The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9N, *Airspace Designations and Reporting Points,* dated September 1, 2005, and effective September 15, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to establish Class E airspace sufficient in size to contain aircraft executing instrument procedures at Koyuk Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9N, *Airspace Designations and Reporting Points,* dated September 1, 2005, and effective September 15, 2005, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Koyuk, AK [Revised]

Koyuk Airport, AK
(Lat. 64°56′22″ N., long. 161°09′15″ W.)
Koyuk NDB, AK
(Lat. 64°55′55″ N., long. 161°08′52″ W.)
Norton Bay NDB, AK
(Lat. 64°41′46″ N., long. 162°03′47″ W.)

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Koyuk Airport and 4 miles west and 8 miles east of the Koyuk NDB 210° bearing extending from the 9-mile radius to 17 miles southwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 5 miles west and 11 miles east of the Koyuk NDB 210° bearing extending from the NDB to 30 miles southwest of the NDB and 4.5 miles either side of the line between the Norton Bay NDB and the Koyuk NDB, and the area within 20 miles of the Koyuk Airport extending clockwise from the Koyuk NDB 140° bearing to the 187° bearing, and the area within 25 miles of the Koyuk Airport extending clockwise from the Koyuk NDB 220° bearing to the 230° bearing.

* * * * *

Issued in Anchorage, AK, on November 8, 2005.

Michael A. Tarr,

Manager, Operations Support.

[FR Doc. 05–22772 Filed 11–16–05; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 5420

[WO–270–1820–00–24 1A]

RIN 1004–AD70

Preparation for Sale

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to amend its regulations on preparation for timber sales to allow third party scaling on density management sales with an upper limit on the quadratic mean diameter at breast height (DBH) of the trees to be harvested of 20 inches. Third party scaling would be limited to the situations described in the amended provision, that is, if a timber disaster has occurred and a critical resource loss is imminent, and tree cruising and BLM scaling are inadequate to permit orderly disposal of the damaged timber, or if BLM is carrying out density management timber sales subject to the size limits stated above. Thus, third party scaling would generally not be used for sales of higher-value and/or larger diameter timber. BLM is amending the regulations in order to improve the efficiency of density management timber sales where the timber to be harvested may be designated by prescription (a written prescription included in the timber sale contract). The regulations will no longer require that BLM perform all scaling except in the event that a timber disaster is threatening imminent critical resource loss, and scaling by BLM would be inadequate to permit orderly disposal of the damaged timber. In the case of density management timber sales when the quadratic mean DBH of trees to be cut and removed is equal to or less than 20 inches, the regulations will only allow third party scaling by scalers or scaling bureaus under contract to BLM.

DATES: Comments must be received, postmarked, or electronically dated on or before January 17, 2006. BLM will not necessarily consider any comments received, postmarked, or electronically dated after the above date in making its decision on the final rule.

ADDRESSES: Mail: Director (630), Bureau of Land Management, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, Attention: RIN 1004–AD70.

Personal or messenger delivery: 1620 L Street NW., Suite 401, Washington,

DC 20036. Internet e-mail: *comments_washington@blm.gov.*

Federal eRulemaking Portal: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For technical questions about the rule, contact Lyndon Werner at (503) 808–6071 or Scott Lieurance at (202) 452–0316. For procedural questions about the rulemaking process, contact Ted Hudson at (202) 452–5042. Persons who use a telecommunications device for the deaf (TDD) may contact these persons through the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. *Public Comment Procedures*
II. *Background*
III. *Discussion of Proposed Rule*
IV. *Procedural Matters*

I. Public Comment Procedures

Electronic Access and Filing Address

You may view an electronic version of this proposed rule at BLM's Internet home page: *http://www.blm.gov.* You may also comment via the Internet to: *Comments_Washington@blm.gov.* Please also include ''Attention: 1004-AD70'' 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) 452–5030.

Federal eRulemaking Portal: *http://www.regulations.gov.*

Written Comments

Written comments on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the commenter is addressing. BLM may not necessarily consider or include in the Administrative Record for the final rule comments which BLM receives after the close of the comment period (See **DATES**) or comments delivered to an address other than those listed above (See **ADDRESSES**).

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at 1620 L Street, NW., Room 401, Washington, DC, during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except Federal holidays. Individual respondents 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. BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. BLM 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. Background

BLM Districts have been testing different methods of selling timber, such as Designation-by-Prescription (DxP), attempting to gain efficiencies, especially with a program comprised of substantially more density management and small logs than was historically the case. This testing has revealed that the gain in efficiency by using such methods is lost due to the regulatory requirement that BLM personnel conduct all the scaling if a DxP sale is scale as opposed to lump-sum. Otherwise, scale DxP sales can be more efficient in certain situations (small diameter density management).

43 CFR 5422.1 states: ''[a]s the general practice, the Bureau will sell timber on a tree cruise basis,'' which means lump-sum sales. Section 5422.2(a) states: ''[s]caling by the Bureau will be used from time to time for administrative reasons.'' Lump-sum is the default, and there must be an interest-of-the-Government reason to conduct a scale sale.

