; for volumetric analysis; and for highly defective timber where it is impossible to determine the tree cruise volume within a reasonable degree of accuracy.

(b) Third party scaling may be ordered by the Bureau after a determination that all of the following factors exist:

(1) A timber disaster has occurred;

(2) a critical resource loss is imminent;

(3) measurement practices listed in Sec. 5422.1 and paragraph (a) of this section are inadequate to permit orderly disposal of the damaged timber. Third party scaling volumes must be capable of being equated to Bureau standards in use for timber depletion computations, to insure conformance with sustained yield principles.

43 CFR 5424.0-6 - Policy

(a) All timber sales shall be made on contract or permit forms approved by the Director, BLM.

(b) Other than for incidental use, the severance and/or removal of any vegetative resource for personal or commercial use requires a written contract or permit issued by the authorized officer or other person authorized by the United States. All contracts or permits shall contain the following:

(1) The name of the purchaser or his/her authorized representative with complete mailing address.

(2) The specific vegetative resources authorized for removal and their respective quantities and values.

(3) The specific location from which the vegetative resources are to be removed.

(4) The term for which the contract or permit is valid.

(5) Contract or permit conditions and stipulations. (6) Signature of purchaser or authorized representative.

(c) The authorized officer may include additional provisions in the contract or permit to cover conditions peculiar to the sale area, such as road construction, logging methods, silvicultural practices, reforestation, snag felling, slash disposal, fire prevention, fire control, and the protection of improvements, watersheds, recreational values, and the prevention of pollution or other environmental degradation.

(d) The contract or permit from and any additional provisions shall be made available for inspection by prospective bidders during the advertising period. When sales are negotiated, all additional provisions shall be made part of the contract or permit.

(e) Except for such specific quantities of grades and species of unprocessed timber determined to be surplus to domestic lumber and plywood manufacturing needs, each timber sale contract shall include provisions that prohibit:

(1) The export of any unprocessed timber harvested from the area under contract; and

(2) The use of any timber of sawing or peeler grades, sold pursuant to the contract, as a substitute for timber from private lands which is exported or sold for export by the purchaser, an affiliate of the purchaser, or any other parties.

43 CFR 5424.1 - Reporting provisions for substitution determination

(a) To determine whether substitution has occurred, the authorized officer may require that information identified in the contract be reported by:

(1) A purchaser who has exported private timber within one year preceding the purchase date of Federal timber, and/or

(2) An affiliate of a timber purchaser who exported private timber within one year before the acquisition of Federal timber from the purchaser.

(b) Purchasers or affiliates of purchasers shall retain a record of Federal timber acquisitions and private timber exports for three years from the date the activity occurred.

43 CFR 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.

43 CFR 5462.3 - Penalties

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (§ 43 USC 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 USC 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.

43 CFR 5500 - Free use of timber

43 CFR 5500.0-5 - Definitions

Except as the context may otherwise indicate, as the terms are used in parts 5500 through 5520 of this chapter and in contracts issued thereunder:

(a) Bureau means the Bureau of Land Management, Department of the Interior.

(b) Director means the Director of the Bureau of Land Management.

(c) Authorized Officer means an employee of the Bureau of Land Management, to whom has been delegated the authority to take action.

(d) O. and C. Lands means the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands and other lands administered by the Bureau of Land Management under the provisions of the Act of August 28, 1937 (50 Stat. 874).

(e) Public Lands means the public domain and its surface resources under the jurisdiction of the Bureau of Land Management.

(f) Timber means standing trees, downed trees or logs which are capable of being measured in board feet.

(g) Other vegetative resources means all vegetative material which cannot be measured in units of board feet of timber.

43 CFR 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) [Reserved]

(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.

43 CFR 5511.5 - Penalties

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (§ 43 USC 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 USC 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.

CHAPTER X - RANGELANDS

Taylor Grazing Act, 1934

43 USC 315a

The Secretary of the Interior shall make provision for the protection, administration, regulation, and improvement of such grazing districts as may be created under the authority of section 315 of this title, and he shall make such rules and regulations and establish such service, enter into such cooperative agreements, and do any and all things necessary to accomplish the purposes of this subchapter and to insure the objects of such grazing districts, namely, to regulate their occupancy and use, to preserve the land and its resources from destruction or unnecessary injury, to provide for the orderly use, improvement, and development of the range; and the Secretary of the Interior is authorized to continue the study of erosion and flood control and to perform such work as may be necessary amply to protect and rehabilitate the areas subject to the provisions of this subchapter, through such funds as may be made available for that purpose, and any willful violation of the provisions of this subchapter or of such rules and regulations thereunder after actual notice thereof shall be punishable by a fine of not more than $500.

Federal Land Policy and Management Act, 1976

43 USC 1733(g)

The use, occupancy, or development of any portion of the public lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

Fences destroyed; livestock entering - Act of Mar. 4, 1909

18 USC 1857

Whoever knowingly and unlawfully breaks, opens, or destroys any gate, fence, hedge, or wall inclosing any lands of the United States reserved or purchased for any public use; or

Whoever drives any cattle, horses, hogs, or other livestock upon any such lands for the purposes of destroying the grass or trees on said lands, or where they may destroy the said grass or trees; or

Whoever knowingly permits his cattle, horses, hogs, or other livestock to enter through any such inclosure upon any such lands of the United States, where such cattle, horses, hogs, or other livestock may or can destroy the grass or trees or other property of the United States on the said lands-- Shall be fined under this title or imprisoned not more than one year, or both. This section shall not apply to unreserved public lands.

43 CFR 4100 - Grazing administration - exclusive of Alaska

43 CFR 4100.0-5 - Definitions

Whenever used in this part, unless the context otherwise requires, the following definitions apply:

The Act means the Taylor Grazing Act of June 28, 1934, as amended (43 USC 315, 315a-315r).

Active use means the current authorized use, including livestock grazing and conservation use. Active use may constitute a portion, or all, of permitted use. Active use does not include temporary nonuse or suspended use of forage within all or a portion of an allotment.

Activity plan means a plan for managing a resource use or value to [[Page 831]] achieve specific objectives. For example, an allotment management plan is an activity plan for managing livestock grazing use to improve or maintain rangeland conditions.

Actual use means where, how many, what kind or class of livestock, and how long livestock graze on an allotment, or on a portion or pasture of an allotment. Actual use report means a report of the actual livestock grazing use submitted by the permittee or lessee.

Affiliate means an entity or person that controls, is controlled by, or is under common control with, an applicant, permittee or lessee. The term “control" means having any relationship which gives an entity or person authority directly or indirectly to determine the manner in which an applicant, permittee or lessee conducts grazing operations.

Allotment means an area of land designated and managed for grazing of livestock.

Allotment management plan (AMP) means a documented program developed as an activity plan, consistent with the definition at 43 USC 1702(k), that focuses on, and contains the necessary instructions for, the management of livestock grazing on specified public lands to meet resource condition, sustained yield, multiple use, economic and other objectives.

Animal unit month (AUM) means the amount of forage necessary for the sustenance of one cow or its equivalent for a period of 1 month.

Annual rangelands means those designated areas in which livestock forage production is primarily attributable to annual plants and varies greatly from year to year.

Authorized officer means any person authorized by the Secretary to administer regulations in this part.

Base property means:

(1) Land that has the capability to produce crops or forage that can be used to support authorized livestock for a specified period of the year, or

(2) water that is suitable for consumption by livestock and is available and accessible, to the authorized livestock when the public lands are used for livestock grazing.

Cancelled or cancellation means a permanent termination of a grazing permit or grazing lease and grazing preference, or free-use grazing permit or other grazing authorization, in whole or in part.

Class of livestock means ages and/or sex groups of a kind of livestock.

Conservation use means an activity, excluding livestock grazing, on all or a portion of an allotment for purposes of—

(1) Protecting the land and its resources from destruction or unnecessary injury;

(2) Improving rangeland conditions; or

(3) Enhancing resource values, uses, or functions.

Consultation, cooperation, and coordination means interaction for the purpose of obtaining advice, or exchanging opinions on issues, plans, or management actions.

Control means being responsible for and providing care and management of base property and/or livestock.

District means the specific area of public lands administered by a District Manager.

Ephemeral rangelands means areas of the Hot Desert Biome (Region) that do not consistently produce enough forage to sustain a livestock operation but may briefly produce unusual volumes of forage to accommodate livestock grazing.

Grazing district means the specific area within which the public lands are administered under section 3 of the Act. Public lands outside grazing district boundaries are administered under section 15 of the Act.

Grazing fee year means the year, used for billing purposes, which begins on March 1, of a given year and ends on the last day of February of the following year.

Grazing lease means a document authorizing use of the public lands outside an established grazing district. Grazing leases specify all authorized use including livestock grazing, suspended use, and conservation use. Leases specify the total number of AUMs apportioned, the area authorized for grazing use, or both.

Grazing permit means a document authorizing use of the public lands within an established grazing district. Grazing permits specify all authorized use including livestock grazing, suspended use, and conservation use. Permits specify the total number of AUMs apportioned, the area authorized for grazing use, or both.

Grazing preference or preference means a superior or priority position against others for the purpose of receiving a grazing permit or lease. This priority is attached to base property owned or controlled by the permittee or lessee.

Interested public means an individual, group or organization that has submitted a written request to the authorized officer to be provided an opportunity to be involved in the decisionmaking process for the management

of livestock grazing on specific grazing allotments or has submitted written comments to the authorized officer regarding the management of livestock grazing on a specific allotment.

Land use plan means a resource management plan, developed under the provisions of 43 CFR part 1600, or a management framework plan. These plans are developed through public participation in accordance with the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C 1701 et seq.) and establish management direction for resource uses of public lands.

Livestock or kind of livestock means species of domestic livestock-- cattle, sheep, horses, burros, and goats.

Livestock carrying capacity means the maximum stocking rate possible without inducing damage to vegetation or related resources. It may vary from year to year on the same area due to fluctuating forage production.

Monitoring means the periodic observation and orderly collection of data to evaluate:

(1) Effects of management actions; and

(2) Effectiveness of actions in meeting management objectives.

Permitted use means the forage allocated by, or under the guidance of, an applicable land use plan for livestock grazing in an allotment under a permit or lease and is expressed in AUMs.

Public lands means any land and interest in land outside of Alaska owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management, except lands held for the benefit of Indians.

Range improvement means an authorized physical modification or treatment which is designed to improve production of forage; change vegetation composition; control patterns of use; provide water; stabilize soil and water conditions; restore, protect and improve the condition of rangeland ecosystems to benefit livestock, wild horses and burros, and fish and wildlife. The term includes, but is not limited to, structures, treatment projects, and use of mechanical devices or modifications achieved through mechanical means.

Rangeland studies means any study methods accepted by the authorized officer for collecting data on actual use, utilization, climatic conditions, other special events, and trend to determine if management objectives are being met.

Secretary means the Secretary of the Interior or his authorized officer.

Service area means the area that can be properly grazed by livestock watering at a certain water.

State Director means the State Director, Bureau of Land Management, or his or her authorized representative.

Supplemental feed means a feed which supplements the forage available from the public lands and is provided to improve livestock nutrition or rangeland management.

Suspension means the temporary withholding from active use, through a decision issued by the authorized officer or by agreement, of part or all of the permitted use in a grazing permit or lease.

Temporary nonuse means the authorized withholding, on an annual basis, of all or a portion of permitted livestock use in response to a request of the permittee or lessee.

Trend means the direction of change over time, either toward or away from desired management objectives.

Unauthorized leasing and subleasing means—

(1) The lease or sublease of a Federal grazing permit or lease, associated with the lease or sublease of base property, to another party without a required transfer approved by the authorized officer;

(2) The lease or sublease of a Federal grazing permit or lease to another party without the assignment of the associated base property;

(3) Allowing another party, other than sons and daughters of the grazing permittee or lessee meeting the requirements of Sec. 4130.7(f), to graze on public lands livestock that are not owned or controlled by the permittee or lessee; or

(4) Allowing another party, other than sons and daughters of the grazing permittee or lessee meeting the requirements of Sec. 4130.7(f), to graze livestock on public lands under a pasturing agreement without the approval of the authorized officer.

Utilization means the portion of forage that has been consumed by livestock, wild horses and burros, wildlife and insects during a specified period. The term is also used to refer to the pattern of such use.

43 CFR 4140.1(b) - Acts prohibited on public lands

(b) Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at §§ 4170.1 and 4170.2:

(1) Allowing livestock or other privately owned or controlled animals to graze on or be driven across these lands:

(i) Without a permit or lease, and an annual grazing authorization. For the purposes of this paragraph, grazing bills for which payment has not been received do not constitute grazing authorization.

(ii) In violation of the terms and conditions of a permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized;

(iii) In an area or at a time different from that authorized; or

(iv) Failing to comply with a requirement under § 4130.7(c) of this title.

(2) Installing, using, maintaining, modifying, and/or removing range improvements without authorization;

(3) Cutting, burning, spraying, destroying, or removing vegetation without authorization;

(4) Damaging or removing U.S. property without authorization;

(5) Molesting, harassing, injuring, poisoning, or causing death of livestock authorized to graze on these lands and removing authorized livestock without the owner's consent;

(6) Littering;

(7) Interfering with lawful uses or users including obstructing free transit through or over public lands by force, threat, intimidation, signs, barrier or locked gates;

(8) Knowingly or willfully making a false statement or representation in base property certifications, grazing applications, range improvement permit applications, cooperative range improvement agreements, actual use reports and/or amendments thereto;

(9) Failing to pay any fee required by the authorized officer pursuant to this part, or making payment for grazing use of public lands with insufficiently funded checks on a repeated and willful basis;

(10) Failing to reclaim and repair any lands, property, or resources when required by the authorized officer;

(11) Failing to reclose any gate or other entry during periods of livestock use.

NOTE: The administrative process of notice of trespass/impoundment should be utilized prior to implementing criminal law enforcement actions on these regulations when the livestock operator holds a valid authorization/permit/lease to make certain that the operator has had an opportunity to comply and that the violations continue to be "knowingly and willfully" violated.

43 CFR 4170.2-1 - Penal provisions under the Taylor Grazing Act

Under section 2 of the Act any person who willfully commits an act prohibited under § 4140.1(b), or who willfully violates approved special rules and regulations is punishable by a fine of not more than $500.

43 CFR 4170.2-2 - Penal provisions under the Federal Land Policy and Management Act

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (§ 43 USC 1701 et seq.), any person who knowingly and willfully commits an act prohibited under § 4140.1(b) or who knowingly and willfully violates approved special rules and regulations may be brought before a designated U.S. magistrate and is punishable by a fine in accordance with the applicable provisions of Title 18 of the United States Code, or imprisonment for no more than 12 months, or both.

43 CFR 4300 Grazing Administration; Alaska; Reindeer; General

43 CFR 4300.1 - What is a reindeer?

Reindeer, Rangifer tarandus, are a semi-domesticated member of the deer family, Cervidae. They are essentially the same animal as their wild cousins, the caribou, but tend to be smaller than caribou. Reindeer and caribou are different subspecies of the same family, genus, and species. The term

“reindeer" includes caribou that have been introduced into animal husbandry or have joined reindeer herds, the offspring of these caribou, and the offspring of reindeer.

43 CFR 4300.90 - What is a trespass?

(a) A trespass is any use of Federal land for reindeer grazing purposes without a valid permit issued under the regulations of this part; a trespass is unlawful and is prohibited.

(b) Any person who willfully violates the regulations in this part will be deemed guilty of a misdemeanor, and, upon conviction, is punishable by imprisonment for not more than one year, or by a fine of not more than $500.

CHAPTER XI - FIRES

18 USC 1855 - Timber set afire, Act of Mar. 4, 1909

Whoever, willfully and without authority, sets on fire any timber, underbrush, or grass or other inflammable material upon the public domain or upon any lands owned or leased by or under the partial, concurrent, or exclusive jurisdiction of the United States, or under contract for purchase or for the acquisition of which condemnation proceedings have been instituted, or upon any Indian reservation or lands belonging to or occupied by any tribe or group of Indians under authority of the United States, or upon 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 fined under this title or imprisoned not more than five years, or both. This section shall not apply in the case of a fire set by an allottee in the reasonable exercise of his proprietary rights in the allotment.

