welcome. We anticipate interested parties to include: the home health agency (HHA) industry association representatives, HHA administrators and owners, home care professionals, university-based and private research organizations, Congressional members and staff, home care software vendors, beneficiary advocates, and any other interested parties.

In this meeting, we will provide an overview of the HH PPS proposed rule and will focus on a number of its key components and present past and current research efforts related to the HH PPS.

This meeting will be broadcast live from the HCFA Central Office Main Auditorium and will include three satellite broadcast viewing sites in Boston, Chicago, and Dallas. All four sites have a capacity of approximately 500 individuals. The audiences viewing the broadcast via satellite will have the ability to participate in the question-and-answer period at the end of this presentation. For those who cannot attend in Baltimore, the address of the downlink sites, registration information, and satellite coordinates for this presentation will be posted on the HCFA website www.hcfa.gov. Once individuals are on this website, they will need to highlight the red bullet, in the lower right hand corner, titled ''Events, Meetings, and Workgroups.''

The meeting will conclude with a question-and-answer session including the HCFA Central Office location as well as the three-satellite downlink sites. The toll-free phone number to call to participate will be broadcast during the meeting.

At the conclusion of the satellite broadcast, a 2-hour listening session is planned for participants in Baltimore only in the HCFA Central Office Main Auditorium during which time we will listen to concerns related to home health issues in general. This is a listening session only and not part of the HH PPS overview presentation.

In order to participate in the general home health listening session, individuals must sign up at 10 a.m. on the day of the town hall meeting. Presenters will be limited to the first 20 people who sign up. A sign up sheet will be available outside of the HCFA Main Auditorium. Individuals must limit their presentation to 3 minutes in length. We also ask that the oral presenters provide their statements in writing. Individuals who are unable to present oral statements may submit their statements in writing. We believe this will enable us to better consider all the concerns raised during this general home health listening session.

While the meeting is open to the public, attendance is limited to space available. Individuals must register in advance as described below.

Registration

AFYA Inc. will handle registration for all four meeting sites. Individuals must register following the directions posted on the HCFA website, www.hcfa.gov. Once individuals are on this website, they will need to highlight the red bullet, in the lower right hand corner, titled ''Events, Meetings, and Workgroups.''

Each participant will receive a confirmation letter as receipt of registration. Each participant will be provided with a meeting agenda at the time of the meeting. If individuals have any questions regarding registration, they should contact the AFYA Event Management Help Desk at (800) 377–9921.

Authority: Section 1895 of the Social Security Act (42 U.S.C. 1395fff).

Dated: October 21, 1999.

Michael M. Hash,

Deputy Administrator, Health Care Financing Administration.

[FR Doc. 99–27995 Filed 10–25–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3730, 3820, 3830, 3840, and 3850

[WO–620–1430–00–24 1A]

RIN 1004–AD31

Locating, Recording, and Maintaining Mining Claims or Sites

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: In response to requests from the public, the Bureau of Land Management (BLM) is extending the comment period on the proposed rule to amend regulations on locating, recording, and maintaining mining claims or sites. You may comment on this rule for an additional 90 days.

DATES: You should submit your comments on the proposed rule by January 24, 2000. In developing a final rule, BLM may not consider comments postmarked or received in person or by electronic mail after this date.

ADDRESSES: If you want to comment, you may:

(1) Hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, N.W., Washington, D.C.;

(2) Mail comments to: Bureau of Land Management, Administrative Record, Room 401 LS, 1849 C St., N.W., Washington, D.C. 20240; or

(3) Send comments by way of the Internet to: WOComment@blm.gov. If you submit your comments electronically, please submit them as an ASCII file to minimize computer problems and include ''Attn: AD31'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 452–0350.

You may review the public comments received on the proposed rule at BLM's Regulatory Affairs Group office, 1620 L St., N.W., Room 401, Washington, D.C., during regular business hours (7:45 am to 4:15 pm) Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Roger Haskins in the Solid Minerals Group at (202) 452–0355 or Ted Hudson in Regulatory Affairs at (202) 452–5042. For assistance in reaching the above contacts, individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–(800) 877–8339 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION: The original proposed rule appeared in the **Federal Register** on August 27, 1999 (64 FR 47023). The initial comment period expires on October 26, 1999.

Dated: October 20, 1999.

Sylvia V. Baca,

Assistant Secretary of the Interior—Designate.

[FR Doc. 99–27870 Filed 10–25–99; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3800

[WO–300–1990–00]

RIN 1004–AD22

Mining Claims Under the General Mining Laws; Surface Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Supplemental proposed rule; reopening of comment period on draft environmental impact statement.

