

b. Under subsection (k)(2) of the Privacy Act (5 USC 552a(k)(2)), investigatory material compiled for law enforcement purposes, other than material encompassed within subsection (j)(2), may be exempted from these provisions, and DOT proposes to exempt JMIE accordingly.

Analysis of regulatory impacts. This amendment is not a "significant regulatory action" within the meaning of Executive Order 12866. It is also not significant within the definition in DOT's Regulatory Policies and Procedures, 49 FR 11034 (1979), in part because it does not involve any change in important Departmental policies. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Moreover, I certify that this proposal will not have a significant economic impact on a substantial number of small entities.

This proposal does not significantly affect the environment, and therefore an environmental impact statement is not required under the National Environmental Policy Act of 1969. It has also been reviewed under Executive Order 12612, Federalism, and it has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

Finally, the proposal does not contain any collection of information requirements, requiring review under the Paperwork Reduction Act of 1980.

List of Subjects in 49 CFR Part 10:

Penalties; Privacy.

In accordance with the above, DOT proposes to amend 49 CFR part 10 as follows:

PART 10—[AMENDED]

1. The authority citation to part 10 would remain as follows:

Authority: 5 USC 552a; 49 USC 322.

2. Part I of Appendix A would be amended by republishing the introductory text and by adding a new paragraph F; Part II.A would be amended by adding a new paragraph 14; and Part II.F would be amended by adding a new paragraph 4, all to read as follows:

Appendix A to Part 10—Exemptions

Part I. General exemptions. Those portions of the following systems of records that consist of (a) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) information compiled

for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (c) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision, are exempt from all parts of 5 USC 552a except subsections (b) (Conditions of disclosure); (c)(1) and (2) (Accounting of certain disclosures); (e)(4)(A) through (F) (Publication of existence and character of system); (e)(6) (Ensure records are accurate, relevant, timely, and complete before disclosure to person other than an agency and other than pursuant to a Freedom of Information Act request), (7) (Restrict recordkeeping on First Amendment rights), (9) (Rules of conduct), (10) (Safeguards), and (11) (Routine use publication); and (i) (Criminal penalties):

* * * * *

F. Joint Maritime Intelligence Element (JMIE) Support System, maintained by the Operations Systems Center, U.S. Coast Guard (DOT/CG 642).

Part II. Specific exemptions.

A. The following systems of records are exempt from subsection (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 USC 552a, to the extent that they contain investigatory material compiled for law enforcement purposes in accordance with 5 USC 552a(k)(2):

* * * * *

14. Joint Maritime Intelligence Element (JMIE) Support System, maintained by the Operations Systems Center, U.S. Coast Guard (DOT/CG 642).

* * * * *

F. Those portions of the following systems of records that consist of information properly classified in the interest of national defense or foreign policy in accordance with 5 USC 552(b)(1) are exempt from sections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 USC 552a, to the extent that they contain investigatory material compiled for law enforcement purposes in accordance with 5 USC 552a(k)(1):

* * * * *

4. Joint Maritime Intelligence Element (JMIE) Support System, maintained by the Operations Systems Center, U. S. Coast Guard (DOT/CG 642).

Issued in Washington, DC, on May 19, 1995.

Federico Peña,

Secretary of Transportation.

[FR Doc. 95-12833 Filed 5-25-95; 8:45 am]

BILLING CODE 4910-62-P

Research and Special Programs Administration

49 CFR Part 195

[Docket PS-140]

RIN 2137-AC34

Areas Unusually Sensitive to Environmental Damage

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Public workshop notice.

SUMMARY: RSPA invites industry, State and local government representatives and the public to a workshop on unusually sensitive environmental areas. The workshop's purpose is to openly discuss the criteria being considered by RSPA to determine areas unusually sensitive to environmental damage from a hazardous liquid pipeline release. The criteria are needed to carry out statutory requirements.