18 USC 1856 - Fires left unattended and unextinguished, Act of Mar. 4, 1909

Whoever, having kindled or caused to be kindled, a fire in or near any forest, timber, or other inflammable material upon any lands owned, controlled or leased by, or under the partial, concurrent, or exclusive jurisdiction of the United States, including lands under contract for purchase or for the acquisition of which condemnation proceedings have been instituted, and including any Indian reservation or lands belonging to or occupied by any tribe or group of Indians under the authority of the United States, or any Indian allotment while the title to the same is held in trust by the United States, or while the same shall remain inalienable by the allottee without the consent of the United States, leaves said fire without totally extinguishing the same, or permits or suffers said fire to burn or spread beyond his control, or leaves or suffers said fire to burn unattended, shall be fined under this title or imprisoned not more than six months, or both.

42 USC 1856a - Reciprocal Fire Protection Act of 1955

(a) Each agency head charged with the duty of providing fire protection for any property of the United States is authorized to enter into a reciprocal agreement, with any fire organization maintaining fire protection facilities in the vicinity of such property, for mutual aid in furnishing fire protection for such property and for other property for which such organization normally provides fire protection. Each such agreement shall include a waiver by each party of all claims against every other party for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement. Any such agreement may provide for the reimbursement of any party for all or any part of the cost incurred by such party in furnishing fire protection for or on behalf of any other party.

43 USC 1735 (FLPMA) - Cost of suppression and damages collection

(a) Any moneys received by the United States as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill the requirements of his contract or permit or does not comply with the regulations of the Secretary; or as a result of a compromise or settlement of any claim whether sounding in tort or in contract involving present or potential damage to the public lands shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available, until expended as the Secretary may direct, to cover the cost to the United States of any improvement, protection, or rehabilitation work on those public lands which has been rendered necessary by the action which has led to the forfeiture, compromise, or settlement.

(b) Any moneys collected under this Act in connection with lands administered under the Act of August 28, 1937 (50 Stat. 874; 43 USC 1181a-1181j), shall be expended for the benefit of such land only.

(c) If any portion of a deposit or amount forfeited under this Act is found by the Secretary to be in excess of the cost of doing the work authorized under this Act, the Secretary, upon application or otherwise, may cause a refund of the amount in excess to be made from applicable funds.

43 CFR 9212 - Wildfire Prevention

43 9212.0-5 - Definitions

As used in this subpart, the term:

(a) *Person* means individuals, corporations, companies, associations, firms, partnerships, societies or joint stock companies.

(b) *Authorized officer* means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described in this subpart.

(c) *Public lands* means any lands and interest in lands owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except:

(1) Lands located on the Outer Continental Shelf; and

(2) Lands held for the benefit of Indians, Aleuts, and Eskimos.

(d) *Fire* means the burning of timber, trees, slash, brush, tundra, grass or other flammable material such as, but not limited to, petroleum products, trash, rubbish, lumber, paper, cloth or agricultural refuse occurring out of doors and includes campfire as defined in this section.

(e) *Campfire* means a controlled fire occurring out of doors used for cooking, branding, personal warmth, lighting, ceremonial or esthetic purposes.

(f) *Permit* means authorization in writing by the authorized officer.

(g) *Closed area* means public lands closed to entry by a Bureau of Land Management fire prevention order.

(h) *Wildlife* means any wildland fire that requires a suppression response.

(i) *Restricted area* means public lands restricted as to use(s) by a Bureau of Land Management fire prevention order.

43 CFR 9212.1 - Prohibited acts

Unless permitted in writing by the authorized officer, it is prohibited on the public lands to:

(a) Cause a fire, other than a campfire, or the industrial flaring of gas, to be ignited by any source;

(b) Fire a tracer or incendiary device;

(c) Burn, timber, trees, slash, brush, tundra or grass except as used in campfires;

(d) Leave a fire without extinguishing it, except to report it if it has spread beyond control;

(e) Build, attend, maintain or use a campfire without removing all flammable material from around the campfire adequate to prevent its escape;

(f) Resist or interfere with the efforts of firefighter(s) to extinguish a fire;

(g) Enter an area which is closed by a fire prevention order, or

(h) perform any act restricted by a fire prevention order.

NOTE: Use and possession of fireworks is not included as a prohibition here. Also, there is not a requirement for spark arresters for motorized vehicles or equipment. If these prohibitions are necessary, then a fire prevention order should be issued.

43 CFR 9212.4 - Penalties

Any person who knowingly and willfully violates the regulations at § 9212.1 of this title shall, upon conviction, be subject to a fine of not more than $1,000 or to imprisonment of not more than 12 months, or both.

CHAPTER XII - PUBLIC USE AND COLLECTION

43 CFR 3604 - Free Use of Mineral Materials

43 CFR 3601.5 - Definitions

As used in this part the term:

Act means the Materials Act of July 31, 1947, as amended (30 USC 601, et seq.).

BLM means the Bureau of Land Management.

Common use area means a generally broad geographic area from which BLM can make disposals of mineral materials to many persons, with only negligible surface disturbance. The use is dispersed throughout the area.

Community pit means a relatively small, defined area from which BLM can make disposals of mineral materials to many persons. The surface disturbance is usually extensive in the confined area.

Mineral materials means, but is not limited to, petrified wood and common varieties of sand, stone, gravel, pumice, pumicite, cinders, and clay.

Performance bond means a bond to ensure compliance with the terms of the contract and reclamation of the site as BLM requires.

Permittee means any Federal, State, or territorial agency, unit, or subdivision, including municipalities, or any non-profit organization, to which BLM issued a free use permit for the removal of mineral materials from the public lands.

Public lands means any lands and interest in lands owned by the United States and administered by the Secretary of the Interior through BLM without regard to how the United States acquired ownership, except lands held for the benefit of Indians, Aleuts, and Eskimos.

Purchaser means any person, including a business or government entity, buying or holding a contract to purchase mineral materials on the public lands.

43 CFR 3604 - Free Use of Mineral Materials

43 CFR 3604.11 - How do I apply for a free use permit?

If you wish to apply for free use of mineral materials, you may file a letter of request or a BLM standard application form approved by the Office of Management and Budget.

43 CFR 3604.12 - Who may obtain a free use permit?

Any Federal, State, or territorial agency, unit, or subdivision, including municipalities, or any non-profit organization, may apply for a free use permit to extract and use mineral materials. (a) BLM may issue free use permits to a government entity without limitation as to the number of permits or as to the value of the mineral materials to be extracted or removed, provided that the government entity shows that it will not use these materials for commercial or industrial purposes. (b) BLM may issue free use permits to a non-profit organization for not more than 5,000 cubic yards (or weight equivalent) in any

period of 12 consecutive months, provided that the organization shows that it will not use these materials for commercial or industrial purposes.

43 CFR 3604.13 - When will BLM decline to issue a free use permit to a qualified applicant?

BLM will not issue a free use permit if we determine that you own or control an adequate supply of suitable mineral materials that: (a) Are readily available, and (b) You can mine in a manner that is economically and environmentally acceptable.

43 CFR 3604.21 - What is the term of a free use permit?

(a) BLM will determine the appropriate length of your free use permit term.

(1) BLM will not grant free use permits to government entities for terms exceeding 10 years.

(2) BLM will not grant free use permits to non-profit organizations for terms exceeding one year.

(b) BLM may extend any free use permit term for a single additional period not to exceed one year.

43 CFR 3604.22 - What conditions and restrictions pertain to my free use permit?

(a) You must not barter or sell mineral materials that you obtain under a free use permit.

(b) You must not remove mineral materials before BLM issues you a permit or after your permit expires.

(c) BLM may incorporate other conditions and restrictions into your free use permit.

43 CFR 3604.23 - When and how may I assign my free use permit?

You may assign or transfer your free use permit to entities qualified under 43 CFR 3604.12. You must first obtain BLM's written approval.

43 CFR 3604.24 - Who may remove materials on my behalf?

(a) You may allow your agent to extract mineral materials under your free use permit.

(b) Your agent may charge you only for extraction services and must not—

(1) Charge you for the materials extracted, processed, or removed; or

(2) Take mineral materials from the permit area as payment for services rendered to you, or as a donation or gift.

43 CFR 3604.25 - What bond requirements pertain to free use permits?

BLM may require a bond or other security as a guarantee of your faithful compliance with the provisions of your permit and applicable regulations, including reclamation. The type of security must be one of those provided for in Sec. 3602.14(c) of this part.

43 CFR 3604.26 - When will BLM cancel my permit?

BLM may cancel your permit if you fail, after adequate notice, to follow its terms and conditions.

43 CFR 3604.27 - What rights does a free use permit give me against other users of the land?

Permits that BLM issues under this subpart constitute a superior right to remove the materials in accordance with the permit terms and provisions, as against any claim to or entry of the lands made after the date BLM designated the tract for mineral materials disposal. See Sec. 3602.12.

43 CFR 3622 - Free Use of Petrified Wood

43 CFR 3622.1 - Program; General

(a) Persons may collect limited quantities of petrified wood for noncommercial purposes under terms and conditions consistent with the preservation of significant deposits as a public recreational resource. (b) The purchase of petrified wood for commercial purposes is provided for in Sec. 3602.10 et seq. of this chapter.

43 CFR 3622.2 - Procedures; permits

No application or permit for free use is required except for specimens over 250 pounds in weight. The authorized officer may issue permits, using the procedures of subpart 3604 of this chapter, for the removal of such specimens if the applicant certifies that they will be displayed to the public in a museum or similar institution.

43 CFR 3622.3 - Designation of areas

(a) All public lands administered by the Bureau of Land Management and the Bureau of Reclamation are open to or available for free use removal of petrified wood unless otherwise provided for by notice in the Federal Register. Free use areas under the jurisdiction of said Bureaus may be modified or cancelled by notices published in the Federal Register.

(b) The heads of other Bureaus in the Department of the Interior may publish in the Federal Register designations, modifications or cancellations of free use areas for petrified wood on lands under their jurisdiction.

(c) The Secretary of the Interior may designate, modify or cancel free use areas for petrified wood on public lands which are under the jurisdiction of other Federal departments or agencies, other than the Department of Agriculture, with the consent of the head of other Federal departments or agencies concerned, upon publication of notice in the Federal Register.

43 CFR 3622.4 - Collection rules

(a) General. The authorized officer shall control the removal without charge of petrified wood from public lands using the following criteria:

(1) The maximum quantity of petrified wood that any one person is allowed to remove without charge per day is 25 pounds in weight plus one piece, provided that the maximum total amount that one person may remove in one calendar year shall not exceed 250 pounds. Pooling of quotas to obtain pieces larger than 250 pounds is not allowed.

(2) Except for holders of permits issued under Subpart 3621 of this title to remove museum pieces, no person shall use explosives, power equipment, including, but not limited to, tractors, bulldozers, plows, power-shovels, semi-trailers or other heavy equipment for the excavation or removal of petrified wood.

(3) Petrified wood obtained under this section shall be for personal use and shall not be sold or bartered to commercial dealers.

(4) The collection of petrified wood shall be accomplished in a manner that prevents unnecessary and undue degradation of lands.

(b) Additional rules. The head of the agency having jurisdiction over a free use area may establish and publish additional rules for collecting petrified wood for noncommercial purposes to supplement those included in § 3622.4(a) of this title.

43 CFR 8360 Visitor Services; Rules of Conduct; Property & Resources

43 CFR 8360.0-5 - Definitions

As used in this part, the term:

(b) "Campfire" means a controlled fire occurring out of doors, used for cooking, branding, personal warmth, lighting, ceremonial or aesthetic purposes.

(c) "Developed sites and areas" means sites and areas that contain structures or capital improvements primarily used by the public for recreation purposes. Such sites or areas may include such features as: delineated spaces for parking, camping or boat launching; sanitary facilities; potable water; grills or fire rings; tables; or controlled access.

43 CFR 8365.1-5 - Property and resources

(a) On all public lands, unless otherwise authorized, no person shall;

(1) Willfully deface, disturb, remove or destroy any personal property, or structures, or any scientific, cultural, archaeological or historic resource, natural object or area;

(2) Willfully deface, remove or destroy plants or their parts, soil, rocks or minerals, or cave resources, except as permitted under paragraph (b) or (c) of this paragraph; or

(3) Use on the public lands explosive, motorized or mechanical devices, except metal detectors, to aid in the collection of specimens permitted under paragraph (b) or (c) of this paragraph.

(b) Except on developed recreation sites and areas, or where otherwise prohibited and posted, it is permissible to collect from the public lands reasonable amounts of the following for noncommercial purposes:

(1) Commonly available renewable resources such as flowers, berries, nuts, seeds, cones and leaves;

(2) Nonrenewable resources such as rocks, mineral specimens, common invertebrate fossils and semiprecious gemstones;

(3) Petrified wood as provided under subpart 3622 of this title;

(4) Mineral materials as provided under subpart 3604; and (5) Forest products for use in campfires on the public lands. Other collection of forest products shall be in accordance with the provisions of Group 5500 of this title.

(c) The collection of renewable or nonrenewable resources from the public lands for sale or barter to commercial dealers may be done only after obtaining a contract or permit from an authorized officer in accordance with part 3600 or 5400 of this chapter.

NOTE: This section allows for "collection" of certain resources without a permit as long as:

- *It is done without the use of explosive, motorized or mechanical devices (except metal detectors) to aid in collection of "specimens."*
- *It is not done on developed sites and areas, or where otherwise prohibited and posted.*
- *It is a "reasonable amount."*
- *It is for "non-commercial" purposes.*
- *It is a resource described and listed in § 8365.1-5(b).*

The key words and phrases are "collect," "specimens," "reasonable amounts", and "non-commercial." Collection (rather than extraction) implies picking by hand, although there may be some hand tools involved. It also implies for hobby, educational or scientific purpose. "Specimen" implies a sample or a part of something intended to exhibit the kind and quality of the whole. Non-commercial implies for personal use and enjoyment. "Reasonable amount" implies a relatively small amount. What amount is reasonable depends on the type of resource collected, the value of the resources, the availability of the resource, the sustainability of continued collection in a given location, the frequency of collection, and the environmental effects involved. However, "reasonable amount" must be reconciled with the words: "collect", "specimen", and "non-commercial." A "reasonable amount" should be a small amount of material that would fit inside a average backpack or that could be carried by hand in a 5 gallon bucket or other container. It should not be any amounts that could be described in units of measurement used in commercial marketing, such as: board feet, cubic yards, bushels, tons, etc.

The supplementary information provided in the final rulemaking of 43 CFR Part 8360 includes the statement: "The proposed rulemaking was designed to afford land managers of the Bureau of Land Management the flexibility to deal with local conditions and situations." Part 8360 provides several authorities for land managers to further regulate the various resources administered by them. If the allowed collection of reasonable amounts of resources is causing an immediate threat to the availability of that resource or the continued collection has caused or is likely to cause unnecessary or undue degradation, the Field Office Manager could choose to immediately close the area to collection under the authority provided in § 8364.1, Closure and restrictions orders. If the resource condition is such to warrant permanent management restrictions or protection (e.g., recommended as a result of a resource management planning process), the State Director may establish supplementary rules under the authority provided in §

8365.1-6, Supplementary rules. Such rules could define the "reasonable amounts", the acceptable collection methods, the frequency of collection, and/or require permits. The Field Office Manager could also implement the provisions of § 3560.7 as it relates to hardrock mineral specimen collection.

CHAPTER XIII - RECREATION RULES OF CONDUCT - ALL PUBLIC LANDS

43 CFR 8365 Rules of Conduct

43 CFR 8360.0-5 - Definitions

As used in this part, the term:

(a) Authorized officer means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this part.

(b) Campfire means a controlled fire occurring out of doors, used for cooking, branding, personal warmth, lighting, ceremonial or aesthetic purposes.

(d) Public lands means any lands and interests in lands owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management without regard to how the United States acquired ownership.

(e) Vehicle means any motorized transportation conveyance designed and licensed for use on roadways, such as an automobile, bus, or truck, and any motorized conveyance originally equipped with safety belts.

43 CFR 8365.1 - Public lands--general

The rules in this subsection shall apply to use and occupancy of all public lands under the jurisdiction of the Bureau of Land Management. Additional rules for developed sites and areas are found in § 8365.2 of this title.

43 CFR 8365.1-2 - Occupancy and use

On all public lands, no person shall:

(a) Camp longer than the period of time permitted by the authorized officer; or

NOTE: Camping stay limits must be established and issued by the authorized officer as a supplementary rule. Although, many field offices have adopted a "14 day" rule and 43 CFR 3715.1 exempts mining claim occupancy for 14 days or less in any 90-day period, there is no Bureauwide standard for this.