SUMMARY: The Bureau of Land Management (BLM) announces the reopening of the comment period on our

surface management proposed rule (43 CFR part 3809) and the associated draft environmental impact statement (EIS). We are taking this action to carry out a provision of a recently enacted law requiring us to reopen the comment period on the proposed rule. This action enables the public and other interested parties to comment on the proposed rule and the draft EIS following publication of a report by the National Academy of Sciences (NAS) on hardrock mining on Federal lands. We are supplementing the proposed rule with recommendations from the NAS study and raising some related topics. And, we are responding to comments on our estimate of burden hours associated with the proposed rule.

DATES: Send your comments to reach BLM by February 23, 2000.

ADDRESSES: You may mail comments to Bureau of Land Management, Administrative Record, Nevada State Office, PO Box 12000, Reno, Nevada 89520–0006. You may hand-deliver comments to BLM at 1340 Financial Boulevard, Reno, Nevada 89520. Submit electronic comments and other data to WOComment@blm.gov. For other information about filing comments electronically, see the **SUPPLEMENTARY INFORMATION** section under ''Electronic access and filing address.''

FOR FURTHER INFORMATION CONTACT: Robert M. Anderson, 202/208–4201; or Michael Schwartz, 202/452–5198. Individuals who use a telecommunications device for the deaf (TDD) may contact us through the Federal Information Relay Service at 1–800/877–8339.

SUPPLEMENTARY INFORMATION:

I. How Can I Comment on the Proposed Rule and draft EIS?
II. Why is BLM Reopening the Comment Period?
III. How Can I Obtain a Copy of the National Academy of Sciences Report?
IV. Which NAS Recommendations Identify Regulatory Gaps?
V. How Would BLM Regulate the Use of Suction Dredges?
VI. How Does BLM Define Certain Terms Used in this Subpart?
VII. Under What Circumstances May an Operator Not Begin Operations 15 Business Days After Filing a Notice?
VIII. How Would BLM Pay for Interim Site Care and Maintenance Until We Issue a Reclamation Contract?
IX. Would BLM Allow State Director Review of Decisions?
X. How Did BLM Meet its Procedural Obligations?

I. How Can I Comment on the Proposed Rule and Draft EIS?

Electronic Access and Filing Address

You may view an electronic version of this supplemental proposed rule; the February 9, 1999, proposed rule; and the draft EIS on BLM's Internet home page: www.blm.gov. You may also comment via the Internet to: WOComment@blm.gov. Please also include ''Attention: RIN 1004-AD22'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, call us directly at 202/452–5030.

Written Comments

Your written comments on the proposed rule or draft EIS should be specific and confined to issues pertinent to the proposed rule, and explain the reason for any recommended change. Where possible, you should reference the specific section or paragraph of the proposed rule or draft EIS that you are addressing. Refer to the February 9, 1999, proposed rule (64 FR 6422) or the February 17, 1999 notice of availability of the draft EIS (64 FR 7905) for detailed information.

You need not re-submit comments that you sent us previously. We will consider comments submitted during the previous comment period, as well as comments submitted during this new comment period, when we prepare the final rule and final EIS.

We are not required to consider, or include in the Administrative Record for the final rule, comments that we receive after the close of the comment period (See **DATES**) or comments delivered to an address other than those listed above (See **ADDRESSES**).

BLM will make comments, including names, street addresses, and other contact information of respondents, available for public review at our Nevada State Office (See **ADDRESSES**) during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except Federal holidays. We will also make comments available at our Washington, DC office, 1620 L Street, NW, Room 401, during regular business hours (8 a.m. to 4:30 p.m.), Monday through Friday, except Federal holidays.

Requests for Confidentiality

Individuals who send us comments on the proposed rule may request confidentiality. If you wish to request that BLM consider withholding your name; street address; and other contact information, such as Internet address, FAX or phone number from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. We will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. We will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

II. Why is BLM Re-Opening the Comment Period?

On February 9, 1999, we published in the **Federal Register** a proposed rule to revise the regulations governing mining operations involving metallic and some other minerals on public lands administered by BLM. See 64 FR 6422. We call these regulations the surface management regulations. They are located in subpart 3809 of part 3800 of Title 43 of the Code of Federal Regulations (43 CFR Part 3800, subpart 3809). For this reason, they are also called the ''3809'' regulations. The comment period opened on February 9, 1999, and closed on May 10, 1999. We issued the notice of availability for the draft environmental impact statement (EIS) that analyzes the potential impacts of the 3809 regulations on February 17, 1999 (64 FR 7905). The comment period on the draft EIS also closed on May 10, 1999.