DATES: The workshop will be held on June 15, 1995 from 8:30 a.m. to 4 p.m. and on June 16, 1995 from 8:30 a.m. to 12 p.m. Persons who want to participate in the workshop should call (703) 267-3666 or e-mail their name, affiliation, and phone number to jbusavag@walcoff.com as space is limited. Persons who are unable to attend may submit written comments in duplicate by June 26, 1995. Interested persons should submit as part of their written comments all material that is relevant to a statement of fact or argument.

ADDRESSES: The workshop will be held at the U.S. Department of Transportation, Nassif Building, 400 Seventh Street SW., Room 2230, Washington, DC. Non-federal employee visitors are admitted into the DOT headquarters building through the southwest entrance at Seventh and E Streets, SW.

Written comments must be submitted in duplicate and mailed or hand delivered to the Dockets Unit, Room 8421, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. Please refer to the docket and notice numbers stated in the heading of this notice.

All comments and materials cited in this document will be available for inspection and copying in Room 8421 between 8:30 a.m. and 4:30 p.m. each business day. A transcript of the workshop will be available from the Dockets Unit about three weeks after the workshop.

FOR FURTHER INFORMATION CONTACT: Christina Sames, (202) 366-4561, about

this document, or the Dockets Unit, (202) 366-5046, for copies of this document or other materials in the docket.

SUPPLEMENTARY INFORMATION:

49 U.S.C. 60109 and 60102

49 U.S.C. 60109 requires the Secretary of Transportation (Secretary) to:

- Consult with the Environmental Protection Agency (EPA) and describe areas that are unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident, and
- Establish criteria for identifying each hazardous liquid pipeline facility and gathering line, whether otherwise subject to regulation, located in an area unusually sensitive to environmental damage in the event of a pipeline accident.

In describing areas that are unusually sensitive to environmental damage, the Secretary is to consider:

- Earthquake zones and areas subject to substantial ground movements, such as landslides;
- Areas where ground water contamination would be likely if a pipeline facility ruptures;
- Freshwater lakes, rivers, and waterways; and
- River deltas and other areas subject to soil erosion or subsidence from flooding or other water action, where pipeline facilities are likely to be exposed or undermined.

Identification of these unusually sensitive environment areas will be used by RSPA in future rulemakings that are directed at such areas. For instance, 49 U.S.C. 60109 (a)(2) directs the Secretary to require operators to identify unusually sensitive environmental areas through maps and pipeline inventories. 49 U.S.C. 60102(f)(2) requires the Secretary to require each pipeline in an unusually sensitive environmental area to be inspected periodically and to prescribe when an instrumented internal inspection device should be used to inspect the pipeline.

Purpose of Workshop

The purpose of the public workshop is for RSPA and participants to interactively discuss areas unusually sensitive to environmental damage from a hazardous liquid pipeline release and will focus on the following:

1. How to establish criteria which will narrow the number of unusually sensitive environmental areas for pipeline safety purposes.
2. How to establish a process which operators can use to identify, using readily available data, which of their pipeline facilities are located in an unusually sensitive environmental area.

3. How can RSPA and other Federal and State agencies facilitate the identification of pipeline facilities in unusually sensitive environmental areas in a timely and cost beneficial manner.

Problem

There is not a national process to define environmentally sensitive areas for Federal, State, and local governments. Many Federal, State, and local laws refer to environmentally sensitive areas for protection from various actions. The environmentally sensitive area definitions these government agencies have created could be interpreted to include most of the United States.

To meet the intent of 49 U.S.C. 60109 without creating an undue burden on the pipeline industry, RSPA believes a narrow, risk-based definition for unusually sensitive areas is required. Therefore, RSPA is considering an approach that builds on values other Federal agencies have established for activities required under the Oil Pollution Act of 1990, but that more narrowly identifies areas that are unusually sensitive to environmental damage from a hazardous liquid pipeline release.