(b) Leave personal property unattended longer than 10 days (12 months in Alaska), except as provided under § 8365.2-3(b) of this title, unless otherwise authorized. Personal property left unattended longer than 10 days (12 months in Alaska), without permission of the authorized officer, is subject to disposition under the Federal Property and Administrative Services Act of 1949, as amended (§ 40 USC 484(m)).

NOTE: When handling abandoned property situations, BLM Realty Trespass Abatement Handbook H-9232-1, Chapter VI. procedures must be followed in establishing and documenting abandonment. In situations involving impoundment and disposition of motor vehicles and trailers, there may be special procedures involved that require consultation with State and local law enforcement agencies. A thorough inventory of such property impounded is required in Law Enforcement General Order 28.

43 CFR 8365.1-4(a) - Public health, safety, and comfort

(a) No person shall cause a public disturbance or create a risk to other persons on public lands by engaging in activities which include, but are not limited to, the following:

(1) Making unreasonable noise;

(2) Creating a hazard or nuisance;

(3) Refusing to disperse, when directed to do so by an authorized officer;

(4) Resisting arrest or issuance of citation by an authorized officer engaged in performance of official duties; interfering with any Bureau of Land Management employee or volunteer engaged in performance of official duties; or

(5) Assaulting, committing a battery upon, or

(6) Knowingly giving any false or fraudulent report of an emergency situation or crime to any Bureau of Land Management employee or volunteer engaged in the performance of official duties.

43 CFR 8365.1-7 - State and local laws

Except as otherwise provided by Federal law or regulation, State and local laws and ordinances shall apply and be enforced by the appropriate State and local authorities. This includes, but is not limited to, State and local laws and ordinances governing:

(a) Operation and use of motor vehicles, aircraft and boats;

(b) Hunting and fishing;

(c) Use of firearms or other weapons;

(d) Injury to persons, or destruction or damage to property;

(e) Air and water pollution;

(f) Littering;

(g) Sanitation;

(h) Use of fire;

(i) Pets;

(j) Forest products; and

(k) Caves.

NOTE: This section is a general policy statement regarding the applicability of state and local laws and regulations to the public lands. It is NOT a prohibited act, therefore person(s) cannot be charged with violation of this section.

CHAPTER XIV - RECREATION RULES OF CONDUCT – DEVELOPED RECREATION SITES & AREAS

43 CFR 8365 Rules of Conduct; Developed Recreation Sites & Areas

43 CFR 8360.0-5 - Definitions

As used in this part, the term:

(c) "Developed sites and areas" means sites and areas that contain structures or capital improvements primarily used by the public for recreation purposes. Such sites or areas may include such features as: delineated spaces for parking, camping or boat launching; sanitary facilities; potable water; grills or fire rings; tables; or controlled access.

43 CFR 8365.2 - Developed recreation sites and areas

The rules governing conduct and use of a developed recreation site or area shall be posted at a conspicuous location near the entrance to the site or area.

43 CFR 8365.2-1 - Sanitation

On developed recreation sites and areas, no person shall, unless otherwise authorized:

(a) Clean fish, game, other food, clothing or household articles at any outdoor hydrant, pump, faucet or fountain, or restroom water faucet;

(b) Deposit human waste except in toilet or sewage facilities provided for that purpose; or

(c) Bring an animal into such an area unless the animal is on a leash not longer than 6 feet and secured to a fixed object or under control of a person, or is otherwise physically restricted at all times.

43 CFR 8365.2-2 - Audio devices

On developed recreation sites or areas, unless otherwise authorized, no person shall:

(a) Operate or use any audio device such as a radio, television, musical instrument, or other noise producing device or motorized equipment in a manner that makes unreasonable noise that disturbs other visitors;

(b) Operate or use a public address system;

(c) Construct, erect or use an antenna or aerial for radiotelephone, radio or television equipment, other than on a vehicle or as an integral part of such equipment.

43 CFR 8365.2-3 - Occupancy and use

In developed camping and picnicking areas, no person shall, unless otherwise authorized:

(a) Fail to pay any fees imposed in accordance with 36 CFR Part 71.

NOTE: 36 CFR Part 71 was promulgated pursuant to the section 4 of the Land and Water Conservation Fund Act which has been repealed by the Federal Lands Recreation

Enhancement Act. See 43 CFR 2933.33 for prohibited acts related to payment of recreation fees.

(b) Pitch any tent, park any trailer, erect any shelter or place any other camping equipment in any area other than the place designed for it within a designated campsite;

(c) Leave personal property unattended for more than 24 hours in a day use area, or 72 hours in other areas. Personal property left unattended beyond such time limit is subject to disposition under the Federal Property and Administration Services Act of 1949, as amended (§ 40 USC 484(m));

(d) Build any fire except in a stove, grill, fireplace or ring provided for such purpose;

(e) Enter or remain in campgrounds closed during established night periods except as an occupant or while visiting persons occupying the campgrounds for camping purposes;

(f) Enter or use a site or a portion of a site closed to public use; or

(g) Occupy a site with more people than permitted within the developed campsite. Limits on the number of occupants permitted at any site shall be clearly posted near the entrance of the developed campsite or facility in such a manner as to bring it to the reasonable attention of the user.

(h) Move any table, stove, barrier, litter receptacle or other campground equipment.

43 CFR 8365.2-4 - Vehicles

Unless otherwise authorized, no motor vehicle shall be driven within developed recreation sites or areas except on roads or places provided for this purpose.

43 CFR 8365.2-5 - Public health, safety and comfort

On developed recreation sites and areas, unless otherwise authorized, no person shall:

(a) Discharge or use firearms, other weapons, or fireworks; or

(b) Bring an animal, except a Seeing Eye or Hearing Ear dog, to a swimming area.

CHAPTER XV - MOTOR VEHICLES

National Trails Act, 1968

16 USC 1242 - National Trails System

(a) Composition: recreation trails; scenic trails; historic trails; connecting or side trails; uniform markers.

The national system of trails shall be composed of the following:

(2) National scenic trails, established as provided in section 1244 of this title, which will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass. National scenic trails may be located so as to represent desert, marsh, grassland, mountain, canyon, river, forest, and other areas, as well as landforms which exhibit significant characteristics of the physiographic regions of the Nation.

16 USC 1244 - National scenic and national historic trails

(a) Establishment and designation; administration

National scenic and national historic trails shall be authorized and designated only by Act of Congress. There are hereby established the following National Scenic and National Historic Trails:

(2) The Pacific Crest National Scenic Trail, a trail of approximately two thousand three hundred fifty miles, extending from the Mexican-California border northward generally along the mountain ranges of the west coast States to the Canadian-Washington border near Lake Ross….,

(5) The Continental Divide National Scenic Trail, a trail of approximately thirty-one hundred miles, extending from the Montana- Canada border to the New Mexico-Mexico border…,

16 USC 1246(c)

... The use of motorized vehicles by the general public along any national scenic trail shall be prohibited and nothing in this chapter shall be construed as authorizing the use of motorized vehicles within the natural and historical areas of the national park system, the national wildlife refuge system, the national wilderness preservation system where they are presently prohibited or on other Federal lands where trails are designated as being closed to such use by the appropriate Secretary: Provided, That the Secretary charged with the administration of such trail shall establish regulations which shall authorize the use of motorized vehicles when, in his judgment, such vehicles are necessary to meet emergencies or to enable adjacent landowners or land users to have reasonable access to their lands or timber rights: Provided further, That private lands included in the national recreation, national scenic, or national historic trails by cooperative agreement of a landowner shall not preclude such owner from using motorized vehicles on or across such trails or adjacent lands from time to time in accordance with regulations to be established by the appropriate Secretary.... Other uses along the historic trails

and the Continental Divide National Scenic Trail, which will not substantially interfere with the nature and purposes of the trail, and which, at the time of designation, are allowed by administrative regulations, including the use of motorized vehicles, shall be permitted by the Secretary charged with the administration of the trail...

Executive Order No. 11644, Use of Off-road Vehicles on Public Lands, Feb. 8, 1972

Section 3. Zones of Use.

(a) Each respective agency head shall develop and issue regulations and administrative instructions, within six months of the date of this order, to provide for administrative designation of the specific areas and trails on public lands on which the use of off-road vehicles may be permitted, and areas in which the use of off-road vehicles may not be permitted, and set a date by which such designation of all public lands shall be completed. Those regulations shall direct that the designation of such areas and trails will be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of conflicts among the various uses of those lands. The regulations shall further require that the designation of such areas and trails shall be in accordance with the following—

(1) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, or other resources of the public lands.

(2) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats.

(3) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

(4) Areas and trails shall not be located in officially designated Wilderness Areas or Primitive Areas. Areas and trails shall be located in areas of the National Park system, Natural Areas, or National Wildlife Refuges and Game Ranges only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values...

Section 4. Operating Conditions.

Each respective agency head shall develop and publish, within one year of the date of this order, regulations prescribing operating conditions for off-road vehicles on the public lands. These regulations shall be directed at protecting resource values, preserving public health, safety, and welfare, and minimizing use conflicts.

Section 6. Enforcement.

The respective agency head shall, where authorized by law, prescribe appropriate penalties for violation of regulations adopted pursuant to this order, and shall establish procedures for the enforcement of those regulations. To the extent permitted by law, he may enter into agreements with State or local governmental agencies for cooperative enforcement of laws and regulations relating to off-road vehicle use.

Section. 9. Special Protection of the Public Lands.

(a) Notwithstanding the provisions of Section 3 of this Order, the respective agency head shall, whenever he determines that the use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources of particular areas or trails of the public lands, immediately close such areas or trails to the type of off-road vehicle causing such effects, until such time as he determines that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence.

(b) Each respective agency head is authorized to adopt the policy that portions of the public lands within his jurisdiction shall be closed to use by off-road vehicles except those areas or trails which are suitable and specifically designated as open to such use pursuant to Section 3 of this Order.

43 CFR 8340 Off-road vehicles

43 CFR 8340.0-5 - Definitions

As used in this part:

(a) "Off-Road Vehicle" means any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain, excluding:

(1) Any nonamphibious registered motorboat;

(2) any military, fire, emergency, or law enforcement vehicle while being used for emergency purposes;

(3) any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved;

(4) Vehicles in official use; and

(5) any combat or combat support vehicle when used in times of national defense emergencies.

NOTE: The phrase "off-road vehicle" originally comes from Executive Order 11644 and is defined in both these regulations and executive order 11644 as "any motorized vehicle" with the exception of those excluded above. Therefore these regulations are often used for the purpose of regulating all motorized vehicle activities on public lands. Executive Order 11644 defines "public lands" as all lands under the custody and control of the Secretary of the Interior. This gives BLM authority over regulating the use of motorized vehicles on all FLPMA public lands depending upon how much "custody and control" may have been relinquished in various rights-of-way grants for State and local highways and roads. However, in the interest of cooperation with

State and local regulatory and law enforcement officials, these regulations should not be enforced on controlled access interstates and highways where law enforcement jurisdiction is actively asserted by such State and local officials. These regulations should be used in such places as:

(1) BLM maintained and operated highways, roads, and trails;

(2) BLM designated scenic routes and back country byways;

(3) designated national trails that are open to motorized vehicles;

(4) designated off-road vehicle recreation areas; and

(5) other locations on the public lands where the BLM has the primary responsibility for resource protection and public safety.

43 CFR 8342 - Designation of Areas & Trails

43 CFR 8342.1 - Designation criteria

The authorized officer shall designate all public lands as either open, limited, or closed to off-road vehicles. All designations shall be based on the protection of the resources of the public lands, the promotion of the safety of all the users of the public lands, and the minimization of conflicts among various uses of the public lands; and in accordance with the following criteria:

(a) Areas and trails shall be located to minimize damage to soil, watershed, vegetation, air, or other resources of the public lands, and to prevent impairment of wilderness suitability.

(b) Areas and trails shall be located to minimize harassment of wildlife or significant disruption of wildlife habitats. Special attention will be given to protect endangered or threatened species and their habitats.

(c) Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

(d) Areas and trails shall not be located in officially designated wilderness areas or primitive areas. Areas and trails shall be located in natural areas only if the authorized officer determines that off-road vehicle use in such locations will not adversely affect their natural, esthetic, scenic, or other values for which such areas are established.

43 CFR 8342.2 - Designation procedures

(a) Public participation.

The designation and redesignation of trails is accomplished through the resource management planning process described in part 1600 of this title. Current and potential impacts of specific vehicle types on all resources and uses in the planning area shall be considered in the process of preparing resource management plans, plan revisions, or plan amendments. Prior to making designations or redesignations, the authorized officer shall consult with interested user groups, Federal, State, county and local agencies, local landowners, and other parties in a

manner that provides an opportunity for the public to express itself and have its views given consideration.

(b) Designation.

The approval of a resource management plan, plan revision, or plan amendment constitutes formal designation of off-road vehicle use areas. Public notice of designation or redesignation shall be provided through the publication of the notice required by Sec. 1610.5-1(b) of this title. Copies of such notice shall be available to the public in local Bureau offices.

(c) Identification of designated areas and trails.

The authorized officer shall, after designation, take action by marking and other appropriate measures to identify designated areas and trails so that the public will be aware of locations and limitations applicable thereto. The authorized officer shall make appropriate informational material, including maps, available for public review.

43 CFR 8340.0-7 - Penalties

Any person who violates or fails to comply with the regulations of Subparts 8341 and 8343 is subject to arrest, conviction, and punishment pursuant to appropriate laws and regulations. Such punishment may be a fine of not more than $1,000 or imprisonment for not longer than 12 months, or both.

43 CFR 8341.1 - Regulations governing use

(a) The operation of off-road vehicles is permitted on those areas and trails designated as open to off-road vehicle use.

(b) Any person operating an off-road vehicle on those areas and trails designated as limited shall conform to all terms and conditions of the applicable designation orders.

(c) The operation of off-road vehicles is prohibited on those areas and trails closed to off-road vehicle use.

(d) It is prohibited to operate an off-road vehicle in violation of State laws and regulations relating to use, standards, registration, operation, and inspection of off-road vehicles. To the extent that State laws and regulations do not exist or are less stringent than the regulations in this part, the regulations in this part are minimum standards and are controlling.

NOTE: Because Section 4 of Executive Order 11644 directs the regulations at protecting resource values, preserving public health, safety, and welfare, and minimizing use conflicts, this section should be enforced to the extent that it serves those purposes. Enforcement of State registration requirements should be done in consultation with the appropriate State and local enforcement officials.

(e) No person may operate an off-road vehicle on public lands without a valid State operator's license or learner's permit where required by State or Federal law.

(f) No person shall operate an off-road vehicle on public lands:

(1) In a reckless, careless, or negligent manner;

(2) In excess of established speed limits;

(3) While under the influence of alcohol, narcotics, or dangerous drugs;

NOTE: This section enables the BLM to deal specifically with the DUI issue as it relates to preserving public health, safety, and welfare on the public lands. Normally, enforcement of such a prohibition involves the arrest of the subject with sobriety testing, breath testing, and blood testing. This can be quite time consuming and may be better handled by available State and local officers. Enforcement of this section should be done in consultation with the appropriate State and local enforcement official[s.]

(4) In a manner causing, or likely to cause significant, undue damage to or disturbance of the soil, wildlife, wildlife habitat, improvements, cultural, or vegetative resources or other authorized uses of the public lands; and

(5) During night hours, from a half-hour after sunset to a half-hour before sunrise, without lighted headlights and taillights.

(g) Drivers of off-road vehicles shall yield the right-of-way to pedestrians, saddle horses, pack trains, and animal-drawn vehicles.

(h) Any person who operates an off-road vehicle on public lands must comply with the regulations in this part, and in § 8341.2 as applicable, while operating such vehicle on public lands.

43 CFR 8343.1 - Standards

(a) No off-road vehicle may be operated on public lands unless equipped with brakes in good working condition.

(b) No off-road vehicle equipped with a muffler cutout, bypass, or similar device, or producing excessive noise exceeding Environmental Protection Agency standards, when established, may be operated on public lands.

(c) By posting appropriate signs or by marking a map which shall be available for public inspection at local Bureau offices, the authorized officer may indicate those public lands upon which no off-road vehicle may be operated unless equipped with a properly installed spark arrester. The spark arrester must meet either the U.S. Department of Agriculture--Forest Service Standard 5100-1a, or the 80-percent efficiency level standard when determined by the appropriate Society of Automotive Engineers (SAE) Recommended Practices J335 or J350. These standards include, among others, the requirements that: (1) The spark arrester shall have an efficiency to retain or destroy at least 80 percent of carbon particles for all flow rates, and (2) the spark arrester has been warranted by its manufacturer as meeting this efficiency requirement for at least 1,000 hours subject to normal use, with maintenance and mounting in accordance with the manufacturer's recommendation. A spark arrester is not required when an off-road vehicle is being operated in an area which has 3 or more inches of snow on the ground.