In the 1998 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Pub. L. 105–277, sec. 120(a)), Congress directed BLM to pay for a study by the National Academy of Sciences (NAS) Board on Earth Sciences and Resources. The study was to examine the environmental and reclamation requirements relating to mining of locatable minerals on Federal lands and the adequacy of those requirements to prevent unnecessary or undue degradation of Federal lands in each State in which such mining occurs. The law directed NAS to complete the study by July 31, 1999.

In the 1999 Emergency Supplemental Appropriations Act (Pub. L. 106–31, sec. 3002), Congress prohibited the Department of the Interior from completing its work on the February 9, 1999, proposed rule and issuing a final rule until we provide at least 120 days for public comment on the proposed rule after July 31, 1999. The NAS has now completed and published its study, entitled, ''Hardrock Mining on Federal Lands.'' Accordingly, we are reopening the comment period on the proposed rule for 120 days. This action will allow the public to comment on the proposed

rule in the context of the NAS report. In addition, we are reopening the comment period on the associated draft EIS for the same period.

III. How Can I Obtain a Copy of the National Academy of Sciences Report?

The National Academy of Sciences has posted the report on its Internet site. The address is *www.nap.edu/catalog/9682.html.* You can request a paper copy of the report by contacting NAS at National Academy of Sciences, Board on Earth Sciences and Resources, 2101 Constitution Avenue, NW, Washington, DC 20418; telephone: 202/334–2744. If you gave BLM an address with your comment on the proposed rule, draft EIS, or during the scoping process for the EIS, BLM has already arranged for NAS to mail you a copy of the study; you need not request another copy.

IV. Which NAS Recommendations Identify Regulatory Gaps?

The NAS study contains a number of recommendations for the coordination of Federal and State regulations to ensure environmental protection, increase efficiency, avoid duplication and delay, and identify the most cost-effective manner for implementation. Some of the recommendations are directed at BLM's regulatory framework. Others are aimed at the Forest Service, at changes in laws, or at areas that are not regulatory in nature, such as the recommendation to create a management information system.

BLM is carefully considering *all* of the NAS recommendations and seeks public comment on their validity and relevance to the proposed rule. Because the baseline for the study was the existing regulatory framework rather than the revisions to that framework that we proposed on February 9, 1999 (64 FR 6422), some of the NAS recommendations that are directed at BLM's regulatory framework overlap with the 3809 proposed rule.

In the interest of full and informed public comment on the proposed rule, we are including in this supplemental proposed rule those NAS recommendations that identify gaps in the existing regulations. This notice contains the verbatim text of the 3809-related NAS recommendations that identify regulatory gaps, along with explanatory material that highlights areas where we are particularly interested in receiving public comment. By doing so, we don't prejudge the validity of the NAS recommendations, and we reserve the right to adopt, modify, or decline to adopt any NAS recommendation. Under the Administrative Procedure Act, we must provide the public with adequate notice and an opportunity to comment on proposed regulatory changes (5 U.S.C. 553). Therefore, we are notifying you that we are considering one or more of the NAS recommendations and asking you for comments.

NAS Recommendation: ''Financial assurance should be required for reclamation of disturbances to the environment caused by all mining activities beyond those classified as casual use, even if the area disturbed is less than five acres.''

Request for Comments: Our 3809 proposed rule would require a financial guarantee for any operation greater than casual use. See proposed § 3809.552(a). BLM and the NAS study agree that lack of financial guarantee for notice-level operations constitutes a gap in the current rules.

However, the NAS study and the 3809 proposed rule differ concerning how financial guarantee amounts should be established. The NAS study recommends that we establish ''standard bond amounts'' for certain types of activities in specific kinds of terrain, especially for the activities of prospectors, small exploration companies, and small miners. According to the NAS study, BLM should use these standard bond amounts, which would be in the form of a certain number of dollars per acre of land disturbed, instead of detailed calculations of bond amounts based on the engineering design of a mine or mill. The 3809 proposed rule would base financial guarantee amounts on the estimated reclamation cost as if BLM were to contract with a third party to reclaim an operation following the requirements of the reclamation plan. See proposed § 3809.552(a).

We specifically request comments on whether standard bond amounts would be preferable to actual-cost financial guarantees. We are particularly interested in comments on how the standard amounts should be set; that is, should we base them on standard industry cost estimating manuals, recent actual cost experience, certified estimates from third-party professional engineers, or on something else. The BLM regulation that was remanded by the Federal courts in May 1998 set minimum standard bond amounts of $1,000 per acre (or fraction thereof) for notices and $2,000 per acre (or fraction thereof) for plans of operations. We would also like comments on whether and under what circumstances departures from the standard bond amounts (up or down) are appropriate.

NAS Recommendation: ''Plans of operations should be required for mining and milling operations, other than those classified as casual use or exploration activities, even if the area disturbed is less than five acres.''