RSPA believes operators should be given credit for equipping their pipeline systems to quickly detect and respond to a hazardous liquid release. RSPA also believes operators should be allowed to determine the areas that could reasonably be expected to be significantly affected if there were a hazardous liquid release from their pipeline. Therefore, RSPA is considering including only those areas where a release of hazardous liquid would reach the area before the release was contained or before the area was protected as unusually sensitive to environmental damage from a hazardous liquid pipeline release.

To establish clear priorities for protecting a large number of areas, RSPA is considering three tiers of unusually sensitive areas. Tier One, areas that could affect human health if contaminated, would be considered the most sensitive and the highest priority areas. Tier Two, unusually sensitive areas along surface water, would be the second highest priority. Tier Three, unusually sensitive areas within terrestrial environments, would be the third highest priority. RSPA believes the three tiers could be phased in to give operators more time to determine the unusually sensitive areas that could be affected by a hazardous liquid pipeline release. This will reduce the burden on industry and will give RSPA time to work with other government agencies to

help determine unusually sensitive areas.

The following explains the criteria under each of the tiers being considered for identifying areas unusually sensitive to environmental damage from a hazardous liquid pipeline release. RSPA invites discussion on all topics addressed in this public workshop notice.

1. Tier One: Areas That Could Affect Human Health if Contaminated

A. Intakes for Community Drinking Water Systems

Public safety is RSPA's number one concern. A hazardous liquid pipeline failure can threaten human health if the hazardous liquid enters a community's drinking water system. Therefore, intakes for community water systems, as defined in the Safe Drinking Water Act regulations, 40 CFR 141.2, that a hazardous liquid pipeline accident could reasonably be expected to affect, are the highest priority in the definition being considered.

The potential risk to a community water system is greatly reduced when a pipeline system is equipped to quickly detect and respond to a hazardous liquid release. A pipeline system's ability to contain a hazardous liquid release before the liquid reaches a community water system intake greatly minimizes the contamination risk. Prompt detection of a hazardous liquid release and prompt notification of water authorities allows for the shut down of the community water intakes that could reasonably be expected to be affected until the danger of hazardous liquid contamination passes. Therefore, only community water system intakes where water currents, topography, or other factors could carry a hazardous liquid release to the community water intake zone before the hazardous liquid is contained or before the community water system intake is closed would be considered unusually sensitive environmental areas.

B. Sole Source Aquifers

EPA defines a sole source aquifer as one that supplies at least half of the drinking water consumed in the area above the aquifer. EPA guidelines state that designated sole source aquifer areas have no alternative sources or combination of sources that could physically, legally, and economically supply all those who get their drinking water from the aquifer.

A hazardous liquid pipeline failure can threaten human health if the hazardous liquid enters a sole source aquifer. Therefore, RSPA believes that

EPA designated sole source aquifers should be considered when determining areas unusually sensitive to environmental damage from a hazardous liquid pipeline accident.

RSPA realizes that not all sole source aquifers could reasonably be expected to be significantly affected by a hazardous liquid pipeline accident. A hazardous liquid release's ability to affect a sole source aquifer will depend on many factors, including the aquifer's depth, the soil's permeability, the geologic formations surrounding the aquifer, and the amount of hazardous liquid that could be discharged. RSPA believes that only sole source aquifers that a hazardous liquid pipeline accident could reasonably be expected to significantly affect should be considered areas unusually sensitive to environmental damage from a hazardous liquid pipeline accident.

2. Tier Two: Unusually Sensitive Areas Along Surface Water

Surface water will carry a discharge from a hazardous liquid pipeline to community drinking water systems and to other areas unusually sensitive to environmental damage. Because surface water covers a large portion of the United States and not all areas in a body of water and along the water's edge have the same environmental sensitivity, RSPA is considering a risk-based approach to identify the areas along surface water that are unusually sensitive to environmental damage from a hazardous liquid pipeline release. In order to prioritize areas of greatest environmental concern, this approach takes into account the surface water habitat's natural ability to restore itself to the condition that existed before the release, and the biological and human use resources in the body of water and along the water's edge.