(d) Vehicles operating during night hours, from a half-hour after sunset to a half-hour before sunrise, shall comply with the following:

(1) Headlights shall be of sufficient power to illuminate an object at 300 feet at night under normal, clear atmospheric conditions. Two- or three-wheeled vehicles or single-tracked vehicles will have a minimum of one headlight. Vehicles having four or more wheels or more than a single track will have a minimum of two headlights, except double tracked snow machines with a maximum capacity of two people may have only one headlight.

(2) Red taillights, capable of being seen at a distance of 500 feet from the rear at night under normal, clear atmospheric conditions, are required on vehicles in the same numbers as headlights.

43 CFR 8351 - Designated National Area; National Scenic Trails

43 CFR 8351.1-1 - National Scenic Trails

(a) Motorized vehicle use. No one shall operate a motorized vehicle along a national scenic trail except:

(1) When motorized vehicular use is necessary to meet emergencies involving health, safety, fire suppression, or law enforcement; or

(2) Where the authorized officer determines that adjacent landowners and land users have a need for reasonable access to their lands, interests in lands, or timber rights; or

(3) On roads that are designated segments of the National Scenic Trail System and are posted as open to motorized vehicles.

(b) Penalties. In accordance with section 7(i) of the National Trails System Act of 1968, as amended (§ 16 USC 1246), anyone convicted of violating this regulation is subject to a fine not to exceed $500 and/or imprisonment not to exceed six months.

43 CFR 8360 - Visitor Services; Rules of Conduct

43 CFR 8360.0-5 - Definitions

As used in this part, the term:

(e) Vehicle means any motorized transportation conveyance designed and licensed for use on roadways, such as an automobile, bus, or truck, and any motorized conveyance originally equipped with safety belts.

43 CFR 8365.1-3 - Vehicles

(a) When operating a vehicle on the public lands, no person shall exceed posted speed limits, willfully endanger persons or property, or act in a reckless, careless or negligent manner.

(b)

(1) The operator of a motor vehicle is prohibited from operating a motor vehicle in motion, unless the operator and each front seat passenger is restrained by a properly fastened safety belt that conforms to applicable

United States Department of Transportation standards, except that children, as defined by State law, shall be restrained as provided by State law.

(2) Paragraph (b) applies on public lands, or portions thereof, that are located within a State in which there is no State law in effect that requires the mandatory use of a safety belt by the vehicle operator and any front seat passenger. It also applies on public lands, or portions thereof, located within a State in which the mandatory safety belt law of the State does not apply to the public lands or in which any provision of State law renders the mandatory safety belt law of the State unenforceable by the authorized officer as to acts or omissions occurring on the public lands.

(3) This section does not apply to an operator or a passenger of a motor vehicle occupying a seat that was not originally equipped by the manufacturer with a safety belt, nor does it apply to an operator or passenger with a medical condition that prevents restraint by a safety belt or other occupant restraining device.

(4) An authorized officer may not stop a motor vehicle for the sole purpose of determining whether a violation of paragraph (b)(1) of this section is being committed.

NOTE: These regulations clearly apply to "any motorized transportation conveyance" on all FLPMA public lands. However, enforcement of these regulations also depends on how much "custody and control" may have been relinquished in various rights-of-way grants for State and local highways and roads. In the interest of cooperation with State and local regulatory and law enforcement officials, these regulations should not be enforced on controlled access interstates and highways where law enforcement jurisdiction is actively asserted by such State and local officials. These regulations should be used in such places as: (1)BLM maintained and operated highways, roads, and trails; (2) BLM designated scenic routes and back country byways; (3) BLM developed recreation sites and parking lots; and (4) other locations on the public lands where the BLM has the primary responsibility for resource protection and public safety. Also note that enforcement of the seat belt requirement is secondary. There must be at least reasonable suspicion for a violation of some other Federal law or regulation prior to inspecting for seat belt use.

43 CFR 8360 - Visitor Services; Rules of Conduct; Developed Recreation Sites & Areas

43 CFR 8360.0-5 - Definitions

As used in this part, the term:

(c) "Developed sites and areas" means sites and areas that contain structures or capital improvements primarily used by the public for recreation purposes. Such sites or areas may include such features as: delineated spaces for parking, camping or boat launching; sanitary facilities; potable water; grills or fire rings; tables; or controlled access.

43 CFR 8365.2-4 - Vehicles

Unless otherwise authorized, no motor vehicle shall be driven within developed recreation sites or areas except on roads or places provided for this purpose.

CHAPTER XVI - SPECIAL RECREATION USE, PERMITS, & FEES

Federal Lands Recreation Enhancement Act, December 8, 2004

16 USC 6801

In this Act:

(1) STANDARD AMENITY RECREATION FEE.—The term ‘‘standard amenity recreation fee’’ means the recreation fee authorized by section 3(f).

(2) EXPANDED AMENITY RECREATION FEE.—The term ‘‘expanded amenity recreation fee’’ means the recreation fee authorized by section 3(g).

(7) PASSHOLDER.—The term ‘‘passholder’’ means the person who is issued a recreation pass.

(8) RECREATION FEE.—The term ‘‘recreation fee’’ means an entrance fee, standard amenity recreation fee, expanded amenity recreation fee, or special recreation permit fee.

(9) RECREATION PASS.—The term ‘‘recreation pass’’ means the National Parks and Federal Recreational Lands Pass or one of the other recreation passes available as authorized by section 5.

(13) SPECIAL RECREATION PERMIT FEE.—The term ‘‘special recreation permit fee’’ means the fee authorized by section 3(h).

16 USC 6802

(f) STANDARD AMENITY RECREATION FEE.—Except as limited by subsection (d), the Secretary may charge a standard amenity recreation fee for Federal recreational lands and waters under the jurisdiction of the Bureau of Land Management, the Bureau of Reclamation, or the Forest Service, but only at the following:

(1) A National Conservation Area.

(2) A National Volcanic Monument.

(3) A destination visitor or interpretive center that provides a broad range of interpretive services, programs, and media.

(4) An area—

(A) that provides significant opportunities for outdoor recreation;

(B) that has substantial Federal investments;

(C) where fees can be efficiently collected; and

(D) that contains all of the following amenities:

(i) Designated developed parking.

(ii) A permanent toilet facility.

(iii) A permanent trash receptacle.

(iv) Interpretive sign, exhibit, or kiosk.

(v) Picnic tables.

(vi) Security services.

(g) EXPANDED AMENITY RECREATION FEE.—

(2) OTHER FEDERAL LAND MANAGEMENT AGENCIES.—Except as limited by subsection (d), the Secretary may charge an expanded amenity recreation fee, either in addition to a standard amenity fee or by itself, at Federal recreational lands and waters under the jurisdiction of the Forest Service, the Bureau of Land Management, or the Bureau of Reclamation, but only for the following facilities or services:

(A) Use of developed campgrounds that provide at least a majority of the following:

(i) Tent or trailer spaces.

(ii) Picnic tables.

(iii) Drinking water.

(iv) Access roads.

(v) The collection of the fee by an employee or agent of the Federal land management agency.

(vi) Reasonable visitor protection.

(vii) Refuse containers.

(viii) Toilet facilities.

(ix) Simple devices for containing a campfire.

43 CFR 2930 - Permits for Recreation; General

43 CFR 2931.2 - What kinds of permits does BLM issue for recreation-related uses of public lands?

The regulations in this part establish permit and fee systems for:

(a) Special Recreation Permits for commercial use, organized group activities or events, competitive use, and for use of special areas; and

(b) Recreation use permits for use of fee areas such as campgrounds and day use areas.

43 CFR 2931.3 - What are the authorities for these regulations?

(a) The statutory authorities underlying the regulations in this part are the Federal Land Policy and Management Act, 43 USC 1701 et seq., and the Land and Water Conservation Fund Act, as amended, 16 USC 460l-6a.

(1) The Federal Land Policy and Management Act (FLPMA) contains the Bureau of Land Management's (BLM's) general land use management authority over the public lands, and establishes outdoor recreation as one of the principal uses of those lands (43 USC 1701(a)(8)). Section 302(b) of FLPMA directs the Secretary of the Interior to regulate through permits or other instruments the use of the public lands, which includes commercial recreation use. Section 303 of FLPMA contains BLM's authority to enforce the regulations and impose penalties.

(2) The Land and Water Conservation Fund (LWCF) Act, as amended, authorizes BLM to collect fees for recreational use (16 USC 460l-6a(a), (c)), and to issue special recreation permits for group activities and recreation events, and limits the services for which we may collect fees (16 USC 460l-6a(a), (b), (g)).

NOTE: This section of the Land and Water Conservation Fund Act (LWCFA) was repealed per section 813 of the Federal Land Recreation Enhancement Act of 2004 (16 USC 6812), however regulations promulgated under authority of the LWCFA remain in effect until new regulations are completed. (16 USC 6812(f)

(3) The Sentencing Reform Act (18 USC 3571) is the authority for the possible penalties for violations of these regulations.

(b) The regulations at 36 CFR part 71 require all Department of the Interior bureaus to use the criteria in that part to set recreation fees. These criteria are based on the LWCF Act and stated in Sec. Sec. 71.9 and 71.10 of that part.

43 CFR 2932 - Special Recreation Permits for Commercial Use, Competitive Events, Organized Groups, and Recreation Use in Special Areas.

43 CFR 2932.5 - Definitions

Actual expenses means money spent directly on the permitted activity. These may include costs of such items as food, rentals of group equipment, transportation, and permit or use fees. Actual expenses do not include the rental or purchase of personal equipment, amortization of equipment, salaries or other payments to participants, bonding costs, or profit.

Commercial use means recreational use of the public lands and related waters for business or financial gain.

(1) The activity, service, or use is commercial if--

(i) Any person, group, or organization makes or attempts to make a profit, receive money, amortize equipment, or obtain goods or services, as compensation from participants in recreational activities occurring on public lands led, sponsored, or organized by that person, group, or organization;

(ii) Anyone collects a fee or receives other compensation that is not strictly a sharing of actual expenses, or exceeds actual expenses, incurred for the purposes of the activity, service, or use;

(iii) There is paid public advertising to seek participants; or

(iv) Participants pay for a duty of care or an expectation of safety.

(2) Profit-making organizations and organizations seeking to make a profit are automatically classified as commercial, even if that part of their activity covered by the permit is not profit-making or the business as a whole is not profitable.

(3) Use of the public lands by scientific, educational, and therapeutic institutions or non-profit organizations is commercial and subject to a permit requirement when it meets any of the threshold criteria in paragraphs (1) and (2) of this definition. The non-profit status of any group or organization does not alone determine that an event or activity arranged by such a group or organization is noncommercial.

Competitive use means--

(1) Any organized, sanctioned, or structured use, event, or activity on public land in which 2 or more contestants compete and either or both of the following elements apply:

(i) Participants register, enter, or complete an application for the event;

(ii) A predetermined course or area is designated; or

(2) One or more individuals contesting an established record such as for speed or endurance.

Organized group activity means a structured, ordered, consolidated, or scheduled event on, or occupation of, public lands for the purpose of recreational use that is not commercial or competitive.

Special area means:

(1) An area officially designated by statute, or by Presidential or Secretarial order;

(2) An area for which BLM determines that the resources require special management and control measures for their protection; or

(3) An area covered by joint agreement between BLM and a State under Title II of the Sikes Act (16 USC 670a et seq.)

Vending means the sale of goods or services, not from a permanent structure, associated with recreation on the public lands or related waters, such as food, beverages, clothing, firewood, souvenirs, photographs or film (video or still), or equipment repairs.

43 CFR 2932.11 - When do I need a Special Recreation Permit?

(a) Except as provided in Sec. 2932.12, you must obtain a Special Recreation Permit for:

(1) Commercial use, including vending associated with recreational use; or

(2) Competitive use.

(b) If BLM determines that it is necessary, based on planning decisions, resource concerns, potential user conflicts, or public health and safety, we may require you to obtain a Special Recreation Permit for--

(1) Recreational use of special areas;

(2) Noncommercial, noncompetitive, organized group activities or events; or

(3) Academic, educational, scientific, or research uses that involve:

(i) Means of access or activities normally associated with recreation;

(ii) Use of areas where recreation use is allocated; or

(iii) Use of special areas.

43 CFR 2932.12 - When may BLM waive the requirement to obtain a permit?

We may waive the requirement to obtain a permit if:

(a) The use or event begins and ends on non-public lands or related waters, traverses less than 1 mile of public lands or 1 shoreline mile, and poses no threat of appreciable damage to public land or water resource values;

(b) BLM sponsors or co-sponsors the use. This includes any activity or event that BLM is involved in organizing and hosting, or sharing responsibility for, arranged through authorizing letters or written agreements; or

(c) The use is a competitive event that--

(1) Is not commercial;

(2) Does not award cash prizes;

(3) Is not publicly advertised;

(4) Poses no appreciable risk for damage to public land or related water resource values; and

(5) Requires no specific management or monitoring.

(d) The use is an organized group activity or event that--

(1) Is not commercial;

(2) Is not publicly advertised;

(3) Poses no appreciable risk for damage to public land or related water resource values; and

(4) Requires no specific management or monitoring.

43 CFR 2932.13 - How will I know if individual use of a special area requires a Special Recreation Permit?

BLM will publish notification of the requirement to obtain a Special Recreation Permit to enter a special area in the Federal Register and local and regional news media. We will post permit requirements at major access points for the special area and provide information at the local BLM office.

43 CFR 2932.14 - Do I need a Special Recreation Permit to hunt, trap, or fish?

(a) If you hold a valid State license, you do not need a Special Recreation Permit to hunt, trap, or fish. You must comply with State license requirements for these activities. BLM Special Recreation Permits do not alone authorize you to hunt, trap, or fish. However, you must have a Special Recreation Permit if BLM requires one for recreational use of a special area where you wish to hunt, trap, or fish.

(b) Outfitters and guides providing services to hunters, trappers, or anglers must obtain Special Recreation Permits from BLM. Competitive event operators and organized groups may also need a Special Recreation Permit for these activities.

43 CFR 2932.32 - When must I pay the fees?

You must pay the required fees before BLM will authorize your use and by the deadline or deadlines that BLM will establish in each case. We may allow you to make periodic payments for commercial use. We will not process or continue processing your application until you have paid the required fees or installments.

43 CFR 2932.34 - When may BLM waive Special Recreation Permit fees?

BLM may waive Special Recreation Permit fees on a case-by-case basis for accredited academic, scientific, and research institutions, therapeutic, or administrative uses.

43 CFR 2932.41 - What stipulations must I follow?

You must follow all stipulations in your approved Special Recreation Permit. BLM may impose stipulations and conditions to meet management goals and objectives and to protect lands and resources and the public interest.

43 CFR 2932.42 - How long is my Special Recreation Permit valid?

You may request a permit for a day, season of use, or other time period, up to a maximum of 10 years. BLM will determine the appropriate term on a case-by-case basis.

43 CFR 2932.43 - What insurance requirements pertain to Special Recreation Permits?

(a) All commercial and competitive applicants for Special Recreation Permits, except vendors, must obtain a property damage, personal injury, and public liability insurance policy that BLM judges sufficient to protect the public and the United States. Your policy must name the U.S. Government as additionally insured or co-insured and stipulate that you or your insurer will notify BLM 30 days in advance of termination or modification of the policy.

(b) We may also require vendors and other applicants, such as organized groups, to obtain and submit such a policy. BLM may waive the insurance requirement if we find that the vending or group activity will not cause appreciable environmental degradation or risk to human health or safety.

43 CFR 2932.44 - What bonds does BLM require for a Special Recreation Permit?

BLM may require you to submit a payment bond, a cash or surety deposit, or other financial guarantee in an amount sufficient to cover your fees or defray the costs of restoration and rehabilitation of the lands affected by the permitted use. We will return the bonds and financial guarantees when you have complied with all permit stipulations. BLM may waive the bonding requirement if we find that your activity will not cause appreciable environmental degradation or risk to human health and safety.

43 CFR 2932.55 - When must I allow BLM to examine my permit records?

(a) You must make your permit records available upon BLM request. BLM will not ask to inspect any of this material later than 3 years after your permit expires.