Request for Comments: This recommendation reflects the NAS observation that unnecessary or undue degradation occurs on some notice-level mining operations. Our 3809 proposal agrees that this is a problem and contained two options for addressing it. Proposed § 3809.11 (Alternative 1) would limit use of notices by requiring a plan of operations where, among other things, operations involve leaching or use of chemicals (proposed § 3809.11(f)) or are in national monuments and national conservation areas administered by BLM (proposed § 3809.11(j)(7)). Proposed § 3809.11 (''Forest Service'' Alternative) would limit use of notices by requiring a plan of operations whenever there is ''significant disturbance of surface resources,'' regardless of the size of the disturbance.

The NAS recommendation, if adopted by BLM into the 3809 regulations, would have the effect of requiring a plan of operations for all mining and milling operations regardless of the size of the disturbance, thereby limiting notices to exploration activities. This approach is somewhat different from the two options in our proposal. We are asking the public specifically to comment on incorporating this NAS recommendation into the 3809 regulations; that is, whether we should limit the use of notices to exploration activities and require plans of operations for all other mining and milling operations, regardless of the size of the disturbance. We are particularly interested in comments on what activities we should consider ''exploration'' and eligible for a notice. For example, the NAS study specifically mentions ''bulk sampling,'' which it identifies as extraction of 10 to 1,000 tons or more of presumed ore, as a kind of advanced exploration activity that should generally be authorized by a plan of operations, not a notice.

In addition to the two options in our proposal and the NAS recommendation discussed above, BLM is also considering another option, namely, to require an operator to file a plan of operations if BLM determines that proposed notice-level operations may adversely affect proposed or listed threatened or endangered species or their designated critical habitat. This approach would not be as restrictive as the NAS recommendation, but would limit the use of notices to a greater degree than that allowed under Alternative 1 of the proposed rule. In

these circumstances, BLM could work to comply with the Endangered Species Act through a programmatic agreement with the appropriate agency, either the Fish and Wildlife Service or the National Marine Fisheries Service. We specifically request comments on this issue.

NAS Recommendation: ''BLM and the Forest Service should revise their regulations to provide more effective criteria for modifications to plans of operations, where necessary, to protect the federal lands.''

Request for Comments: NAS based this recommendation on comments it received that expressed concern about the ability of BLM and the Forest Service to require modifications of plans of operations in light of new circumstances or information, such as acid drainage, problems with water balance, adequacy of approved containment structures, mine closure, or discovery of impacts on wells and springs. We agree with this concern that the ability to require operators to make necessary modifications is essential to prevent unnecessary or undue degradation, and for this reason, we included provisions addressing this issue in our 3809 proposal. See proposed §§ 3809.430 to 3809.432.

The NAS study also raised the issue of whether our regulations should require a periodic review or reopening of plans of operations as a way of addressing changes in the operation or new information that may arise. We specifically request comments from the public on whether we should require this type of periodic review of plans of operations, and if so, what the interval between reviews should be, that is, one year, two years, five years, or longer.

NAS Recommendation: ''BLM and the Forest Service should adopt consistent regulations that (a) define the conditions under which mines will be considered to be temporarily closed; (b) require that interim management plans be submitted for such periods; and (c) define the conditions under which temporary closure becomes permanent and all reclamation and closure requirements must be completed.''

Request for Comments: NAS based this recommendation on the fact that temporary closures as a result of low mineral prices may cause environmental problems if appropriate management measures are not undertaken. The NAS study takes the position that land management agencies need to have the authority to require an operator to close a mine properly, rather than allowing it to remain in limbo if poor market conditions persist.

We agree with this concern, and our proposal contains provisions applicable to notices and plans of operations that would require an operator who stops conducting operations for any period of time to maintain public lands within the project area in a safe and clean condition, prevent unnecessary or undue degradation, and maintain an adequate financial guarantee. See proposed §§ 3809.334 and 3809.424. If the period of non-operation is likely to cause unnecessary or undue degradation, these provisions allow BLM to require the operator to take all steps necessary to prevent unnecessary or undue degradation and require the operator to remove all structures, equipment, and other facilities and reclaim the project area. In the case of plans of operations, our 3809 proposed rule would allow BLM to review operations that are inactive for 5 consecutive years to determine if we should terminate the plan of operations and direct final reclamation and closure. We also proposed a number of provisions to address abandonment of operations and forfeiture of financial guarantee. See, for example, proposed §§ 3809.424(a)(4) and 3809.595 through 3809.599.

We are interested in receiving public comments on whether we should define the conditions under which we will consider mines to be temporarily closed, and if so, how. Proposed §§ 3809.334(b)(2) and 3809.424(a)(2) use the term ''extended period of non-operations for other than seasonal operations.'' We intended that the field staff have some flexibility in applying this concept. An alternative approach would be to specify an appropriate period of time after which we would consider an inactive operation to be temporarily closed, such as 90 days, 180 days, one year, or longer.