43 CFR 5422.2(b) allows third-party scaling when all of three conditions are met:

(1) A timber disaster has occurred;

(2) A critical resource loss is imminent; and

(3) Lump-sum timber measurement practices are inadequate to permit orderly disposal of the damaged timber.

Regular commercial density management sales obviously do not meet these conditions. The definition of third-party scaling found in 43 CFR 5400.0–5 is ''the measurement of logs by a scaling organization, other than a Government agency, approved by the Bureau.'' This includes the non-governmental Scaling Bureaus that normally contract with purchasers to scale in mill yards. BLM does contract with these Scaling Bureaus to scale for administrative check scales.

Historically, BLM timber sales, particularly in western Oregon, were clearcuts of high-value large timber. Log accountability was the principal reason for the aforementioned regulations limiting scale sales and third-party scaling. These provisions are intended to minimize the potential for log theft.

Today's sale program, however, has a considerable component of density management sales in lower-value, smaller-log situations that meet one or more of the following objectives: Growth enhancement, habitat restoration, or fuels/fire hazard reduction. Density management sales are timber sales intended to accomplish these objectives by removing smaller trees and understory that may inhibit growth or forest health or contribute to fuel buildup. In addition, density management sales intended to enhance wildlife habitat may remove some dominant and co-dominant trees in the forest stand to enhance biological diversity. Smaller logs cannot be efficiently and effectively truck scaled. Scaling in the mill yards as trucks are unloaded is faster and more accurate.

BLM does not intend a major shift to scale sales for density management. Rather, we seek to have a multifaceted ''tool kit'' of sale method options in order to maintain as cost effective a program as possible. It is not in the best interest of the Government to scale all density management sales. In certain cases, the costs of administering a lump-sum sale are less than costs of conducting scaling, making the lump-sum sale the preferred in-the-interest-of-the-Government option.

III. Discussion of Proposed Rule

The proposed rule would add one sentence to section 5422.2 on scale sales: ''BLM may also order third party scaling, only by scalers or scaling bureaus under contract to BLM, for the scaling of density management timber sales when the quadratic mean diameter of the trees to be cut and removed is equal to or less than 20 inches.'' (The quadratic mean diameter is a measure used by foresters as an index of the size of trees in a stand. According to the Dictionary of Forestry, the quadratic mean diameter is the diameter of the tree corresponding to the tree of mean basal area. Basal area is the cross-sectional area of a tree measured at breast height. The basal area of a tree with DBH equal to the quadratic mean diameter is equal to the mean basal area of the stand.) This will enable us to conduct density management sales while taking advantage of the improved economies that third party scaling may provide, such as by allowing scaling in the mill yards as trucks are unloaded, which is faster and more accurate.

For the sake of clarity, we also propose to divide section 5422.2(b) into

three paragraphs, the second of which would comprise this new provision. Paragraph (b)(1) would consist of the first sentence of existing paragraph (b), which covers the disaster situation in which third party scaling is allowed, and paragraph (b)(3) would consist of the second sentence of existing paragraph (b), which requires that third party scaling must follow BLM standards in use for timber depletion computations, so that we can make sure that sales conform with sustained yield principles. Redesignated paragraph (b)(1) would also be amended editorially to read in active voice. Neither paragraph (b)(1) nor (b)(3) would contain substantive changes.

IV. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

This proposed rule is not a significant regulatory action and is not subject to review by Office of Management and Budget under Executive Order 12866. The proposed rule will not have an effect of $100 million or more on the economy. The average cost of contract scaling is approximately $1.50 per thousand board feet. The approximate average annual number of sales contracts over the past several years that would qualify for third party scaling under the proposed rule has been ten sales. The new provision would enable BLM to prepare and administer certain contracts (that otherwise qualify to be sold as a scale sale) more efficiently, saving approximately $90,000 per year. These savings are not directly passed onto purchasers. There may be a slight saving to a purchaser of a scale sale over a lump sum sale due to their not having to conduct pre-sale measures of the sale volume to the same intensity.

For the same reasons, the proposed rule will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The rule would impose no requirements on any governmental entities.

The proposed rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The approach in the proposed rule is similar to that of the Forest Service in using third-party scaling.

The proposed rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients, having no effect on any of these matters; nor do they raise novel legal or policy issues.

Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

1. Are the requirements in the proposed regulations clearly stated?

2. Do the proposed regulations contain technical language or jargon that interferes with their clarity?

3. Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?

4. Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§'' and a numbered heading, for example ''§ 5422.2 Scale sales.'')

5. Is the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand?

Please send any comments you have on the clarity of the regulations to the address specified in the **ADDRESSES** section.