(b) BLM may examine any books, documents, papers, or records pertaining to your Special Recreation Permit or transactions relating to it, whether in your possession, or that of your employees, business affiliates, or agents.

43 CFR 2932.56 - When will BLM amend, suspend, or cancel my permit?

(a) BLM may amend, suspend, or cancel your Special Recreation Permit if necessary to protect public health, public safety, or the environment.

(b) BLM may suspend or cancel your Special Recreation Permit if you--

(1) Violate permit stipulations, or

(2) Are convicted of violating any Federal or State law or regulation concerning the conservation or protection of natural resources, the environment, endangered species, or antiquities.

(c) If we suspend your permit or a portion thereof, all of your responsibilities under the permit will continue during the suspension.

43 CFR 2932.57 - Prohibited acts and penalties

(a) Prohibited acts. You must not--

(1) Fail to obtain a Special Recreation Permit and pay the fees required by this subpart;

(2) Violate the stipulations or conditions of a permit issued under this subpart;

(3) Knowingly participate in an event or activity subject to the permit requirements of this subpart if BLM has not issued a permit;

(4) Fail to post a copy of any commercial or competitive permit where all participants may read it;

(5) Fail to show a copy of your Special Recreation Permit upon request by either a BLM employee or a participant in your activity.

(6) Obstruct or impede pedestrians or vehicles, or harass visitors or other persons with physical contact while engaged in activities covered under a permit or other authorization; or

(7) Refuse to leave or disperse, when directed to do so by a BLM law enforcement officer or State or local law enforcement officer, whether you have a required Special Recreation Permit or not.

(b) Penalties.

(1) Under the Federal Land Policy and Management Act of 1976 (43 USC 1733(a)), if you are convicted of committing any prohibited act in paragraph (a) of this section, or of violating any regulation in this subpart or any condition or stipulation of a Special Recreation Permit, you may be subject to a fine under 18 USC 3571 or other penalties in accordance with 43 USC 1733.

(2) You may also be subject to civil action for unauthorized use of the public lands or related waters and their resources, for violations of permit terms, conditions, or stipulations, or for uses beyond those allowed by the permit.

(3) If you are convicted of failing to obtain a permit or paying a fee required in this subpart, you may be subject to a fine under 18 USC 3571, pursuant to the Land and Water Conservation Fund Act, as amended.

43 CFR 2933--Recreation Use Permits for Fee Areas

43 CFR 2933.11 - When must I obtain a Recreation Use Permit?

You must obtain a Recreation Use Permit for individual or group use of fee areas. These are sites where we provide or administer specialized facilities, equipment, or services related to outdoor recreation. You may visit these areas for the uses and time periods BLM specifies. We will post these uses and limits at the entrance to the area or site, and provide this information in the local BLM office with jurisdiction over the area or site. You may contact this office for permit information when planning your visit.

43 CFR 2933.23 - When must I pay the fees?

You must pay the required fees upon occupying a designated recreation use facility, when you receive services, or as the BLM's reservation system may require. These practices vary from site to site. You may contact the local BLM office with jurisdiction over the area or site for fee information.

43 CFR 2933.31 - What rules must I follow at fee areas?

You must comply with all rules that BLM posts in the area. Any such site-specific rules supplement the general rules of conduct contained in subpart 8365 of this chapter relating to public safety, resource protection, and visitor comfort.

43 CFR 2933.32 - When will BLM suspend or revoke my permit?

(a) We may suspend your permit to protect public health, public safety, the environment, or you.

(b) We may revoke your permit if you commit any of the acts prohibited in subpart 8365 of this chapter, or violate any of the stipulations attached to your permit, or any site-specific rules posted in the area.

NOTE: The administrative process of notice of trespass should be utilized prior to implementing criminal law enforcement actions on these regulations when a person holds a valid authorization to make certain that the person has had an opportunity to comply and that the violations continue to be "knowingly and willfully" violated.

43 CFR 2933.33 - Prohibited acts and penalties

(a) Prohibited acts. You must not—

(1) Fail to obtain a use permit or pay any fees that this subpart or the Land and Water Conservation Fund Act, as amended, requires (see paragraph (d)(3) of this section);

(2) Fail to pay any fees, after you first occupy a designated use facility, within the time set by the local BLM office (see paragraph (d)(3) of this section);

(3) Fail to display any required proof of payment of fees (see paragraph (d)(3) of this section);

(4) Willfully and knowingly possess, use, publish as true, or sell to another, any forged, counterfeited, or altered document or instrument used as proof of or exemption from fee payment (see paragraph (d)(1) of this section);

(5) Willfully and knowingly use any document or instrument used as proof of or exemption from fee payment, that BLM issued to or intended another to use (see paragraph (d)(1) of this section); or

(6) Falsely represent yourself to be a person to whom BLM has issued a document or instrument used as proof of or exemption from fee payment (see paragraph (d)(1) of this section).

(b) Evidence of nonpayment. BLM will consider failure to display proof of payment on your unattended vehicle parked within a fee area, where payment is required under paragraph (a)(2) of this section, to be prima facie evidence of nonpayment.

(c) Responsibility for penalties. If another driver incurs a penalty under this subpart when using a vehicle registered in your name, you and the driver are jointly responsible for the penalty, unless you show that the vehicle was used without your permission.

(d) Types of penalties. You may be subject to the following fines or penalties for violating the provisions of this subpart.

If you are convicted of . . .	then you may be subject to . .	under . ..
(1) Any act prohibited by paragraph (a)(4), (5), or (6) of this section.	a fine under 18 USC 3571 or other penalties in accordance with 43 USC 1733(b)(5) for individuals or (c)(5) for organizations	the Federal Land Policy and Management Act of 1976 (43 USC 1733(a)).
(2) Violating any regulation in this subpart or any condition of a Recreation Use Permit.	a fine under 18 USC 3571 or other penalties in accordance with 43 USC 1733(b)(5) for individuals or (c)(5) for organizations	the Federal Land Policy and Management Act of 1976 (43 USC 1733(a)).
(3) Failing to obtain any permit or to pay any fee required in this subpart	. a fine in accordance with 18 USC 3571(b)(7) for individuals or (c)(7) for organizations.	the Land and Water Conservation Fund Act, as amended, 16 USC 460l–6a(e).

43 CFR 9268.3 - Recreation Management--Procedures

(e) Use authorization--

(1) Rules for visitor uses, other than on developed recreation sites--enforcement. Failure to pay any fee or failure to obtain a permit required by part 2930 of this chapter or operating with a suspended permit shall be punishable pursuant to the Federal Land Policy and Management Act of 1976, the Land and Water Conservation Fund Act, as amended, the Wild and Scenic Rivers Act, the National Trails Act, the Sikes Act, and other laws when applicable [see § 9268.3(e)(2)].

(2) Penalties.

(i) Section 303(a) of the Federal Land Policy and Management Act of 1976 (§ 43 USC 1733) provides: any person who knowingly and willfully violates any such regulation which is lawfully issued under this Act shall be fined no more than $1,000 or imprisoned no more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of Title 18 of the United States Code.

(ii) Section 2, Land and Water Conservation Fund Act of 1964 (§ 16 USC 460 § 1- 6a), provides that any person violating the rules and regulations issued under section 460 > 1i-6e of Title 16 of the United States Code shall be punishable by a fine of not more than $100. Any person so arrested may be tried and sentenced by any United States magistrate specifically designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in Title 18, United States Code, section 3401, subsections (b), (c), (d), and (e), as amended.

(iii) Section 204(a) of the Sikes Act of 1974 (16 USC 670g-n), provides that:

(A) Any person who hunts, traps, or fishes on any public land which is subject to a conservation and rehabilitation program implemented under this Act without having on his person a valid public land management area stamp, if the possession of such a stamp is required, shall be fined not more than $1,000, or imprisoned for not more than 6 months, or both.

(B) Any person who knowingly violates or fails to comply with any regulations prescribed under section 670h(c)(5) of Title 16 of the United States Code shall be fined not more than $500, or imprisoned not more than six months, or both.

(iv) Section 7 of the National Trails Act of 1968 (§ 16 USC 1241-§ 1249), provides: Any person who violates such regulations issued under section 1246 (i) of Title 16 of the United States Code, and deemed necessary by the Secretary of the Interior, shall be guilty of a misdemeanor, and may be punished by a fine of not more than $500, or by imprisonment not exceeding 6 months, or by both such fine and imprisonment.

CHAPTER XVII - WILDERNESS

Federal Land Policy and Management Act, 1976

43 USC 1782(c)

... Once an area has been designated for preservation as wilderness, the provisions of the Wilderness Act [§ 16 USCA. § 1131 et seq.] which apply to national forest wilderness areas shall apply with respect to the administration and use of such designated area, ...

Wilderness Act, 1964

16 USC1133

(b) Except as otherwise provided in this chapter, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character. Except as otherwise provided in this chapter, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.

(c) Except as specifically provided for in this chapter, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this chapter and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this chapter (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

(d)

(1) Within wilderness areas designated by this chapter the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable. In addition, such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.

43 CFR 6300 Wilderness Management

43 CFR 6301.3 - What is a BLM Wilderness Area?

A BLM wilderness area is an area of public lands that Congress has designated for BLM to manage as a component of the National Wilderness Preservation System in accordance with the Wilderness Act of 1964. The Wilderness Act provides a detailed definition of wilderness that applies to BLM wilderness areas. See 16 USC 1131(c) and 43 USC 1702(i).

43 CFR 6301.5 - Definitions

Terms used in this part have the following meanings:

Access means the physical ability of property owners and their successors in interest to have ingress to and egress from State or private inholdings, valid mining claims, or other valid occupancies. It does not include rights-of-way or permits under section 501 of the Federal Land Policy and Management Act of 1976 (43 USC 1761) (FLPMA) or parts 2800 and 2880 of this chapter.

Inholding means State-owned or privately owned land that is completely surrounded by Congressionally designated wilderness.

Mechanical transport means any vehicle, device, or contrivance for moving people or material in or over land, water, snow, or air that has moving parts. This includes, but is not limited to, sailboats, sailboards, hang gliders, parachutes, bicycles, game carriers, carts, and wagons. The term does not include wheelchairs, nor does it include horses or other pack stock, skis, snowshoes, non-motorized river craft including, but not limited to, drift boats, rafts, and canoes, or sleds, travois, or similar devices without moving parts.

Mining operations is defined in subpart 3715 of this chapter.

Motor vehicle means any vehicle that is self-propelled.

Motorized equipment means any machine that uses or is activated by a motor, engine, or other power source. This includes, but is not limited to, chainsaws, power drills, aircraft, generators, motorboats, motor vehicles, snowmobiles, tracked snow vehicles, snow blowers or other snow removal equipment, and all other snow machines. The term does not include shavers, wrist watches, clocks, flashlights, cameras, camping stoves, cellular telephones, radio transceivers, radio transponders, radio signal transmitters, ground position satellite receivers, or other similar small hand held or portable equipment.

Primitive and unconfined recreation means non-motorized types of outdoor recreation activities that do not require developed facilities or mechanical transport.

Public lands means any lands and interests in lands owned by the United States and administered by the Secretary of the Interior through BLM without regard to how the United States acquired ownership.

Valid occupancy means an occupancy under a current permit, lease, or other written authorization from BLM to occupy public lands. For a definition of occupancy related to development of locatable minerals, see subpart 3715 of this chapter.

Wheelchair means a device that is designed solely for use by a mobility-impaired person for locomotion, and that is suitable for use in an indoor pedestrian area.

43 CFR 6302.15 - When and how may I collect or disturb natural resources such as rocks and plants in wilderness areas?

(a) You may remove or disturb natural resources for non-commercial purposes in wilderness areas, including prospecting, provided-

(1) You do it in a manner that preserves the wilderness environment, using no more than non-motorized hand tools and causing minimal surface disturbance; and

(2)

(i) Your proposed activity conforms to the applicable management plan; or

(ii) You have a BLM authorization if one is required by statute or regulation.

(b) Where BLM allows campfires in a wilderness, you may gather a reasonable amount of wood for us in your campfire.

43 CFR 6302.20 - What is prohibited in wilderness?

Except as specifically provided in the Wilderness Act, the individual statutes designating the particular BLM wilderness area, or the regulations of this part, and subject to valid existing rights, in BLM wilderness areas you must not:

(a) Operate a commercial enterprise;

(b) Build temporary or permanent roads;

(c) Build aircraft landing strips, heliports, or helispots;

(d) Use motorized equipment; or motor vehicles, motorboats, or other forms of mechanical transport;

(e) Land aircraft, or drop or pick up any material, supplies or person by means of aircraft, including a helicopter, hang glider, hot air balloon, parasail, or parachute;

(f) Build, install, or erect structures or installations, including transmission lines, motels, vacation homes, sheds, stores, resorts, organization camps, hunting and fishing lodges, electronic installations, and similar structures, other than tents, tarpaulins, temporary corrals, and similar devices for overnight camping;

(g) Cut trees;

(h) Enter or use wilderness areas without authorization, where BLM requires authorization under § 6302.12;

(i) Engage or participate in competitive use as defined in section 8372.0-5(c) of this chapter, including those activities involving physical endurance of a person or animal, foot races, water craft races, survival exercises, war games, or other similar exercises;

(j) [Reserved]; or

(k) Violate any BLM regulation, authorization, or order.

43 CFR 6302.30 - What penalties apply if I commit one or more of the prohibited acts?

(a) If you commit a prohibited act listed in Sec. 6302.20 in a BLM wilderness area, you are subject to criminal prosecution on each offense. If convicted, you may be fined not more than $100,000 under 18 USC 3571. In addition, you may be imprisoned for not more than 12 months, as provided for by 43 USC 1733(a).

(b) At the request of the Secretary of the Interior, the United States Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent you from using public lands in violation of the regulations or this part.

CHAPTER XVIII - LAND USE AUTHORIZATIONS

Unlawful Inclosures of Public Land Act, 1885

43 USC 1061 - Inclosure of or assertion of right to public lands without title

All inclosures of any public lands in any State or Territory of the United States, heretofore or to be hereafter made, erected, or constructed by any person, party, association, or corporation, to any of which land included within the inclosure the person, party, association, or corporation making or controlling the inclosure had no claim or color of title made or acquired in good faith, or an asserted right thereto by or under claim, made in good faith with a view to entry thereof at the proper land office under the general laws of the United States at the time any such inclosure was or shall be made, are hereby declared to be unlawful, and the maintenance, erection, construction, or control of any such inclosure is hereby forbidden and prohibited; and the assertion of a right to the exclusive use and occupancy of any part of the public lands of the United States in any State or any of the Territories of the United States, without claim, color of title, or asserted right as above specified as to inclosure, is likewise declared unlawful, and hereby prohibited.

43 USC 1062 - Suits for violations of law

It shall be the duty of the United States attorney for the proper district, on affidavit filed with him by any citizen of the United States that section 1061 of this title is being violated showing a description of the land inclosed with reasonable certainty, not necessarily by metes and bounds nor by governmental subdivisions of surveyed lands, but only so that the inclosure may be identified, and the persons guilty of the violation as nearly as may be, and by description, if the name cannot on reasonable inquiry be ascertained, to institute a civil suit in the proper United States district court, or territorial district court, in the name of the United States, and against the parties named or described who shall be in charge of or controlling the inclosure complained of as defendants; and jurisdiction is also conferred on any United States district court or territorial district court having jurisdiction over the locality where the land inclosed, or any part thereof, shall be situated, to hear and determine proceedings in equity, by writ of injunction, to restrain violations of the provisions of this chapter; and it shall be sufficient to give the court jurisdiction if service of original process be had in any civil proceeding on any agent or employee having charge or control of the inclosure. In any case if the inclosure shall be found to be unlawful, the court shall make the proper order, judgment, or decree for the destruction of the inclosure, in a summary way, unless the inclosure shall be removed by the defendant within five days after the order of the court.

43 USC 1063 - Obstruction of settlement on or transit over public lands

No person, by force, threats, intimidation, or by any fencing or inclosing, or any other unlawful means, shall prevent or obstruct, or shall combine and confederate with others to prevent or obstruct, any person from peaceably entering upon or establishing a settlement or residence on any tract of public

land subject to settlement or entry under the public land laws of the United States, or shall prevent or obstruct free passage or transit over or through the public lands: Provided, This section shall not be held to affect the right or title of persons, who have gone upon, improved, or occupied said lands under the land laws of the United States, claiming title thereto, in good faith.