With regard to the NAS recommendation that we require an interim management plan for periods of temporary closure, we would like public comment on whether this requirement would be a significant burden and on what should be included in the interim management plan, such as security measures to protect the public and wildlife from danger, erosion control measures, water treatment plans, waste disposal, equipment removal, and the like.

We would also like public comments on the NAS recommendation that we define the conditions under which temporary closure becomes permanent and triggers final reclamation and closure. Under proposed § 3809.424(a)(3), we would review plans of operations (but not notice-level operations) after five consecutive years of inactivity. We do not view this proposed provision as precluding us from reviewing operations after shorter periods of inactivity, if circumstances warrant. Other approaches might include requiring periodic review or reopening of plans of operations regardless of whether the operation is inactive or not, as discussed above, or using indicators of potential future site activity, such as the presence of equipment or maintenance work on facilities and structures, to guide us in determining whether a temporarily closed operation should be permanently closed.

NAS Recommendation: ''Federal land managers in BLM and the Forest Service should have both (1) authority to issue administrative penalties for violations of their regulatory requirements, subject to appropriate due process, and (2) clear procedures for referring activities to other federal and state agencies for enforcement.''

Request for Comments: The NAS bases this recommendation on the fact that the existing 3809 regulations require BLM field staff to seek a court injunction to compel an operator to respond to a notice of noncompliance—an often slow and lengthy process. The NAS study takes the position that administrative penalties are a credible and expeditious means to secure compliance. We agree with the NAS concern, and our proposal included provisions outlining enforcement actions and administrative penalties. See §§ 3809.600 through 3809.604 and 3809.700 through 3809.703. We included due process provisions in our appeals section, proposed § 3809.800. We also proposed to address the issue of coordination of enforcement efforts with State agencies through our Federal/State Agreements provisions. See, for example, proposed §§ 3809.201 and 3809.202.

We request public comments on whether, in light of the NAS recommendation, we should have additional enforcement and penalty provisions.

NAS Recommendation: ''BLM and the Forest Service should plan for and assure the long-term post-closure management of mine sites on federal lands.''

Request for Comments: The NAS study based this recommendation on the view that current regulatory programs have only recently focused on post-closure management needs of mine sites on Federal lands. According to the NAS study, Federal land managers and those conducting operations on Federal lands

should address the following management requirements for each site:

- Measures needed to preserve future mineral access;
- Residual public safety hazards and the need for fences, signs, and other features that must be periodically checked and maintained;
- Measures needed to assure the integrity of closed waste units, including the monitoring of tailings pond caps and waste rock and leach pad covers and their possible repair because of erosion or other failure, and the checking of adit plugs for continued effectiveness;
- Long-term environmental monitoring required to assure that the site remains stable and does not become a source of off-site contamination and the implementation of appropriate corrective measures;
- The operation and maintenance of any water treatment facilities required to maintain water quality compliance of the site over the long term; and
- A financial assurance to ensure implementation of these post-closure management requirements.

The NAS study also highlighted the importance of ensuring funding for long-term or perpetual water treatment facilities.

We agree with this concern, and our proposed rule addresses this issue in a number of ways. For example, we are proposing to require operators to establish a trust fund or other funding mechanism, where BLM identifies the need for it, to ensure continuing long-term treatment to achieve water quality standards and for other long-term, post-mining maintenance requirements. See proposed § 3809.552(c). The 3809 proposal would also put operators and mining claim holders on notice that they are jointly and severally liable for obligations that accrue while they held their interests, and that relinquishment, forfeiture, or abandonment of a mining claim doesn't relieve them of their responsibility. See proposed § 3809.116. We also propose that bond release wouldn't release mining claimants or operators from their reclamation obligation. See proposed § 3809.592. BLM believes that, taken together, these proposed provisions would provide funding for, and address the issue of responsibility for, long-term post-closure management. As the NAS study points out, however, there may be a need for additional measures. For this reason, we invite public comment on whether the 3809 regulations should incorporate any of the specific measures identified by the NAS study and listed above, and require, for example, that an operator address them in a post-mine closure plan that BLM would have to approve before release of the financial guarantee.

V. How Would BLM Regulate the Use of Suction Dredges?

This part of the supplemental proposed rule clarifies the intent and meaning of the February 9, 1999 proposed rule and discusses two additional options for regulating the use of suction dredges. Proposed § 3809.11(h) (Alternative 1) contains provisions that would regulate the use of suction dredges. We believe, based on several comments we received, that confusion may exist about the intent and meaning of those proposed provisions. For this reason, we want to clarify that for portable suction dredges with an intake diameter of more than 4 inches, BLM proposed that an operator would have to submit to BLM a notice or plan of operation, whichever is appropriate.