RSPA is considering two categories of surface water to determine areas unusually sensitive to environmental damage: (A) intertidal, large and medium rivers, and large lakes and (B) small rivers and lakes, streams, ponds, and other surface water. RSPA believes that Tier Two could be phased in after Tier One (The identification of areas that could affect human health if contaminated) is completed. This will reduce the burden on industry and will give RSPA time to work with other government agencies to help determine the unusually sensitive areas along surface water.

A. Intertidal, Large and Medium Rivers, and Large Lakes

The National Oceanic and Atmospheric Association (NOAA) and

the EPA have developed a ten point scale that ranks estuarine, lacustrine, and medium and large sized riverine shoreline habitat sensitivity to oil spills (see Table 1). This scale is based on their studies of oil spills' effects on shoreline habitats. The ten point scale ranks habitats according to their sensitivity to an oil spill, natural persistence of oil, and ease of cleanup. RSPA believes this criteria should be used to rank the habitats along intertidal waters, large and medium rivers, and large lakes that a hazardous liquid pipeline release could affect. NOAA and EPA have identified large lakes as those large enough to form natural, wave built beaches (where the distance over which the wind blows to generate waves is long enough, and thus the wind-generated waves are large enough, to form beaches along the shoreline).

Resource areas, including biological and human-use, need to be considered to narrowly determine areas that are unusually sensitive to environmental damage from a hazardous liquid pipeline accident. Biological resource areas may include critical habitats for endangered or threatened species, critical nesting and spawning areas, and wilderness areas. Human-use resources may include officially designated natural resource management areas, resource extraction sites, high recreational use and access areas, and archeological and cultural sites.

RSPA believes that the shoreline habitat, the biological resource areas, and the human use resources should be evaluated to determine if an area is unusually sensitive to environmental damage. Table 2 outlines a list of areas to be considered. Directly below each area is a numerical sensitivity rating to be considered. An operator would determine if an area is unusually sensitive to environmental damage by determining the habitat's sensitivity ranking (Table 2, column 1), the biological resource area ranking (Table 2, column 2), and the human-use resource area ranking (Table 2, column 3). Combining the habitat, the biological resource area, and the human use resource area rankings determines if an area is unusually sensitive. RSPA believes that areas with a combined numerical ranking of 15 points or more should be considered unusually sensitive.

B. Small Rivers and Lakes, Streams, Ponds, and Other Surface Water

As one progresses landward up major rivers, the streams, ponds, and wetlands become so narrow and shallow that even small spills may contaminate the whole system. NOAA and EPA have

recommended as a cut off the point where a 20,000 gallon spill would affect the water body from bank to bank and the entire water column. From this point on upstream, it is not useful to classify the habitat sensitivity of sections along the water way. Therefore, RSPA is considering the entire watershed upstream of the point on the main stream where the habitat sensitivity ranking is no longer useful as a single habitat sensitivity, and that the entire watershed upstream of this point be given a habitat ranking of 9 points.

RSPA believes that the biological resource areas and the human use resources within the watershed upstream of the cutoff point should be evaluated to determine if an area is unusually sensitive to environmental damage. Table 3 outlines a list of areas to be considered. This list of areas is identical to the list of areas in Table 2, columns 2 and 3. Directly below each area is a numerical sensitivity rating. An operator would determine if an area is unusually sensitive to environmental damage by determining the biological resource area ranking (Table 3, column 1) and human-use resource area ranking (Table 3, column 2) within the watershed area. Combining the habitat ranking of 9 points, the biological resource area ranking, and the human use resource ranking determines if an area is unusually sensitive; areas with a combined numerical ranking of 15 points or more would be considered unusually sensitive.