43 USC 1064 - Violations of chapter; punishment

Any person violating any of the provisions of this chapter, whether as owner, part owner, or agent, or who shall aid, abet, counsel, advise, or assist in any violation hereof, shall be deemed guilty of a misdemeanor and fined in a sum not exceeding $1,000, or be imprisoned not exceeding one year, or both, for each offense.

Federal Land Policy and Management Act, 1976

43 USC 1733(g)

The use, occupancy, or development of any portion of the public lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

43 CFR 2800 - Rights of Way; General

43 CFR 2800.0-5 - Definitions

As used in this part, the term:

(a) *Act* means the Federal Land Policy and Management Act of October 21, 1976 (43 USC 1701 et seq.).

(b) *Secretary* means the Secretary of the Interior.

(c) *Authorized officer* means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described in this part.

(d) *Public lands* means any lands or interest in land owned by the United States and administered by the Secretary through the Bureau of Land Management, without regard to how the United States acquired ownership, except:

(1) Lands located on the Outer Continental Shelf; and

(2) lands held for the benefit of Indians, Aleuts and Eskimos.

(g) *Right-of-way* means the public lands authorized to be used or occupied pursuant to a right-of-way grant.

(i) *Temporary use permit* means a revocable non-possessory, non- exclusive privilege, authorizing temporary use of public lands in connection with construction, operation, maintenance, or termination of a project.

(j) *Facility* means an improvement constructed or to be constructed or used within a right-of-way pursuant to a right-of-way grant. For purposes of communication site rights-of-way, facility means the building, tower, and/or other related incidental improvements authorized under terms of the right-of-way grant.

(m) *Casual use* means activities that involve practices which do not ordinarily cause any appreciable disturbance or damage to the public lands, resources or improvements and, therefore, do not require a right- of-way grant or temporary use permit under this title.

(u) *Trespass* means any use, occupancy or development of the public lands or their resources without authorization to do so from the United States where authorization is required, or which exceeds such authorization or which causes unnecessary or undue degradation of the land or resources.

(v) *Willful trespass* means the voluntary or conscious trespass as defined at subpart 2801 of this title. The term does not include an act made by mistake or inadvertence. The term includes actions taken with criminal or malicious intent. A consistent pattern of trespass may be sufficient to establish the knowing or willful nature of the conduct, where such consistent pattern is neither the result of mistake or inadvertence. Conduct which is otherwise regarded as being knowing or willful does not become innocent through the belief that the conduct is reasonable or legal.

(w) *Nonwillful trespass* means a trespass, as defined at Sec. 2801.3(a) of this title, committed by mistake or inadvertence.

(x) *Unnecessary or undue degradation* means surface disturbance greater than that which would normally result when the same or a similar activity is being accomplished by a prudent person in a usual, customary, and proficient manner that takes into consideration the effects of the activity on other resources and land uses, including those resources and uses outside the area of activity. This disturbance may be either nonwillful or willful as described in Sec. 2800.0-5(v) through (w), depending upon the circumstances,

43 CFR 2801.3 - Unauthorized use, occupancy, or development

(a) Any use, occupancy, or development of the public lands that requires a right-of-way, temporary use permit, or other authorization pursuant to the regulations of that part and that has not been so authorized, or that is beyond the scope and specific limitations of such an authorization, or that causes unnecessary or undue degradation, is prohibited and shall constitute a trespass as defined in Section 2800.0-5.

(g) In addition to the civil penalties provided for in this part, any person who knowingly and willfully violates the provisions of § 2801.3(a) of this title may be tried before a United States magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both, as provided by section 303(a) of the Federal Land Policy and Management Act of 1976 (§ 43 USC 1733(a)) and § 9262.1 of this title.

NOTE: The administrative process of notice of trespass should be utilized prior to implementing criminal law enforcement actions on these regulations when a person holds a valid authorization to make certain that the person has had an opportunity to comply and that the violations continue to be "knowingly and willfully" violated.

43 CFR 2812 - Tramroads & Logging Roads; O&C and Coos Bay Revested Lands

43 CFR 2812.0-5 - Definitions

Except as the context may otherwise indicate, as the terms are used in this paragraph:

(a) Bureau means Bureau of Land Management.

(b) Timber of the United States or federal timber means timber owned by the United States or managed by any agency thereof, including timber on allotted and tribal Indian lands in the O. and C. area.

(c) State Director means the State Director, Bureau of Land Management, or his authorized representative.

(d) Authorized Officer means an employee of the Bureau of Land Management to whom has been delegated the authority to take action.

(e) O. and C. lands means the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands, other lands administered by the Bureau under the provisions of the act approved August 28, 1937, and the public lands administered by the Bureau of Land Management which are in Oregon and in and west of Range 8 E., Willamette Meridian, Oregon.

(f) Tramroads include tramways, and wagon or motor-truck roads to be used in connection with logging, and the manufacturing of lumber; it also includes railroads to be used principally for the transportation, in connection with such activities, of the property of the owner of such railroad.

(g) Management means police protection, fire presuppression and suppression, inspection, cruising, reforesting, thinning, stand improvement, inventorying, surveying, construction and maintenance of improvements, disposal of land, the eradication of forest insects, pests and disease, and other activities of a similar nature.

43 CFR 2812.1-3 - Unauthorized Use, Occupancy, or Development

Any use, occupancy, or development of the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands (O & C) lands (as is defined in § 43 CFR 2812.0-5(e)), for tramroads without an authorization pursuant to this subpart, or which is beyond the scope and specific limitations of such an authorization, or that cause unnecessary or undue degradation, is prohibited and shall constitute a trespass as defined in § 2800.0-5. Anyone determined by the authorized officer to be in violation of this section shall be notified of such trespass in writing and shall be liable to the United States for all costs and payments determined in the same manner as set forth at § 2801.3, Part 2800 of this title.

NOTE: The administrative process of notice of trespass should be utilized prior to implementing criminal law enforcement actions on these regulations when a person holds a valid authorization to make certain that the person has had an opportunity to comply and that the violations continue to be "knowingly and willfully" violated.

43 CFR 2880 - Rights of Way; Under Mineral Leasing Act; Oil & Natural Gas Pipelines and Related Facilities; General

43 CFR 2880.0-5 - Definitions

As used in this part, the term:

(a) Act means section 28 of the Mineral Leasing Act of 1920, as amended (30 USC 185).

(b) Agency head means the head of any Federal department or independent Federal office or agency, other than the Secretary of the Interior, who has jurisdiction over the surface of Federal lands.

(c) Applicant means any individual, partnership, corporation, association, or other business entity, or any State or local governmental entity or agency, which applies for a right-of-way grant or temporary use permit under the Act.

(d) Authorized officer means any employee of the department of the Interior to whom has been delegated the authority to perform the duties described in this part.

(e) Federal lands means all lands owned by the United States except lands in the National Park System, lands held in trust for an Indian or Indian tribe, and lands on the Outer Continental Shelf.

(f) Holder means any individual, partnership, corporation, association, or other business entity, or any State or local governmental entity or agency which has received a right-of-way grant or temporary use permit under the Act.

(g) Oil or gas means oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom.

(h) Temporary use permit means a revocable non-possessory privilege to use specified Federal lands in the vicinity of a right-of-way in connection with the construction, operation, maintenance, or termination of a pipeline or for the protection of the natural environment or public safety.

(i) Pipeline means a line of traversing Federal lands for transportation of oil or gas. The term includes feeder lines, trunk lines, and related facilities, but does not include a lessee's or lease operator's production facilities located on his lease.

(j) Pipeline system means all facilities, whether or not located on Federal lands, used by a holder in connection with the construction, operation, maintenance, or termination of a pipeline.

(k) Production facilities means a lessee's or lease operator's pipes and equipment used on his lease solely to aid in his extraction, storage, and processing of oil and gas. The term includes storage tanks and processing equipment, and gathering lines upstream from such tanks and equipment, or in the case of gas, upstream from the point of delivery. The term also includes

pipes and equipment, such as water and gas injection lines, used in the production process for purposes other than carrying oil and gas downstream from the wellhead.

(l) Related facilities means those structures, devices, improvements, and sites, the substantially continuous use of which is necessary for the operation or maintenance of a pipeline, which are located on Federal lands, and which are authorized under the Act, including but not limited to: Supporting structures; airstrips; roads; campsites; pump stations, including associated heliports, structures, yards, and fences; valves, and other control devices; surge and storage tanks; bridges; monitoring and communication devices and structures housing them; terminals, including structures, yards, docks, fences, and storage tank facilities; retaining walls, berms, dikes, ditches, cuts, and fills; structures and areas for storing supplies and equipment. Related facilities may be connected or nonconnected or contiguous or noncontiguous to the pipe.

(m) Right-of-way means the Federal land authorized to be occupied pursuant to a right-of-way grant.

(n) Right-of-way grant means a document authorizing a non-possessory, nonexclusive right to use Federal lands for the limited purpose of construction, operation, maintenance, and termination of a pipeline.

(o) Secretary means the Secretary of the Interior.

43 CFR 2880.0-7 - Scope

(a) These regulations apply to any application now on file or hereafter filed with Federal agencies for issuance, modification, or renewal of a right-of-way grant or a temporary use permit, except where the surface of the Federal lands involved in the right-of-way or temporary use permit area is under the jurisdiction of a single Federal agency, including bureaus and agencies within the Department of the Interior, other than the Bureau of Land Management.

(b) In addition, the provisions of Sec. 2883.5 of this title apply to all right-of-way grants and temporary use permits heretofore issued pursuant to section 28 of the Mineral Leasing Act by the Bureau of Land Management, and to permits, grants, and other authorizations heretofore issued by the Secretary or his delegate in connection with the Trans- Alaska Oil Pipeline System (TAPS). Further, the permits, grants and other authorizations heretofore and hereafter issued by the Secretary or his delegate in connection with the Trans-Alaska Pipeline System are subject to Sec. 2883.1-1 of this title.

(c) The regulations of this part do not apply to the reservation of rights-of-way for Federal departments or agencies. Such rights-of-way shall be reserved in accordance with the regulations in subpart 2800 of this title.

43 CFR 2881.3 - Unauthorized Use, Occupancy, or Development

Any use, occupancy, or development of the public lands that requires a right-of-way, temporary use permit, or other authorization pursuant to the regulations in this part, and that has not been so authorized, or that is beyond the scope and specific limitations of such authorization, or that causes

unnecessary or undue degradation, is prohibited and shall constitute a trespass as defined in § 2800.0-5. Anyone determined by the authorized officer to be in trespass on the public lands shall be notified in writing of such trespass and shall be liable to the United States for all costs and payments determined in the same manner as set forth at § 2801.3, Part 2800 of this title.

NOTE: The administrative process of notice of trespass should be utilized prior to implementing criminal law enforcement actions on these regulations when a person holds a valid authorization to make certain that the person has had an opportunity to comply and that the violations continue to be "knowingly and willfully" violated.

43 CFR 2920 Leases, Permits, Easements

43 CFR 2920.0-5 - Definitions

As used in this part, the term:

(a) Authorized officer means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described in this part.

(b) Easement means an authorization for a non-possessory, non-exclusive interest in lands which specifies the rights of the holder and the obligation of the Bureau of Land Management to use and manage the lands in a manner consistent with the terms of the easement.

(c) Lease means an authorization to possess and use public lands for a fixed period of time.

(d) Permit means a short-term revocable authorization to use public lands for specified purposes.

(e) Land use proposal means an informal statement, in writing, from any person to the authorized officer requesting consideration of a specified use of the public lands.

(f) Land use plan means resource management plans or management framework plans prepared by the Bureau of Land Management pursuant to its land use planning system.

(g) Public lands means lands or interests in lands administered by the Bureau of Land Management, except lands located on the Outer Continental Shelf and lands held for the benefit of Indians, Aleuts and Eskimos.

(h) Person means any person or entity legally capable of conveying and holding lands or interests therein, under the laws of the State within which the lands or interests therein are located, who is a citizen of the United States, or in the case of a corporation, is subject to the laws of any State or of the United States.

(i) Proponent means any person who submits a land use proposal, either on his/her own initiative or in response to a notice for submission of such proposals.

(j) Applicant means any person who submits an application for a land use authorization under this part.

(k) Casual use means any short term non-commercial activity which does not cause appreciable damage or disturbance to the public lands, their resources or improvements, and which is not prohibited by closure of the lands to such activities.

(l) Land use authorization means any authorization to use the public lands issued under this part.

(m) Knowing and willful means that a violation is knowingly and willfully committed if it constitutes the voluntary or conscious performance of an act which is prohibited or the voluntary or conscious failure to perform an act or duty that is required. The terms does not include performances or failures to perform which are honest mistakes or which are merely inadvertent. The term includes, but does not require, performances or failures to perform which result from a criminal or evil intent or from a specific intent to violate the law. The knowing or willful nature of conduct may be established by plain indifference to or reckless disregard of the requirements of law, regulations, orders, or terms of a lease. A consistent pattern of performance or failure to perform also may be sufficient to establish the knowing or willful nature of the conduct, where such consistent pattern is neither the result of honest mistake or mere inadvertency. Conduct which is otherwise regarded as being knowing or willful is rendered neither accidental nor mitigated in character by the belief that the conduct is reasonable or legal.

43 CFR 2920.1-2 - Unauthorized Use

(a) Any use, occupancy, or development of the public lands, other than casual use as defined in Sec. 2920.0-5(k) of this title, without authorization under the procedures in Sec. 2920.1-1 of this title, shall be considered a trespass. Anyone determined by the authorized officer to be in trespass on the public lands shall be notified of such trespass and shall be liable to the United States for:

(1) The administrative costs incurred by the United States as a consequence of such trespass; and

(2) The fair market value rental of the lands for the current year and past years of trespass; and

(3) Rehabilitating and stabilizing the lands that were the subject of such trespass, or if the person determined to be in trespass does not rehabilitate and stabilize the lands determined to be in trespass within the period set by the authorized officer in the notice, he/she shall be liable for the costs incurred by the United States in rehabilitating and stabilizing such lands.

(b) In addition, the following penalties may be assessed by the authorized officer for a trespass not timely resolved under paragraph (a) of this section and where the trespass is determined to be:

(1) Nonwillful, twice the fair market rental value which has accrued since the inception of the trespass, not to exceed a total of 6 years; or

(2) Knowing and willful, three times the fair market rental value which has accrued since the inception of the trespass, not to exceed a total of 6 years.

(c) For any person found to be in trespass on the public lands under this section, the authorized officer may take action under Sec. 2920.9- 3 of this title to terminate, revoke, or cancel any land use authorization issued to such person under this part.

(d) Failure to satisfy the liability and penalty requirements imposed under this section for unauthorized use of the public lands may result in denial of:

(1) A use authorization under this part; and

(2) A request to purchase or exchange public lands filed under subparts 2711 and 2201 of this title.

(e) Any person who knowingly and willfully violates the regulations in this part by using the public lands without the authorization required by this part, in addition to the civil penalties provided for in this part, may be subject to a fine of not more than $1,000 or imprisonment of not more than 12 months, or both under subpart 9262 of this title.

(f) Any person adversely affected by a decision issued under this section, may appeal that decision under the provisions of part 4 of this title.

NOTE: The administrative process of notice of trespass should be utilized prior to implementing criminal law enforcement actions on these regulations when a person holds a valid authorization to make certain that the person has had an opportunity to comply and that the violations continue to be "knowingly and willfully" violated. This should also be the case for first offenses for persons without authorization where the violation is "de minimis", the resource damage is negligible, and the BLM would have granted an authorization but for the asking.

43 CFR 9262 - Land Resource Management

43 CFR 9262.1 - Penalties for unauthorized use, occupancy, or development of public lands

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 USC 1733(a)) any person who knowingly and willfully violates the provisions of Sec. Sec. 2801.3(a), 2812.1-3, 2881.3, or 2920.1-2(a) of this title, by using public lands without the requisite authorization, may be tried before a United States magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both.