Under the proposal, if operations involve the use of a portable suction dredge with an intake diameter of 4 inches or less, the operator would not have to submit to BLM a notice or plan of operations if two conditions were met. First, the State would have to give some sort of authorization to use the dredge, such as a permit. Second, BLM and the State would have to have a written agreement under which BLM agrees that the State will authorize the use of dredges. Both conditions would have to be met. In cases where a State does not regulate suction dredges, an operator would have to submit to BLM a notice or plan of operations, whichever is appropriate, regardless of the size of the dredge.

The proposal would continue current policy that use of a portable suction dredge is not casual use. The Interior Board of Land Appeals has ruled that suction dredges fall within the definition of ''mechanized earth moving equipment'' at 43 CFR 3809.0–5, which are specifically not considered casual use. See *Pierre J. Ott*, 125 IBLA 250, and *Lloyd L. Jones*, 125 IBLA 94. We hope this clarifies what we meant in the February 9, 1999, proposal and encourage the public to comment on it again.

Also in response to comments on the proposed rule, we want to identify two options that we are considering and request public comment on them. We are considering adopting provisions that would enable an operator to use a portable suction dredge under a State authorization regardless of the size of the dredge. That is, instead of deferring to State regulation only when the dredge is under 4 inches, as originally proposed, we would allow an operator to use any size dredge if it was regulated by the State and the State and BLM have an agreement to this effect. This option would constitute a relaxation of the original proposal.

The other option we are considering is to require a plan of operations for the use of a portable suction dredge, regardless of intake diameter, when the dredge would be used in a waterway that supports species of fish that are listed, or proposed to be listed, as threatened or endangered under the Endangered Species Act. This option is intended to prevent impacts to fish populations and their spawning grounds or nests and represents an incremental tightening of the original proposal. We request public comment on these two options. A final rule could incorporate one or both of these options.

VI. How Does BLM Define Certain Terms Used in This Subpart?

In our proposed definition of ''casual use,'' we said that casual use doesn't include use of motorized vehicles in areas designated as ''closed'' to off-road vehicles (proposed § 3809.5). This means that if an operator planned to use an off-road vehicle in a closed area, the operator would have to file a notice or proposed plan of operations, whichever is appropriate. We would like to clarify that this wouldn't mean that use of off-road vehicles in areas designated as ''open'' or ''limited'' is totally unrestricted. Use of off-road vehicles is regulated under BLM's existing regulations. See 43 CFR part 8340. Generally, off-road vehicle use is permitted on those areas and trails designated as open to off-road vehicle use; however, any person operating an off-road vehicle on those areas and trails designated as ''limited'' must conform to all restrictions applicable to those areas and trails. To make this clear, the final rule could include a cross-reference to BLM's off-road vehicle regulations.

VII. Under What Circumstances May an Operator Not Begin Operations 15 Business Days After Filing a Notice?

Under proposed § 3809.313, an operator couldn't begin operations 15 business days after filing a notice in certain circumstances, including if BLM determines that an on-site visit is necessary (proposed § 3809.313(d)). We would like to clarify that if BLM determined that a site visit is necessary to determine if a proposed or listed threatened or endangered species is present or would be affected by the planned operation, we would notify the operator not to begin operations until

the site visit could take place and BLM could make its determination.

VIII. How Would BLM Pay for Interim Site Care and Maintenance Until We Issue a Reclamation Contract?

Proposed § 3809.552 addresses what an individual financial guarantee must cover. Based on our experience with recent bond forfeitures, we believe it is important to extend the provisions of that section to cover situations where interim site care and maintenance is necessary while BLM or a State regulator is developing and executing third-party reclamation contracts. For example, when an operator forfeits a financial guarantee, the site of operations is rarely reclaimed. BLM or the State regulatory must arrange for a third-party contractor to complete reclamation. This process takes time, during which site conditions usually deteriorate. We need the ability to quickly redeem a portion of the financial guarantee to fund interim site care and maintenance until the reclamation contract takes effect so as to prevent adverse environmental impacts. This is consistent with concerns expressed in the NAS study about mine closures.

We are including in this reopening notice proposed revisions to previously proposed § 3809.552. The revisions would require the financial guarantee to cover any interim stabilization and infrastructure maintenance costs needed to maintain the area of operations in compliance with applicable environmental requirements while third-party reclamation contracts are being developed and executed. We would also require that the portion of the financial guarantee set aside for this purpose be immediately redeemable by BLM. See the proposed regulatory language at the end of this notice.