3. Unusually Sensitive Areas Within Terrestrial Environments

RSPA is considering an approach for identifying unusually sensitive environmental areas in terrestrial environments that is similar to the approach for identifying unusually sensitive environmental areas along surface water. RSPA believes that the biological resource areas and the human use resources should be studied to determine if a given area is unusually sensitive to environmental damage from a hazardous liquid pipeline accident. However, RSPA believes the terrestrial habitat's sensitivity should not be ranked for its natural ability to restore itself to the condition that existed before the release. Therefore, only the biological resource areas and the human use resource areas would be studied to determine if a given area is unusually sensitive to environmental damage from a hazardous liquid pipeline release.

Table 4 recommends a list of areas to consider. Directly below each area is a numerical sensitivity rating. An operator would determine if an area is unusually sensitive to environmental

damage by evaluating the biological resource area and the human-use resource area rankings. Combining these two rankings, biological resource area ranking and human use resource area ranking, determines if an area is unusually sensitive. Areas with a combined numerical ranking of 11 points or more would be considered unusually sensitive to environmental damage from a hazardous liquid pipeline accident.

RSPA believes that Tier Three could be phased in after Tier One (the identification of areas that could affect human health if contaminated) and Tier

Two (Unusually sensitive areas along surface water) are completed. This will reduce the burden on industry and will give RSPA time to work with other government agencies to help determine the unusually sensitive areas within terrestrial environments.

RSPA invites discussion on all topics addressed in this public workshop notice. Anticipated topics to be discussed at the public meeting include, but are not limited to:

- (1) The three tiers of unusually sensitive environmental areas.
- (2) The criteria being considered for community drinking water systems and sole source aquifers.

(3) The sensitivity ranking of the biological and human use resource areas.

(4) Whether the criteria are specific enough to allow operators to identify areas unusually sensitive to environmental damage from a release of hazardous liquid from their pipeline.

(5) Whether additional criteria are needed to identify unusually sensitive environmental areas.

Issued in Washington, DC on May 22, 1995.

Cesar DeLeon,

Acting Associate Administrator for Pipeline Safety.

TABLE 1.—HABITAT RANKINGS BEING CONSIDERED

Habitat ranking	Estuarine ¹	Lacustrine ²	Riverine (Large rivers)
10A	Saltwater marshes		
10B	Mangroves		
10C	Freshwater marshes	Freshwater marshes	Freshwater marshes.
10D	Freshwater swamps	Freshwater swamps	Freshwater swamps.
9A	Sheltered tidal flats	Sheltered vegetated low banks	Vegetated low banks.
9B	Sheltered sand/mud flats	Muddy substances (unvegetated).
8A	Sheltered rocky shores	Sheltered scarps in bedrock	Vegetated, steeply sloping bluffs.
8B	Sheltered man-made structures	Sheltered man-made structures	Sheltered man-made structures.
7	Exposed tidal flats	Exposed flats	Not present.
6A	Gravel beaches	Gravel beaches	Gravel bars and gently sloping banks.
6B	Riprap structures	Riprap structures	Riprap structures.
5	Mixed sand and gravel beaches	Mixed sand and gravel beaches	Mixed sand and gravel beaches.
4	Course-grained sand beaches	Sand beaches	Sandy bars and gently sloping banks.
3	Fine-grained sand beaches	Eroding scarps in unconsolidated sediment.	Exposed, eroding banks in unconsolidated sediments.
2	Wave-cut platforms in bedrock	Shelving bedrock shores	Rocky shoals; bedrock ledges.
1A	Exposed rocky shores	Exposed rocky cliffs	Exposed rocky banks.
1B	Exposed seawalls	Exposed, hard man-made structures	Vertical, solid revetments.

¹ Semi-enclosed coastal waters that are under tidal influence and have a free connection to the adjacent ocean waters.

² Generally standing water, with open water exceeding 30% of the system.

