lands that contain archaeological resources that are vulnerable to vandalism and looting, or on lands that contain archaeological resources significant in local, state or regional cultural history. Other Federal land managing agencies are encouraged to develop such plans and schedules.

(5) The Secretary of the Interior's report. Section _____.19 is revised to enable the Secretary of the Interior to report comprehensively to Congress regarding Federal agencies archaeological activities. This section specifically addresses reporting on Federal agency public awareness programs, surveys and schedules and systems for documenting violations of ARPA.

(6) Treatments for Native American human remains and other "cultural items". Sections _____.3, ____.7 and

____.13 include guidance to Federal land managers on treatments for Native American human remains and other "cultural items", as defined by NAGPRA.

Finally, the reference to the U.S. Code is revised in § _____.1(a) and § _____.3(i) to reflect changes by the amendments to ARPA.

Public comment was sought for a 30day period following publication of .4 of the proposed rules on January, 29, 1990 (55 FR 2848), and for a 90-day period following publication of the remaining sections of the proposed rules on September, 11, 1991 (56 FR 46259). Written comments were received from seven Federal agencies, one State agency, three Indian councils and associations, one educational institution, two utility companies and associations, and one private cultural resources management firm. The authority citation for 43 CFR Part 7 was addressed in 2 comments, § 7.3 was addressed in 9 comments, § 7.7 was addressed in 9 comments, § 7.13 was addressed in 24 comments, § 7.19 was addressed in 3 comments, § 7.20 was addressed in 1 comment, and § 7.21 was addressed in 5 comments. The proposed rules were published immediately prior to the enactment of NAGPRA, and thus, many of the public comments focused on relationships between ARPA and NAGPRA.

Many comments were directed at the apparent inconsistencies between NAGPRA and ARPA regarding notification and consultation with Indian Tribes as well as the extent of Federal land managers' authority in making determinations of custody. Other comments were directed at further defining terms regarding types of land and archaeological objects. The remaining comments dealt with

elaborating on the implementation and funding of reports, public awareness programs, and surveys and schedules.

All the comments were considered, and most contributed to some degree in the rulemaking process. All the comments and the changes made in response to public comments are discussed below.

Changes in Response to Public Comments

Two commentors noted that Pub. L. 101-601 (NAGPRA) should be included in the authority citation for 43 CFR Part 7. The authority for 43 CFR Part 7 is directed by Pub. L. 96-95; 93 Stat. 721, as amended; 102 Stat. 2983; 16 U.S.C. 470aa-mm (section 10(a)). Related authorities are those that ARPA influences, such as the Antiquity Act (16 U.S.C. 432,433), the Archeological and Historic Preservation Act (16 U.S.C. 469, as amended) and the National Historic Preservation Act (16 U.S.C. 470, as amended). The language in NAGPRA refers to the statute and its regulations but does not affect the implementation of ARPA and is not cited as a Related Authority. NAGPRA and its implementing regulations are referred to in the revisions of §§ ____.3, ____.7 and _.13.

Section ____.3 Definitions

Two commentors noted that .3(a)(6) of the uniform regulations, which states that Federal land managers may determine that particular human remains and directly associated material remains are to be treated differently from other archaeological resources, is in direct contradiction with NAGPRA which states that Native American human remains and graves must be treated differently from archaeological resources. One commentor noted that the definition of "Indian lands" in .3(a)(5)(e) of the uniform regulations is different from the definition of "tribal lands" in NAGPRA, thus provisions in NAGPRA would cover graves on "tribal lands" as defined in NAGPRA but would not cover graves located on "Indian lands" as defined in the uniform regulations. This same commentor also noted that the uniform regulations, unlike NAGPRA, do not include: (1) Fee patented lands within the exterior boundaries of Indian reservations; (2) lands within dependent Indian communities that may not be in the boundaries of a reservation; and (3) certain lands administered for the benefit of Native Hawaiians. Three commentors noted that "associated funerary objects" as defined in NAGPRA should be used rather than the terms "directly associated material remains", "associated objects", and "funerary objects" in the uniform regulations. One of these same commentors also noted that the terms "unassociated funerary objects", "sacred objects" and "objects of cultural patrimony" should be added to the uniform regulations. Another of these three commentors above noted that the definition for "human remains" should be better defined in the uniform regulations.

The commentors are correct in observing that the definitions of certain terms vary between the uniform regulations and NAGPRA. The terms used in the final rule follow the statutory definitions provided in ARPA and its amendments. The terms "associated funerary objects". "unassociated funerary objects" "sacred objects", and "objects of cultural patrimony" have particular statutory meaning in NAGPRA but not in ARPA. "Material remains" is defined in ARPA, but not "associated objects" or "funerary objects". In response to comments concerning the consistency of this section with NAGPRA, the term "cultural items", as defined in NAGPRA, is used in the final rule to distinguish material remains that are to be treated under NAGPRA and its implementing regulations.

Section _____.7 Notification to Indian Tribes of Possible Harm to, or Destruction of, Sites on Public Lands Having Religious or Cultural Importance

One commentor noted that .7(b)(4) of the uniform regulations is inconsistent with NAGPRA § 3(c) which requires consultation and consent from Indian tribes prior to the issuance of an ARPA permit, not after one has already been issued. Two commentors stated that it is redundant to consult with tribes after an ARPA permit has already been issued. especially if it is to comply with NAGPRA. One of these commentors stated that amendments to an ARPA permit are acceptable only under certain provisions, while the other commentor stated it was inappropriate altogether to develop compliance procedures through another act when the implementing regulations for NAGPRA have not been developed. One commentor noted that the requirement for notice to Indian tribes being at the discretion of the Federal land manager is not sufficient to carry out NAGPRA. One commentor noted that the uniform regulations should require notification to Indian tribes when aboriginal land is involved regardless of a finding of potential harm or destruction of religious or cultural