CHAPTER XIX – HAZARDOUS MATERIALS, DUMPING, SANITATION AND POLLUTION

Resource Conservation and Recovery Act, 1976

42 USC 6928(d) - Any person who—

(1) knowingly transports or causes to be transported any hazardous waste identified or listed under this subchapter to a facility which does not have a permit under this subchapter, or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052) [§ 33 USCA. § 1411 et seq.],

(2) knowingly treats, stores, or disposes of any hazardous waste identified or listed under this subchapter—

(A) without a permit under this subchapter or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052) [§ 33 USCA. § 1411 et seq.]; or

(B) in knowing violation of any material condition or requirement of such permit; or

(C) in knowing violation of any material condition or requirement of any applicable interim status regulations or standards;

(3) knowingly omits material information or makes any false material statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with regulations promulgated by the Administrator (or by a State in the case of an authorized State program) under this subchapter;

(4) knowingly generates, stores, treats, transports, disposes of, exports, or otherwise handles any hazardous waste or any used oil not identified or listed as a hazardous waste under this subchapter (whether such activity took place before or takes place after November 8, 1984) and who knowingly destroys, alters, conceals, or fails to file any record, application, manifest, report, or other document required to be maintained or filed for purposes of compliance with regulations promulgated by the Administrator (or by a State in the case of an authorized State program) under this subchapter;

(5) knowingly transports without a manifest, or causes to be transported without a manifest, any hazardous waste or any used oil not identified or listed as a hazardous waste under this subchapter required by regulations promulgated under this subchapter (or by a State in the case of a State program authorized under this subchapter) to be accompanied by a manifest;

(6) knowingly exports a hazardous waste identified or listed under this subchapter (A) without the consent of the receiving country or, (B) where there exists an international agreement between the United States and the government of the receiving country establishing notice, export, and enforcement procedures for the transportation, treatment, storage, and disposal of hazardous wastes, in a manner which is not in conformance with such agreement; or

(7) knowingly stores, treats, transports, or causes to be transported, disposes of, or otherwise handles any used oil not identified or listed as a hazardous waste under this subchapter—

(A) in knowing violation of any material condition or requirement of a permit under this subchapter; or

(B) in knowing violation of any material condition or requirement of any applicable regulations or standards under this chapter; shall, upon conviction, be subject to a fine of not more than $50,000 for each day of violation, or imprisonment not to exceed two years (five years in the case of a violation of paragraph (1) or (2)), or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment under the respective paragraph shall be doubled with respect to both fine and imprisonment.

42 USC 6928 (e) - Any person who -

knowingly transports, treats, stores, disposes of, or exports any hazardous waste identified or listed under this subchapter or used oil not identified or listed as a hazardous waste under this subchapter in violation of paragraph (1), (2), (3), (4), (5), (6), or (7) of subsection (d) of this section who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment for not more than fifteen years, or both. A defendant that is an organization shall, upon conviction of violating this subsection, be subject to a fine of not more than $1,000,000.

42 USC 6928 (f) - For the purposes of subsection (e) of this section—

(1) A person's state of mind is knowing with respect to—

(A) his conduct, if he is aware of the nature of his conduct;

(B) an existing circumstance, if he is aware or believes that the circumstance exists; or

(C) a result of his conduct, if he is aware or believes that his conduct is substantially certain to cause danger of death or serious bodily injury.

(2) In determining whether a defendant who is a natural person knew that his conduct placed another person in imminent danger of death or serious bodily injury—

(A) the person is responsible only for actual awareness or actual belief that he possessed; and

(B) knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant; Provided, That in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information.

(3) It is an affirmative defense to a prosecution that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

(A) an occupation, a business, or a profession; or

(B) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent. The defendant may establish an affirmative defense under this subsection by a preponderance of the evidence.

(4) All general defenses, affirmative defenses, and bars to prosecution that may apply with respect to other Federal criminal offenses may apply under subsection (e) of this section and shall be determined by the courts of the United States according to the principles of common law as they may be interpreted in the light of reason and experience. Concepts of justification and excuse applicable under this section may be developed in the light of reason and experience.

(5) The term "organization" means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

(6) The term "serious bodily injury" means—

(A) bodily injury which involves a substantial risk of death;

(B) unconsciousness;

(C) extreme physical pain;

(D) protracted and obvious disfigurement; or

(E) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

Clean Water Act, 1948

33 USC 1319(c)

(1) Any person who—

(A) negligently violates section 1311, 1312, 1316, 1317, 1318, 1321(b)(3), 1328, or 1345 of this title, or any permit condition or limitation implementing any of such sections in a permit issued under section 1342 of this title by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 1342(a)(3) or 1342(b)(8) of this title or in a permit issued under section 1344 of this title by the Secretary of the Army or by a State; or

(B) negligently introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment

works to violate any effluent limitation or condition in any permit issued to the treatment works under section 1342 of this title by the Administrator or a State; shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or by both.

(2) Any person who—

(A) knowingly violates section 1311, 1312, 1316, 1317, 1318, 1321(b)(3), 1328, or 1345 of this title, or any permit condition or limitation implementing any of such sections in a permit issued under section 1342 of this title by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 1342(a)(3) or 1342(b)(8) of this title or in a permit issued under section 1344 of this title by the Secretary of the Army or by a State; or

(B) knowingly introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in a permit issued to the treatment works under section 1342 of this title by the Administrator or a State; shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $100,000 per day of violation, or by imprisonment of not more than 6 years, or by both.

(3)

(A) Any person who knowingly violates section 1311, 1312, 1313, 1316, 1317, 1318, 1321(b)(3), 1328, or 1345 of this title, or any permit condition or limitation implementing any of such sections in a permit issued under section 1342 of this title by the Administrator or by a State, or in a permit issued under section 1344 of this title by the Secretary of the Army or by a State, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than $1,000,000. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

(B) For the purpose of subparagraph (A) of this paragraph—

(i) in determining whether a defendant who is an individual knew that his conduct placed another person in imminent danger of death or serious bodily injury—

(I) the person is responsible only for actual awareness or actual belief that he possessed; and

(II) knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant; except that in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information;

(ii) it is an affirmative defense to prosecution that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

(I) an occupation, a business, or a profession; or

(II) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent; and such defense may be established under this subparagraph by a preponderance of the evidence;

(iii) the term "organization" means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons; and

(iv) the term "serious bodily injury" means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(4) Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this chapter, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both.

(5) For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(6) For the purpose of this subsection, the term "person" means, in addition to the definition contained in section 1362(5) of this title, any responsible corporate officer.

(7) For the purpose of this subsection, the term "hazardous substance" means (A) any substance designated pursuant to section 1321(b)(2)(A) of this title, (B) any element, compound, mixture, solution, or substance designated pursuant to section 9602 of Title 42, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act [§ 42 USCA. § 6921] (but not including any waste the regulation of which under the Solid Waste Disposal Act [§ 42 USCA. § 6901 et seq.] has been suspended by Act of Congress), (D) any toxic pollutant listed under section 1317(a) of this title, and (E) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 2606 of Title 15.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

7 USC 136j - Unlawful acts

(a) In general

(1) Except as provided by subsection (b) of this section, it shall be unlawful for any person in any State to distribute or sell to any person—

(A) any pesticide that is not registered under section 136a of this title or whose registration has been canceled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this subchapter;

(B) any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration under section 136a of this title;

(C) any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under section 136a of this title;

(D) any pesticide which has not been colored or discolored pursuant to the provisions of section 136w(c)(5) of this title;

(E) any pesticide which is adulterated or misbranded; or

(F) any device which is misbranded.

(2) It shall be unlawful for any person—

(A) to detach, alter, deface, or destroy, in whole or in part, any labeling required under this subchapter;

(B) to refuse to—

(i) prepare, maintain, or submit any records required by or under section 136c, 136e, 136f, 136i, or 136q of this title;

(ii) submit any reports required by or under section 136c, 136d, 136e, 136f, 136i, or 136q of this title; or

(iii) allow any entry, inspection, copying of records, or sampling authorized by this subchapter;

(C) to give a guaranty or undertaking provided for in subsection (b) of this section which is false in any particular, except that a person who receives and relies upon a guaranty authorized under subsection (b) of this section may give a guaranty to the same effect, which guaranty shall contain, in addition to the person's own name and address, the name and address of the person residing in the United States from whom the person received the guaranty or undertaking;

(D) to use for the person's own advantage or to reveal, other than to the Administrator, or officials or employees of the Environmental Protection Agency or other Federal executive agencies, or to the courts, or to physicians, pharmacists, and other qualified persons, needing such information for the performance of their duties, in accordance with such directions as the Administrator may prescribe, any information acquired by authority of this subchapter which is confidential under this subchapter;

(E) who is a registrant, wholesaler, dealer, retailer, or other distributor to advertise a product registered under this subchapter for restricted use without giving the classification of the product assigned to it under section 136a of this title;

(F) to distribute or sell, or to make available for use, or to use, any registered pesticide classified for restricted use for some or all purposes other than in accordance with section 136a(d) of this title and any regulations thereunder, except that it shall not be unlawful to sell, under regulations issued by the Administrator, a restricted use pesticide to a person who is not a certified applicator for application by a certified applicator;

(G) to use any registered pesticide in a manner inconsistent with its labeling;

(H) to use any pesticide which is under an experimental use permit contrary to the provisions of such permit;

(I) to violate any order issued under section 136k of this title;

(J) to violate any suspension order issued under section 136a(c)(2)(B), 136a-1, or 136d of this title;

(K) to violate any cancellation order issued under this subchapter or to fail to submit a notice in accordance with section 136d(g) of this title;

(L) who is a producer to violate any of the provisions of section 136e of this title;

(M) to knowingly falsify all or part of any application for registration, application for experimental use permit, any information submitted to the Administrator pursuant to section 136e of this title, any records required to be maintained pursuant to this subchapter, any report filed under this subchapter, or any information marked as confidential and submitted to the Administrator under any provision of this subchapter;

(N) who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by this subchapter;

(O) to add any substance to, or take any substance from, any pesticide in a manner that may defeat the purpose of this subchapter;

(P) to use any pesticide in tests on human beings unless such human beings

(i) are fully informed of the nature and purposes of the test and of any physical and mental health consequences which are reasonably foreseeable therefrom, and

(ii) freely volunteer to participate in the test;

(Q) to falsify all or part of any information relating to the testing of any pesticide (or any ingredient, metabolite, or degradation product thereof), including the nature of any protocol, procedure, substance, organism, or equipment used, observation made, or conclusion or opinion formed, submitted to the Administrator, or that the person knows will be furnished to the Administrator or will become a part of any records required to be maintained by this subchapter;

(R) to submit to the Administrator data known to be false in support of a registration; or

(S) to violate any regulation issued under section 136a(a) or 136q of this title.

(b) Exemptions The penalties provided for a violation of paragraph (1) of subsection (a) of this section shall not apply to—

(1) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom the person purchased or received in good faith the pesticide in the same unbroken package, to the effect that the pesticide was lawfully registered at the time of sale and delivery to the person, and that it complies with the other requirements of this subchapter, and in such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provisions of this subchapter;

(2) any carrier while lawfully shipping, transporting, or delivering for shipment any pesticide or device, if such carrier upon request of any officer or employee duly designated by the Administrator shall permit such officer or employee to copy all of its records concerning such pesticide or device;

(3) any public official while engaged in the performance of the official duties of the public official;

(4) any person using or possessing any pesticide as provided by an experimental use permit in effect with respect to such pesticide and such use or possession; or

(5) any person who ships a substance or mixture of substances being put through tests in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties and from which the user does not expect to receive any benefit in pest control from its use.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

42 USC 9603 - Notification requirements respecting released substances

(a) Notice to National Response Center upon release from vessel or offshore or onshore facility by person in charge; conveyance of notice by Center.

Any person in charge of a vessel or an offshore or an onshore facility shall, as soon as he has knowledge of any release (other than a federally permitted release) of a hazardous substance from such vessel or facility in quantities equal to or greater than those determined pursuant to section 9602 of this title, immediately notify the National Response Center established under the Clean Water Act [33 U.S.C. 1251 et seq.] of such release. The National Response Center shall convey the notification expeditiously to all appropriate Government agencies, including the Governor of any affected State.

(b) Penalties for failure to notify; use of notice or information pursuant to notice in criminal case. Any person—

(1) in charge of a vessel from which a hazardous substance is released, other than a federally permitted release, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or

(2) in charge of a vessel from which a hazardous substance is released, other than a federally permitted release, which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1801 et seq.]), and who is otherwise subject to the jurisdiction of the United States at the time of the release, or

(3) in charge of a facility from which a hazardous substance is released, other than a federally permitted release,in a quantity equal to or greater than that determined pursuant to section 9602 of this title who fails to notify immediately the appropriate agency of the United States Government as soon as he has knowledge of such release or who submits in such a notification any information which he knows to be false or misleading shall, upon conviction, be fined in accordance with the applicable provisions of title 18 or imprisoned for not more than 3 years (or not more than 5 years in the case of a second or subsequent conviction), or both. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

(c) Notice to Administrator of EPA of existence of storage, etc., facility by owner or operator; exception; time, manner, and form of notice; penalties for failure to notify; use of notice or information pursuant to notice in criminal case.

Within one hundred and eighty days after December 11, 1980, any person who owns or operates or who at the time of disposal owned or operated, or who accepted hazardous substances for transport and selected, a facility at which hazardous substances (as defined in section 9601(14)(C) of this title) are or have been stored, treated, or disposed of shall, unless such facility has a permit issued under, or has been accorded interim status under, subtitle C of the Solid Waste Disposal Act [42 U.S.C. 6921 et seq.], notify the Administrator of the Environmental Protection Agency of the existence of such facility, specifying the amount and type of any hazardous substance to be found there, and any known, suspected, or likely releases of such substances from such facility. The Administrator may prescribe in greater detail the manner and form of the notice and the information included. The Administrator shall notify the affected State agency, or any department designated by the Governor to receive such notice, of the existence of such facility. Any person who knowingly fails to notify the Administrator of the existence of any such facility shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. In addition, any such person who knowingly fails to provide the notice required by this subsection shall not be entitled to any limitation of liability or to any defenses to liability set out in section 9607 of this title: Provided, however, That notification under this subsection is not required for any facility which would be reportable hereunder solely as a result of any stoppage in transit which is temporary, incidental to the transportation movement, or at the ordinary operating convenience of a common or contract carrier, and such stoppage shall be considered as a continuity of movement and not as the storage of a hazardous substance. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

(d) Recordkeeping requirements; promulgation of rules and regulations by Administrator of EPA; penalties for violations; waiver of retention requirements

(1) The Administrator of the Environmental Protection Agency is authorized to promulgate rules and regulations specifying, with respect to—

(A) the location, title, or condition of a facility, and

(B) the identity, characteristics, quantity, origin, or condition (including containerization and previous treatment) of any hazardous substances contained or deposited in a facility;the records which shall be retained by any person required to provide the notification of a facility set out in subsection (c) of this section. Such specification shall be in accordance with the provisions of this subsection.

(2) Beginning with December 11, 1980, for fifty years thereafter or for fifty years after the date of establishment of a record (whichever is later), or at any such earlier time as a waiver if obtained under paragraph (3) of this subsection, it shall be unlawful for any such person knowingly to destroy, mutilate, erase, dispose of, conceal, or otherwise render unavailable or unreadable or falsify any records identified in paragraph (1) of this subsection. Any person who violates this paragraph shall, upon conviction, be fined in accordance with the applicable provisions of title 18 or imprisoned for not more than 3 years (or not more than 5 years in the case of a second or subsequent conviction), or both.

(3) At any time prior to the date which occurs fifty years after December 11, 1980, any person identified under paragraph (1) of this subsection may apply to the Administrator of the Environmental Protection Agency for a waiver of the provisions of the first sentence of paragraph (2) of this subsection. The Administrator is authorized to grant such waiver if, in his discretion, such waiver would not unreasonably interfere with the attainment of the purposes and provisions of this chapter. The Administrator shall promulgate rules and regulations regarding such a waiver so as to inform parties of the proper application procedure and conditions for approval of such a waiver.

(4) Notwithstanding the provisions of this subsection, the Administrator of the Environmental Protection Agency may in his discretion require any such person to retain any record identified pursuant to paragraph (1) of this subsection for such a time period in excess of the period specified in paragraph (2) of this subsection as the Administrator determines to be necessary to protect the public health or welfare.

(e) Applicability to registered pesticide product This section shall not apply to the application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.] or to the handling and storage of such a pesticide product by an agricultural producer.

(f) Exemptions from notice and penalty provisions for substances reported under other Federal law or is in continuous release, etc. No notification shall be required under subsection (a) or (b) of this section for any release of a hazardous substance—

(1) which is required to be reported (or specifically exempted from a requirement for reporting) under subtitle C of the Solid Waste Disposal Act [42 U.S.C. 6921 et seq.] or regulations thereunder and which has been reported to the National Response Center, or

(2) which is a continuous release, stable in quantity and rate, and is—

(A) from a facility for which notification has been given under subsection (c) of this section, or

(B) a release of which notification has been given under subsections (a) and (b) of this section for a period sufficient to establish the continuity, quantity, and regularity of such release: Provided, That notification in accordance with subsections (a) and (b) of this paragraph shall be given for releases subject to this paragraph annually, or at such time as there is any statistically significant increase in the quantity of any hazardous substance or constituent thereof released, above that previously reported or occurring.