TABLE 2.—CRITERIA BEING CONSIDERED FOR DETERMINING UNUSUALLY SENSITIVE AREAS ALONG INTERTIDAL, LARGE AND MEDIUM RIVERS, AND LARGE LAKES

Habitat rankings estuarine, lacustrine, and riverine environments	Biological resource areas	Human use resource areas
Estuarine Environments: Saltwater and freshwater marshes Freshwater swamps Mangroves	Critical habitats for Federally designated Endangered or Threatened Species as defined in 50 CFR 424.02	
Lacustrine and Riverine Environments: Freshwater marshes and swamps 10 points	10 points	
Estuarine Environments: Sheltered tidal flats	Critical areas identified under the Clean Lakes Program	
Lacustrine Environments: Sheltered vegetated low banks Sheltered sand/mud flats	Sensitive areas identified under National Estuary Program or Near Coastal Waters Program	
Riverine Environments: Vegetated low banks Muddy substances 9 points	9 points	
Estuarine Environments: Sheltered rocky shores Sheltered man-made structures	Habitats Federal or State designated Endangered or Threatened Species are known to use	
Lacustrine Environments: Sheltered scarps in bedrock Sheltered man-made structures		
Riverine Environments:	Spawning areas critical for maintaining fish or shellfish	

TABLE 2.—CRITERIA BEING CONSIDERED FOR DETERMINING UNUSUALLY SENSITIVE AREAS ALONG INTERTIDAL, LARGE AND MEDIUM RIVERS, AND LARGE LAKES—Continued

Habitat rankings estuarine, lacustrine, and riverine environments	Biological resource areas	Human use resource areas
Vegetated, steeply sloping bluffs 8 points	8 points	
Estuarine Environments: Exposed tidal flats	National Sanctuaries	Officially designated natural resource managed areas: National Parks. National Conservation Areas
Lacustrine Environments: Exposed flats	National State and Wildlife Refuges	
Riverine Environments: Not present	National Wildlife Management Areas	Natural Heritage Areas.
	Terrestrial areas large or dense groups or numbers of animals use to breed	National Preserves and Reserves.
7 points	7 points	
Estuarine and Lacustrine Environments: Gravel beaches Riprap structures	Designated Federal Wilderness Areas	Archeological and cultural sites a Federal or State government agency identifies and protects.
Riverine Environments: Gravel bars and gently sloping banks Riprap structures	Federal or State designated Scenic or Wild River	Native lands.
6 points	6 points	
Estuarine and Lacustrine Environments: Mixed sand and gravel beaches	State land designated for protecting and maintaining aquatic life	Resource extraction sites, such as subsistence sites, commercial fisheries areas, aquaculture sites, reservoirs, and other water resource areas.
5 points	5 points	
Estuarine Environments: Coarse-grained sand beaches	State land designated to manage wildlife or game	High recreational use areas: National Recreational Areas. National Monuments.
Lacustrine Environments: Sand beaches		Sandy bars and gently sloping banks
4 points	4 points	
Estuarine Environments: Fine-grained sand beaches	State designated natural areas	
Lacustrine Environments: Eroding scarps in unconsolidated sediment	National Forest System	
Riverine Environments: Exposed, eroding banks in unconsolidated sediments		
3 points	3 points	
Estuarine Environments: Wave-cut platforms in bedrock		
Lacustrine Environments: Shelving bedrock shores		
Riverine Environments: Rocky shoals, bedrock ledges		
2 points		
Estuarine Environments: Exposed rocky shores Exposed seawalls		
Lacustrine Environments: Exposed rocky cliffs Exposed, hard man-made structures		
Riverine Environments: Exposed rocky banks Vertical, solid revetments		
1 point		

TABLE 3.—CRITERIA BEING CONSIDERED FOR DETERMINING UNUSUALLY SENSITIVE AREAS ALONG SMALL RIVERS AND LAKES, STREAMS, PONDS, ETC.