National Environmental Policy Act

BLM has determined that this proposed rule authorizing certain timber cuts to be scaled by BLM-approved third parties is a regulation of an administrative and financial nature. Therefore, it is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, pursuant to 516 Departmental Manual (DM), *Chapter 2, Appendix 1.* In addition, the proposed rule does not meet any of the 10 criteria for exceptions to categorical exclusions listed in *516 DM, Chapter 2, Appendix 2.* Pursuant to Council on Environmental Quality regulations *(40 CFR 1508.4)* and the environmental policies and procedures of the Department of the Interior, the term ''categorical exclusions'' means a category of actions which do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The proposed rule would likely provide additional business opportunities to scalers and scaling bureaus, which are mostly if not all small entities. The average cost of contract scaling is approximately $1.50 per thousand board feet. The approximate average annual number of sales contracts over the past several years that would qualify for third party scaling under the proposed rule has been ten sales. The new provision would enable BLM to prepare and administer certain contracts (that otherwise qualify to be sold as a scale sale) more efficiently, saving approximately $90,000 per year. These savings are not directly passed onto the purchasers. There may be a slight saving to a purchaser of a scale sale over a lump sum sale due to their not having to conduct pre-sale measures of the sale volume to the same intensity. Therefore, BLM has determined under the RFA that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This proposed rule is not a ''major rule'' as defined at 5 U.S.C. 804(2). That is, it would not have an annual effect on the economy of $100 million or more; it would not result in major cost or price increases for consumers, industries, government agencies, or regions; and it would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. It would merely allow BLM to contract out a management step in timber volume measurement for some types of timber sales to non-governmental entities that can operate more efficiently than the Bureau.

Unfunded Mandates Reform Act

These proposed regulations do not impose an unfunded mandate on State, local, or tribal governments or the private sector, in the aggregate, of $100 million or more per year; nor do these proposed regulations have a significant or unique effect on State, local, or tribal

governments. The rule would impose no requirements on any of these entities. We have already shown, in the previous paragraphs of this section of the preamble, that the change proposed in this rule would not have effects approaching $100 million per year on the private sector. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*)

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The proposed rule is not a government action capable of interfering with constitutionally protected property rights. The rule would allow BLM to contract out one step in the timber volume measurement process, and would not provide for the taking or reduction in value of, or any other effect on any private property. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The proposed rule will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. It would not apply to states or local governments or state or local governmental entities. Therefore, in accordance with Executive Order 13132, BLM has determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a federalism assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Office of the Solicitor has determined that this proposed rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have found that this proposed rule does not include policies that have Tribal implications. There are no substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. There will be some small economic benefit to scalers and scaling bureaus, and therefore to any American Indians that may be employed by or otherwise financially connected to such entities. There are, however, no policy implications that require consultation with Indian Tribes.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

In accordance with Executive Order 13211, BLM has determined that the proposed rule will not have substantial direct effects on the energy supply, distribution, or use, including a shortfall in supply or price increase. The rule does not relate to energy supply, distribution, or use in any respect.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, BLM has determined that this proposed rule is purely administrative and does not affect cooperative conservation. This proposed rule takes appropriate account of and considers the interests of persons with ownership or other legally recognized interests in land or other natural resources because it does not interfere with such interests. The proposed rule solely affects a Federal responsibility not involving state or local participation, and has no impact on public health and safety.

Paperwork Reduction Act

These proposed regulations do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Author

The principal authors of this proposed rule are Kenny McDaniel, Manager, Gunnison Field Office, Colorado, Scott Lieurance, Forester—Senior Specialist, Washington Office, and Lyndon Werner, Forester, Oregon State Office, assisted by Ted Hudson, Senior Regulatory Specialist, Washington Office, Bureau of Land Management.

List of Subjects in 43 CFR Part 5420

Forests and forest products, Government contracts, Public lands, Reporting and recordkeeping requirements.

Dated: November 3, 2005.

Chad Calvert,

Acting Assistant Secretary, Land and Minerals Management.

Accordingly, for the reasons stated in the preamble and under the authorities stated below, BLM proposes to amend 43 CFR part 5420 as set forth below:

PART 5420—PREPARATION FOR SALE

1. The authority citation for part 5420 continues to read as follows:

Authority: 61 Stat. 681, as amended, 69 Stat. 367; Sec. 5, 50 Stat. 875; 30 U.S.C. 601 *et seq.*; 43 U.S.C. 1181e.

Subpart 5422—Volume Measurements

2. Amend section 5422.2 by revising paragraph (b) to read as follows:

§ 5422.2 Scale sales.

* * * * *

(b) (1) BLM may order third party scaling after determining that all of the following factors exist:

(i) A timber disaster has occurred;

(ii) A critical resource loss is imminent; and

(iii) Measurement practices listed in § 5422.1 and paragraph (a) of this section are inadequate to permit orderly disposal of the damaged timber.

(2) BLM may also order third party scaling, only by scalers or scaling bureaus under contract to BLM, for the scaling of density management timber sales when the quadratic mean diameter of the trees to be cut and removed is equal to or less than 20 inches.

(3) Third party scaling volumes must be capable of being equated to BLM standards in use for timber depletion computations, to insure conformance with sustained yield principles.

[FR Doc. 05–22779 Filed 11–16–05; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU23

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Distinct Population Segment of the California Tiger Salamander in Sonoma County

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.