In addition, recent events at at least one closed mine make it advisable to clarify that our current policy is that a surety continues to be responsible for obligations that accrue while the surety's bond is in effect, unless a suitable replacement bond or other financial guarantee would cover those obligations. Even if a surety wishes to cancel the bond or other financial guarantee, the surety would remain responsible following the cancellation for obligations that accrue while the surety held the bond, unless a subsequent bond or other financial guarantee covers those obligations.

IX. Would BLM Allow State Director Review of Decisions?

Section 3809.800(a) of the February 9, 1999, proposed rule would allow any person adversely affected by a decision made under the 3809 regulations to appeal the decision to the Interior Board of Land Appeals (IBLA). See 64 FR 6468. The proposal also stated that review of a decision by the BLM State Director would take place if consistent with part 1840 of Title 43, Code of Federal Regulations. Currently, part 1840 does not authorize State Director review.

It may be in the best interest of operators and other affected parties to have the opportunity to pursue a possibly shorter appeals avenue than that provided by IBLA. We are proposing adding provisions to subpart 3809 that would allow both operators and other adversely affected parties the option of appealing first to the BLM State Director. This would not be a mandatory step, and a party could proceed directly to the IBLA if he or she so chooses. If an appeal is filed with the BLM State Director, the State Director would have 7 business days from receipt of the appeal to decide whether to consider it. If so, the State Director would follow the procedures referenced in part 1840. If an affected party appeals to the State Director and another affected party appeals to IBLA, then the State Director would defer to IBLA. Affected parties would have the right to appeal the State Director's decision to IBLA. We request comment from the general public and the regulated industry on whether allowing the option of appealing to the BLM State Director would be beneficial.

X. How Did BLM Meet Its Procedural Obligations?

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires a regulatory agency to evaluate each proposed rule and consider alternatives that would minimize the rule's impact on small entities (5 U.S.C. 601–612). However, the RFA ''does not require that agencies necessarily minimize a rule's impact on small entities if there are significant legal, policy, factual, or other reasons for the rule's having such an impact.'' (The Regulatory Flexibility Act: An Implementation Guide for Federal Agencies, U.S. Small Business Administration, Office of Advocacy, Washington, DC, 1998, p. 12).

The RFA permits the head of a federal agency to forego the preparation of an initial regulatory flexibility analysis (IRFA) upon a written certification that a rule will not have a ''significant economic impact on a substantial number of small entities'' (SBA, p. 22). In addition, ''* * * if an agency is uncertain of the impact, it is recommended that the agency err on the side of caution and perform an IRFA with the available data and information, and solicit comments. * * * Then if appropriate the agency can certify on the final rule'' (SBA, p. 23).

In our February 9, 1999, proposed rule, we determined under the RFA that the proposed rule would not have a significant economic impact on a substantial number of small entities (64 FR 6449). We reached this initial conclusion on the basis of the initial regulatory flexibility analysis (IRFA) we prepared for the proposed rule. Under the RFA, an agency must publish and make available for public comment an IRFA, unless the agency can certify based on a preliminary assessment or threshold analysis that the proposed rule will not have a significant economic impact on a substantial number of small entities. The IRFA describes the impacts of the proposed alternatives on small entities and describes any alternatives that would minimize the impact while accomplishing the stated objectives. BLM released an IRFA with the proposed rule on February 9, 1999. The comment period for this IRFA ended May 10, 1999. We are reopening it for 120 days. BLM's analysis of the public record developed in connection with the proposed rule will help it determine whether or not the final version of the rule will have a significant economic impact on a substantial number of small entities. A final regulatory flexibility analysis will be prepared if it is determined that the final rule will have a significant effect on a substantial number of small entities.

Paperwork Reduction Act

Several commenters on the proposed rule expressed the view that, based on their experience with the existing regulations, BLM underestimated the paperwork burden associated with the proposed rule. It appears from the comments that the commenters assumed that our burden estimate included all paperwork burden, both existing and proposed, as if no other State or Federal agencies imposed any paperwork burden on mining operations.

We would like to point out that, in accordance with the Paperwork Reduction Act and the Office of Management and Budget's instructions for estimating paperwork burden, we are estimating only the increment of paperwork imposed by the proposed regulations over and above the paperwork burden imposed by the existing regulations. We also correctly didn't include in our estimate any

paperwork requirements contained in the proposed rule that would merely duplicate paperwork requirements imposed by other agencies, either Federal or State. If an operator has to give certain information to a State agency, the burden of also supplying that exact same information to BLM is relatively small. (Indeed, many of the same commenters noted that much of the proposed rule duplicated existing State requirements.)

Because of this possible misunderstanding, we are re-examining the information collection burden that would be imposed by the proposed rule. In the near future, we will release a revised paperwork burden estimate for public comment.