Biological resource areas	Human use resource areas
Critical habitats for Federally designated Endangered or Threatened Species as defined in 50 CFR 424.02 10 points	
Critical areas identified under the Clean Lakes Program	
Sensitive areas identified under National Estuary Program or Near Coastal Waters Program	

TABLE 3.—CRITERIA BEING CONSIDERED FOR DETERMINING UNUSUALLY SENSITIVE AREAS ALONG SMALL RIVERS AND LAKES, STREAMS, PONDS, ETC.—Continued

Biological resource areas	Human use resource areas
<p>9 points Habitats Federal or State designated Endangered or Threatened Species are known to use Spawning areas critical for maintaining fish or shellfish</p> <p>8 points National Sanctuaries</p> <p>National and State Wildlife Refuges National Wildlife Management Areas Terrestrial areas large or dense groups or numbers of animals use to breed</p> <p>7 points Designated Federal Wilderness Areas</p> <p>Federal or State designated Scenic or Wild River</p> <p>6 points State land designated for protecting and maintaining aquatic life</p> <p>Research natural areas.</p> <p>5 points State land designated to manage wildlife or game</p> <p>4 points State designated natural areas National Forest System</p> <p>3 points</p>	<p>Officially designated natural resource management areas: National Parks. National Conservation Areas. Natural Heritage Areas. National Preserves and Reserves.</p> <p>7 points Archeological and cultural sites a Federal or State government agency identifies and protects. Native lands.</p> <p>6 points Resource extraction sites, such as subsistence sites, commercial fisheries areas, aquaculture sites, reservoirs, and other water resource areas.</p> <p>5 points High recreational use areas: National Recreational Areas. National Monuments. State Parks.</p> <p>4 points</p>

TABLE 4.—CRITERIA BEING CONSIDERED FOR DETERMINING UNUSUALLY SENSITIVE WITHIN TERRESTRIAL ENVIRONMENTS

Biological resource areas	Human use resource areas
<p>Critical habitats for Federally designated Endangered or Threatened Species as defined in 50 CFR 424.02</p> <p>10 points Habitats Federal or State designated Endangered or Threatened Species are known to use Spawning areas critical for maintaining fish or shellfish</p> <p>8 points National Sanctuaries National and State Wildlife Refuges National Wildlife Management Areas Terrestrial areas large or dense groups or numbers of animals use to breed</p> <p>7 points Designated Federal Wilderness Areas</p> <p>6 points Research natural areas</p> <p>5 points State land designated to manage wildlife or game</p> <p>4 points State designated natural areas National Forest System</p> <p>3 points</p>	<p>Officially designated natural resource management areas: National Parks. National Conservation Areas. Natural Heritage Areas. National Preserves and Reserves.</p> <p>7 points Archeological and cultural sites a Federal or State government agency identifies and protects. Native lands.</p> <p>6 points High recreational use areas: National Recreational Areas. National Monuments. State Parks.</p> <p>4 points</p>

[FR Doc. 95-12964 Filed 5-25-95; 8:45 am]
BILLING CODE 4910-60-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-day Finding for a Petition To List the Wood Turtle (*Clemmys insculpta*) as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day finding for a petition to list the wood turtle (*Clemmys insculpta*) as a threatened species throughout its historic range in the coterminous United States under the Endangered Species Act of 1973, as amended. The Service finds that the petition does not present substantial scientific or commercial information indicating that listing this species may be warranted.

DATES: The finding announced in this document was made on May 16, 1995.

ADDRESSES: Submit data, information, comments or questions concerning this petition to the Field Supervisor, New England Field Office, U.S. Fish and Wildlife Service, 22 Bridge Street, Concord, New Hampshire 03301. The petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Michael Amaral at the above address (603-225-1411); Paul Nickerson at U.S. Fish and Wildlife Service, Regional Office, 300 Westgate Center Drive, Hadley, Massachusetts 01035 (telephone 413-253-8615); or Robert Adair, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota, 55111 (telephone 612-725-3500).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. This finding is to be based on all information available to the

Service at the time. To the maximum extent practicable, this finding is to be made within 90 days of receipt of the petition, and the finding is to be published promptly in the **Federal Register**.