43 CFR 8360 - Visitor Services; Rules of Conduct; Sanitation

43 CFR 8365.1-1 - Sanitation

(a) Whenever practicable, visitors shall pack their trash for disposal at home.

(b) On all public lands, no person shall, unless otherwise authorized:

(1) Dispose of any cans, bottles and other nonflammable trash and garbage except in designated places or receptacles;

(2) Dispose of flammable trash or garbage except by burning in authorized fires, or disposal in designated places or receptacles;

(3) Drain sewage or petroleum products or dump refuse or waste other than wash water from any trailer or other vehicle except in places or receptacles provided for that purpose;

(4) Dispose of any household, commercial or industrial refuse or waste brought as such from private or municipal property;

(5) Pollute or contaminate water supplies or water used for human consumption; or

(6) Use a refuse container or disposal facility for any purpose other than for which it is supplied.

CHAPTER XX - DRUG ENFORCEMENT

Controlled Substances Act, 1970

21 USC 841

a) Unlawful Acts

Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally—

(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; or

(2) to create, distribute, or dispense, or possess with intent to distribute or dispense, a counterfeit substance.

(b) Penalties

(5)Any person who violates subsection (a) of this section by cultivating a controlled substance on Federal property shall be imprisoned as provided in this subsection and shall be fined any amount not to exceed—

(A) the amount authorized in accordance with this section;

(B) the amount authorized in accordance with the provisions of Title 18;

(C) $500,000 if the defendant is an individual; or

(D) $1,000,000 if the defendant is other than an individual; or both.

(6) Any person who violates subsection (a), or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land, and, by such use—

(A) creates a serious hazard to humans, wildlife, or domestic animals,

(B) degrades or harms the environment or natural resources, or

(C) pollutes an aquifer, spring, stream, river, or body of water,

shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

(e)

(1) Any person who assembles, maintains, places, or causes to be placed a boobytrap on Federal property where a controlled substance is being manufactured, distributed, or dispensed shall be sentenced to a term of imprisonment for not more than 10 years and shall be fined not more than $10,000.

(2) If any person commits such a violation after 1 or more prior convictions for an offense punishable under this subsection, such person shall be sentenced to a term of imprisonment of not more than 20 years and shall be fined not more than $20,000.

(3) For the purposes of this subsection, the term "boobytrap" means any concealed or camouflaged device designed to cause bodily injury when triggered by any action of any unsuspecting person making contact with the device. Such term includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, and lines or wires with hooks attached.

43 CFR 8365.1-4 - Visitor Services; Rules of Conduct; Public Health, Safety, and Comfort

43 CFR 8365.1-4

(b) No person shall engage in the following activities on the public lands:

(1) Cultivating, manufacturing, delivering, distributing or trafficking a controlled substance, as defined in § 21 USC 802(6) and § 812 and § 21 CFR 1308.11 through 1308.15, except when distribution is made by a licensed practitioner in accordance with applicable law. For the purposes of this paragraph, delivery means the actual, attempted or constructive transfer of a controlled substance whether or not there exists an agency relationship; or

(2) Possessing a controlled substance, as defined in § 21 USC 802(6) and § 812 and 21 CFR 1308.11 through 1308.15, unless such substance was obtained, either directly or pursuant to a valid prescription or order or as otherwise allowed by Federal or State law, by the possessor from a licensed practitioner acting in the course of professional practice.

CHAPTER XXI - CLOSURES, RESTRICTIONS, AND SUPPLEMENTARY RULES

Federal Land Policy and Management Act, 1976

43 USC 1740

The Secretary, with respect to the public lands, shall promulgate rules and regulations to carry out the purposes of this Act and of other laws applicable to the public lands, and the Secretary of Agriculture, with respect to lands within the National Forest System, shall promulgate rules and regulations to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the provisions of chapter 5 of Title 5, without regard to section 553(a)(2). Prior to the promulgation of such rules and regulations, such lands shall be administered under existing rules and regulations concerning such lands to the extent practical.

NOTE: This section makes the Administrative Procedures Act mandatory for the promulgation of all BLM rules and regulations, including closures, restrictions, and supplementary rules.

Administrative Procedures Act, 1946

5 USC 553

(a) This section applies, according to the provisions thereof, except to the extent that there is involved—

(1) a military or foreign affairs function of the United States; or

(2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.

(b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

(1) a statement of the time, place, and nature of public rule making proceedings;

(2) reference to the legal authority under which the rule is proposed; and

(3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

Except when notice or hearing is required by statute, this subsection does not apply—

(A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or

(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

(d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—

(1) a substantive rule which grants or recognizes an exemption or relieves a restriction;

(2) interpretative rules and statements of policy; or

(3) as otherwise provided by the agency for good cause found and published with the rule.

(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.

Federal Land Policy and Management Act, 1976

43 USC 1732(b)

...That nothing in this Act shall be construed as authorizing the Secretary concerned to require Federal permits to hunt and fish on public lands or on lands in the National Forest System and adjacent waters or as enlarging or diminishing the responsibility and authority of the States for management of fish and resident wildlife. However, the Secretary concerned may designate areas of public land and of lands in the National Forest System where, and establish periods when, no hunting or fishing will be permitted for reasons of public safety, administration, or compliance with provisions of applicable law. Except in emergencies, any regulations of the Secretary concerned relating to hunting and fishing pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.... In managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.

NOTE: This section requires consultation with the appropriate State fish and game agency prior to implementing any closures of public lands to hunting and/or fishing.

43 CFR 6302 Wilderness Areas

43 CFR 6302.19 - When may BLM close or restrict use of wilderness areas?

When necessary to carry out the provisions of the Wilderness Act and other Federal laws, BLM may close or restrict the use of lands or waters within the boundaries of a BLM wilderness area, using the procedures in Sec. 8364.1 of this chapter. BLM will limit any such closure to affect the smallest area necessary for the shortest time necessary.

43 CFR 8351 National Wild and Scenic Rivers

43 CFR 8351.2-1 - Special rules (National Wild and Scenic Rivers)

(a) The authorized officer may issue written orders which close or restrict the use of the lands and water surface administered by the Bureau of Land Management within the boundary of any component of the National Wild and Scenic River System when necessary to carry out the intent of the Wild and Scenic Rivers Act. Each order shall:

(1) Describe the lands, road, trail or waterway to which the order applies;

(2) Specify the time during which the closure or restriction applies;

(3) State each prohibition which is applied; and

(4) Be posted in accordance with paragraph (d) of this section.

(b) A written order may exempt any of the following persons from any of the prohibitions contained in the order:

(1) Persons with written permission authorizing the otherwise prohibited act or omission. The authorized officer may include in any written permission such conditions considered necessary for the protection of a person, or the lands or water surface and resources or improvements located thereon.

(2) Owners or lessees of property within the boundaries of the designated wild and scenic river area.

(3) Residents within the boundaries of the designated wild and scenic river area.

(4) Any Federal, State, or local government officer or member of an organized rescue or fire suppression force in the performance of an official duty.

(5) Persons in a business, trade or occupation within the boundaries of the designated wild and scenic river area.

(c) The violation of the terms or conditions of any written permission issued under paragraph (b)(1) of this section is prohibited.

(d) Posting is accomplished by:

(1) Placing a copy of an order in each local office having jurisdiction over the lands affected by the order; and

(2) Displaying each order near and/or within the affected wild and scenic river area in such locations and manner as to reasonably bring the prohibitions contained in the order to the attention of the public.

(e) When provided by a written order, the following are prohibited:

(1) Going onto or being upon land or water surface;

(2) Camping;

(3) Hiking;

(4) Building, maintaining, attending or using a fire;

(5) Improper disposal of garbage, trash or human waste;

(6) Disorderly conduct; and

(7) Other acts that the authorized officer determines to be detrimental to the public lands or other values of a wild and scenic river area.

(f) Any person convicted of violating any prohibition established in accordance with this section shall be punished by a fine of not to exceed $500 or by imprisonment for a period not to exceed 6 months, or both, and shall be adjudged to pay all costs of the proceedings.

43 CFR 8364.1 Closure and Restriction Orders

43 CFR 8360.0-5 - Definitions

As used in this part, the term:

Authorized officer means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this part.

43 CFR 8360.0-7 - Penalties

Violations of any regulations in this part by a member of the public, except for the provisions of § 8365.1-7, are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. Violations of supplementary rules authorized by § 8365.1-6 are punishable in the same manner.

43 CFR 8364.1 - Closure and restriction orders.

(a) To protect persons, property, and public lands and resources, the authorized officer may issue an order to close or restrict use of designated public lands.

(b) Each order shall:

(1) Identify the public lands, roads, trails or waterways that are closed to entry or restricted as to use;

(2) Specify the uses that are restricted;

(3) Specify the period of time during which the closure or restriction shall apply;

(4) Identify those persons who are exempt from the closure or restrictions;
(5) Be posted in the local Bureau of Land Management Office having jurisdiction over the lands to which the order applies;

(6) Be posted at places near and/or within the area to which the closure or restriction applies, in such manner and location as is reasonable to bring prohibitions to the attention of users;

(7) Include a statement on the reasons for the closure; and

(c) In issuing orders pursuant to this section, the authorized officer shall publish them in the FEDERAL REGISTER.

(d) Any person who fails to comply with a closure or restriction order issued under this subpart may be subject to the penalties provided in § 8360.0-7 of this title.

43 CFR 8365.1-6 - Supplementary Rules

43 CFR 8365.1-6 - Supplementary rules.

The State Director may establish such supplementary rules as he/she deems necessary. These rules may provide for the protection of persons, property, and public lands and resources. No person shall violate such supplementary rules.

(a) The rules shall be available for inspection in each local office having jurisdiction over the lands, sites or facilities affected;

(b) The rules shall be posted near and/or within the lands, sites or facilities affected;

(c) The rules shall be published in the FEDERAL REGISTER; and

(d) The rules shall be published in a newspaper of general circulation in the affected vicinity, or be made available to the public by such other means as deemed most appropriate by the authorized officer.

NOTE: This section deliberately uses the phrase "State Director" rather than authorized officer. The original preamble published in the FEDERAL REGISTER on August 10, 1983 states, "The scope of the authority has been limited in the final rulemaking to the protection of persons, property, public lands and their resources, and the discretion has been restricted to the State Director." Unfortunately, the preamble to the final rule is not published in the permanent CFR; however, this information was announced to the public when the final rule was published in the FEDERAL REGISTER. Therefore, supplementary rules issued by managers other than the State Director may be invalid.

43 CFR 9212.2 - Fire Prevention Orders

43 CFR 9212.2 - Fire prevention orders

(a) To prevent wildfire or facilitate its suppression, an authorized officer may issue fire prevention orders that close entry to, or restrict uses of, designated public lands.

(b) Each fire prevention order shall:

(1) Identify the public lands, roads, trails or waterways that are closed to entry or restricted as to use;

(2) Specify the time during which the closure or restriction shall apply;

(3) Identify those persons who, without a written permit, are exempt from the closure or restrictions;

(4) Be posted in the local Bureau of Land Management office having jurisdiction over the lands to which the order applies; and

5) Be posted at places near the closed or restricted area where it can be readily seen.

INDEX

16 U.S.C. 1246, 15, 127, 133
16 U.S.C. 1281, 15
16 U.S.C. 1332, 29
16 U.S.C. 1338, 9, 14
16 U.S.C. 460, 10, 14, 138, 139, 146
16 U.S.C. 668, 85
16 U.S.C. 670, 10, 14, 71, 140, 146
16 U.S.C.1133, 149
18 U.S.C. 1001, 22, 53
18 U.S.C. 111, 19
18 U.S.C. 1114, 19
18 U.S.C. 1170, 59
18 U.S.C. 1852, 93
18 U.S.C. 1853, 93
18 U.S.C. 1854, 93
18 U.S.C. 1856, 113
18 U.S.C. 1857, 105
18 U.S.C. 1858, 24
18 U.S.C. 1859, 24
18 U.S.C. 1860, 24
18 U.S.C. 1861, 25
18 U.S.C. 1864, 25
18 U.S.C. 3571, 16, 47, 52, 53, 139, 143, 144, 152
18 U.S.C. 371, 19
18 U.S.C. 372, 20
18 U.S.C. 47, 30
18 U.S.C. 641, 20, 68
18 U.S.C. 654, 20
30 U.S.C. 195, 37
30 U.S.C. 22, 37
30 U.S.C. 612, 37
33 U.S.C. 1319, 165
43 CFR 24.4, 84
43 CFR 2801.3(a), 154
43 CFR 2881.3, 157
43 CFR 2920.1-2, 159
43 CFR 4700.0-5, 30
43 CFR 6301.5, 6302.15, 6302.20, and 6302.30, 149
43 CFR 6302.19, 178
43 CFR 8351.2-1, 8, 179
43 CFR 8360.0-7, 174, 176, 180
43 CFR 8365.1-4(a), 82
43 CFR 8365.1-5(a), 57
43 CFR 9264.1, 91
43 CFR 9268.3, 146
43 CFR Part 7, 62, 67
43 U.S.C. 1063, 27
43 U.S.C. 1466, 11
43 U.S.C. 1702, 8
43 U.S.C. 1733, 7, 13, 33, 47, 52, 101, 103, 105, 143, 146, 152, 154, 155
43 U.S.C. 315, 16, 105
5 U.S.C. 553, 177
50 CFR Part 20, 84
Administrative Procedures Act, 177
Antiquities Act, 55
Archaeological Resources Protection Act, 55, 62, 63, 65
Archeological Resources, 62
Assaulting, resisting, or impeding certain officers or employees, 19
Bald Eagle Act, 81
Bids at land sales, 24
Cave Resources Protection Act, 60
Clean Water Act, 165
Coal depredations, 39
Conspiracy, 19, 20
Controlled Substances Act, 25, 175
Deception of prospective purchasers, 25
Endangered Species Act, 76
Executive order no. 11644, 128
False statements, 22
Federal Land Policy and Management Act, 7, 13, 33, 37, 93, 101, 103, 105, 110, 138, 143, 146, 149, 154, 155, 177, 178
Federal Oil and Gas Royalty Management Act, 33
Fences destroyed, 105
Fines, 16, 17
Fire prevention, 181
Fire prevention orders, 181
Fires left unattended and unextinguished, 113
Government property or contracts, 22
Grazing administration, 91, 106
Hazardous or injurious devices, 25
Lacey Act, 73, 94

Land and Water Conservation Fund Act, 10, 14, 138, 144, 146
LAW ENFORCEMENT AUTHORITY, 7
Migratory Bird Hunting, 84, 85
Migratory Bird Treaty Act, 71, 85
Mineral Leasing Act Amendments of 1987, 37
Mining Law of 1872, 37
National Trails Act, 15, 127, 146, 147
Native American Graves Protection and Repatriation Act, 59, 64
Obstruction of criminal investigations, 23
Penalties, 27, 68, 101, 103, 115, 131, 133, 143, 146, 161, 180
Property and resources, 68
Protection of officers and employees of the United States, 19
Protection, management, and control of wild free-roaming horses, 30
Public health, safety, and comfort, 27, 124, 176
RECREATION RULES OF CONDUCT, 123
Recreational Hunting Safety Act, 82
Resource Conservation and Recovery Act, 163
Resource management and public activities on Federal lands, 84
Sales of forest products, 96
Sanitation, 125, 174
Sikes Act, 10, 14, 71, 140, 146
Supplementary rules, 122, 181
Surface Management Act, 37
Survey marks destroyed or removed, 24
Surveys interrupted, 24
Taylor Grazing Act, 16, 105, 110
Timber removed or transported, 93
Timber set afire, 113
Trees boxed for pitch or turpentine, 93
Trees cut or injured, 93
Unlawful Inclosures, 27, 153
Unlawful Inclosures of Public Land Act, 153
Use and occupancy under the mining laws, 40
Wild and Scenic Rivers Act, 15, 146, 179
Wild Free-Roaming Horse and Burro Act, 9, 13, 14, 29
Wild Horse Annie Act, 30
Wilderness Act, 149, 151, 178
Wilderness Management, 149