Other

The proposals described in this notice fall within the scope of the analyses prepared for the proposed rule. Please refer to the discussion of how BLM is meeting its procedural obligations contained in the proposed rule for further information (Feb. 9, 1999, 64 FR 6422, 6449).

List of Subjects in 43 CFR Part 3800

Administrative practice and procedure, Environmental protection, Intergovernmental relations, Land Management Bureau, Mines, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds, Wilderness areas.

Dated: October 19, 1999.

Sylvia V. Baca,

Acting Assistant Secretary, Land and Minerals Management.

Accordingly, BLM proposes to amend its proposed rule published on February 9, 1999 (64 FR 6422) as set forth below:

PART 3800—MINING CLAIMS UNDER THE GENERAL MINING LAWS

Subpart 3809—Surface Management

1. The authority citation for part 3800 continues to read as follows:

Authority: 16 U.S.C. 1280; 30 U.S.C. 22; 30 U.S.C. 612; 43 U.S.C. 1201; and 43 U.S.C. 1732, 1733, 1740, 1781, and 1782.

2. In § 3809.552 as proposed at 64 FR 6463, revise paragraph (a) by adding a sentence at the end and add paragraph (d) to read as follows:

§ 3809.552 What must my individual financial guarantee cover?

(a) * * * The financial guarantee must also cover any interim stabilization and infrastructure maintenance costs needed to maintain the area of operations in compliance with applicable environmental requirements while third-party contracts are developed and executed.

* * * * *

(d) When BLM identifies a need for it, you must establish that portion of the financial guarantee used to conduct site stabilization and infrastructure maintenance in a funding mechanism that would be immediately redeemable by BLM. BLM would use the funds to maintain the area of operations in a safe and stable condition that complies with applicable environmental requirements during the period needed for bond forfeiture and reclamation contracting procedures.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Inspector General

45 CFR Part 5b

RIN 0991–AA99

Privacy Act; Exempt Record System

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would exempt the new system of records, the Healthcare Integrity and Protection Data Bank (HIPDB), from certain provisions of the Privacy Act (5 U.S.C. 552a). The establishment of the HIPDB is required by section 1128E of the Social Security Act (the Act), as added by section 221(a) of the Health Insurance Portability and Accountability Act (HIPAA) of 1996. Section 1128E of the Act directed the Secretary to establish a national health care fraud and abuse data collection program for the reporting and disclosing of certain final adverse actions taken against health care providers, suppliers or practitioners, and to maintain a data base of final adverse actions taken against health care providers, suppliers and practitioners. The new HIPDB system of records is being established by separate **Federal Register** notice. The proposed exemption being set forth in this rule would apply to investigative materials compiled for law enforcement purposes in anticipation of civil or criminal proceedings. This rule specifically seeks public comments on the proposed exemption.

DATES: To assure consideration, public comments must be delivered to the address provided below by no later than 5 p.m. on November 26, 1999.

ADDRESSES: Please mail or deliver your written comments to the following address: Department of Health and Human Services, Office of Inspector General, 330 Independence Avenue, SW, Room 5246, Attention: OIG–60–P, Washington, DC 20201.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OIG–60–P.

FOR FURTHER INFORMATION CONTACT: Rick Burguieres, Investigative Policy and Information Management Staff, Office of Investigations, (202) 205–5200.

SUPPLEMENTARY INFORMATION: The Health Insurance Portability and Accountability Act (HIPAA) of 1996, Public Law 104–191, requires the Secretary, acting through the Office of Inspector General (OIG) and the United States Attorney General, to establish a new health care fraud and abuse control program to combat health care fraud and abuse (see section 1128C of the Act, as enacted by section 201(a) of HIPAA). Among the major steps in this program is the establishment of a national data bank to receive and disclose certain final adverse actions against health care providers, suppliers, or practitioners (see section 1128C(a)(1)(E) of the Act). The establishment of the data bank is required by section 1128E of the Act (added by section 221(a) of HIPAA), which directs the Secretary to maintain a data base of such final adverse actions. Final adverse actions include: (1) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service; (2) Federal or State criminal convictions against a health care provider, supplier, or practitioner related to the delivery of a health care item or service; (3) actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, or practitioners; (4) exclusion of a health care provider, supplier, or practitioner from participation in Federal or State health care programs; and (5) any other adjudicated actions or decisions that the Secretary establishes by regulations. Settlements in which no findings or admissions of liability have been made will be excluded from reporting. However, any final adverse action that emanates from such settlements, and that would otherwise be reportable under the statute, is to be reported to the data bank. Final adverse actions are to be reported, regardless of whether such actions are being appealed by the subject of the report (see section 1128E(b)(2)(C) of the Act).