The Service has made a 90-day finding on a petition to list the wood turtle (*Clemmys insculpta*) as threatened and to determine critical habitat. The petition, dated December 27, 1994, was submitted to the Service by Restore The North Woods of Concord, Massachusetts, the Biodiversity Legal Foundation, and six individual co-petitioners and was received by the Service on December 29, 1994. In a letter dated January 10, 1995, Restore provided two additional documents to the petition record. This information was received by the Service on January 12, 1995. The petitioners contend that the species has undergone a precipitous decline throughout its range, that there are a number of threats to the species which will cause further declines, and, therefore, that urgent protective measures are necessary.

The Service has carefully reviewed the petition, the literature cited in the petition, recent information submitted by State wildlife agencies and other knowledgeable individuals, and all other information currently available in the Service's files. On the basis of the best scientific and commercial information available, the Service finds the petition does not present substantial information that listing this species may be warranted. This finding is based on the inadequacy of existing data to support the contention that the wood turtle has undergone rangewide decline or that the threats identified in the petition are affecting wood turtle populations across all or a significant portion of its range to the extent that the species is likely to become an endangered species in the foreseeable future.

The following is a summary of the information available on the species' current status. The wood turtle occurs in all of the States within its recent historic range (colonial settlement to present); appears to be well distributed within a number of those States, i.e., Connecticut, Pennsylvania, Maine, Vermont, Maryland, Massachusetts and New York; and is considered as threatened or endangered by State wildlife agencies in only 5 of the 17 States in which it occurs.

The petitioners stated that habitat loss and fragmentation, nest and hatchling predation, and collection for commercial markets, as well as other factors, have resulted in the wood turtle being "biologically threatened in its

native habitat in the United States" (Restore *et. al.* 1994). However, information submitted by the petitioners and information otherwise available to the Service indicate that the status of the wood turtle is not sufficiently known for a significant portion of its range to determine the species' current, versus historic, distribution. Similarly, inadequate data was provided to determine whether the threats identified for specific study populations cited in the petition are likely to be causing rangewide declines in wood turtle populations.

Wood turtles continue to be widespread in a number of States, with viable populations reported from rural areas. In other States, numerous wood turtle occurrence records are reported but population and distribution data are insufficient to substantiate the need for State listing as threatened or endangered. Thus, the wood turtle is not State-listed as threatened or endangered throughout the majority of its range in the United States (Northeast Nongame Technical Committee 1994).

The petitioners presented information on the international trade in turtles of the genus *Clemmys*, as well as the domestic trade in wood turtles. This species was added to Appendix II of the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) on June 11, 1992. While addition to Appendix II does not prohibit all international trade in wood turtles, it does provide a means for strict regulation of trade in order to avoid use incompatible with the species' survival in the wild. The Service shares the concern of the petitioners that natural populations cannot sustain indefinitely the removal of adult, breeding-age turtles for the domestic commercial pet market. However, the Service finds that the petition fails to present substantial information indicating that the current commercial trade in wood turtles is so extensive that it threatens the species' existence across its range. The Service notes that with one exception, New Hampshire, all States within the range occupied by the wood turtle now have laws either prohibiting or severely restricting the collection of wood turtles from the wild for commercial trade. The State of New Hampshire is currently drafting rules that will limit the collection of wood turtles to educational and scientific purposes (James DiStefano, New Hampshire Department of Fish and Game, *in litt.*, 1995).

The petition provides information that some wood turtle populations are subject to high levels of predation on eggs, hatchlings and adult turtles. Raccoon, skunk, opossum, and fox are