



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8365

[LLAZP00000.L122000000.DF0000.LXSSA3610000]

Notice of Proposed Supplementary Rules for Selected Public Lands in Gila, Maricopa, Pima, Pinal and Yavapai Counties, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Supplementary Rules.

SUMMARY: The Bureau of Land Management (BLM) is proposing supplementary rules on selected public lands administered by the Hassayampa and Lower Sonoran Field Offices. These rules are needed in order to protect public health and safety and to reduce user conflicts within developed recreation areas (or sites), including recreational shooting sports sites. In compliance with the John D. Dingell, Jr. Conservation, Management, and Recreation Act (Dingell Act), notice is hereby given that for public safety, one of the proposed supplementary rules would close public lands within the designated Hazardous Exclusion Area at each recreational shooting sports site to public entry, including entry for hunting, fishing, and recreational shooting activities. These proposed closures are necessary to ensure public safety adjacent to shooting facilities.

DATES: Interested parties may submit written comments regarding the proposed supplementary rules no later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by any of the following methods:

- BLM National Environmental Policy Act website: <https://go.usa.gov/xmfVv>.

- Mail: BLM, Phoenix District Office, Attention: Tyler Lindsey, 21605 North 7th Avenue, Phoenix, AZ 85027.

FOR FURTHER INFORMATION CONTACT: John (Jake) Szympruch, District Chief Law Enforcement Ranger at email: jszympru@blm.gov; Lane Cowger, Hassayampa Field Office Manager at email: lcowger@blm.gov; or Edward J. Kender, Lower Sonoran Field Office Manager at email: ekender@blm.gov; or at 623-580-5500. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact one of the above individuals. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

General Notice Comments on Proposed Supplementary Rules

You may mail comments to Tyler Lindsey, or comment directly online at the addresses listed above (See “ADDRESSES”). Written comments on the proposed supplementary rules should be specific, confined to issues pertinent to the proposed rules, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal that the commenter is addressing. The BLM is not obligated to consider, or include in the Administrative Record for the final supplementary rules, comments delivered to an address other than those listed above (See “ADDRESSES”) or comments that the BLM receives after the close of the comment period (See “DATES”), unless they are postmarked or electronically dated before the deadline.

Comments on Proposed Closure

Under the Dingell Act (16 USC 7913 (b)(2)(A)), and in compliance with 43 CFR 8364.1, the BLM is required to consider public comments when closures are proposed and would affect hunting, fishing, and recreational shooting on public lands. Within developed recreation areas where the primary purpose is recreational shooting, a designated Hazardous Exclusion Area where errant/ricochet projectiles could potentially land has been delineated based on geospatial review of topographic features and in coordination with the Arizona Game and Fish Department. Each Hazardous Exclusion Area proposed for closure is the smallest area required for public safety adjacent to shooting facilities and would remain closed for as long as the recreational shooting sports site is available for public use. Proposed supplementary rule 13 would prohibit entry into the Hazardous Exclusion Areas.

This notice announces the beginning of the 60-day comment period for the proposed closure of public lands within Hazardous Exclusion Areas to all entry, whereby comments on impacts to hunting, fishing, and recreational shooting are being accepted by the BLM. Following the public comment period, the BLM will respond in a reasonable manner to the comments received, will explain how significant issues were resolved, and will issue a final decision on the proposed closure made available online at: <https://go.usa.gov/xmfVv>.

Comments, including names, street addresses, and other contact information for respondents, will be available for public review at the Phoenix District Office, 21605 North 7th Avenue, Phoenix, AZ 85027, listed in “ADDRESSES”, during regular business hours (8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays). Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your comment—including your

personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

These proposed supplementary rules are necessary for the protection of public lands and resources and for the protection, well-being, and health and safety of those using public lands. Proposed supplementary rules 1 through 4 would apply to existing developed recreation areas throughout the Phoenix District Office, and to future developed recreation areas. The rest of the proposed supplementary rules would apply only to the recreational shooting sports sites and any future recreational shooting sports sites within the district.

In January 2020, the BLM Phoenix District Office approved the construction of five recreational shooting sports sites (Baldy Mountain, Box Canyon, Church Camp Road, Narramore Road, and Saddleback Mountain) in the Recreational Shooting Sports Project Final Environmental Assessment (EA). The EA was in conformance with the two applicable land use plans, the Bradshaw-Harquahala Approved Resource Management Plan and Record of Decision (Bradshaw-Harquahala RMP (BLM 2010)) and the Lower Sonoran Approved Resource Management Plan and Record of Decision (Lower Sonoran RMP (BLM 2012)). As a result of improvements, each site would meet the “developed recreation site and area” definition found in 43 Code of Federal Regulations (CFR) 8360.0-5. Existing rules associated with developed recreation sites and areas (43 CFR 8365) would apply in addition to these proposed supplementary rules.

To promote safe use and operation of each site, supplementary rules of conduct would be needed to manage behavior. Within developed recreation areas established for

recreational shooting sports, the discharge of firearms would be allowed where authorized (see 43 CFR 8365.2-5). Each recreation area would be posted with appropriate signage at access points. Immediately adjacent to shooting facilities (facility area) would be a designated Hazardous Exclusion Area. Each Hazardous Exclusion Area is required for public safety and would be enclosed within a perimeter fence. Given the complexity of the terrain and uncertainties about where the actual fence line will be constructed, the BLM estimates 539 acres of public lands would be closed to public entry, as depicted on maps found at <https://go.usa.gov/xmfVv>. The combination of the shooting facility area and the Hazardous Exclusion Area defines the boundary of the recreational shooting sports site. Appropriate warning signage would be installed and maintained.

III. Discussion of Proposed Supplementary Rules

Proposed supplementary rules 1 through 4 would apply to all developed recreation areas and sites within the Phoenix District boundary. In addition to supplementary rules 1 through 4, supplementary rules 5 through 16 would apply within recreational shooting sports sites.

Supplementary Rule 1 would prevent activities that would impede access to or through areas (or sites). The proposed rule is similar to an existing rule for National Forest System roads and trails found at 36 CFR 261.12(d)).

Supplementary Rule 2 would prevent improper disposal of pet waste, in a manner consistent with Pima County Code 7.29.030, which requires responsible storage and disposal of solid waste, and provides for hygiene, health, and safety for users.

Supplementary Rule 3 would address user conduct in a manner consistent with Arizona Revised Statute (ARS) 13-2904 describing “Disorderly conduct.”

Supplementary Rule 4 would combine existing regulations to protect wildlife, livestock, and vegetation from recreational shooting within developed recreation areas and sites.

Supplementary Rule 5 would limit the potential for personal property to be left behind by the public, unless authorized. The existing rule for developed recreation sites or areas found at 43 CFR 8365.2-3 limits leaving personal property to 24 hours or less in developed picnic day-use areas or 72 hours or less in developed camping areas. The proposed rule would be more restrictive and is needed to address recreational shooting sports sites specifically.

Supplementary Rule 6 would prohibit firearm discharge while any individual is in front of the designated firing line to protect public, contractor, volunteer, and BLM employee safety.

Supplementary Rule 7 would address drug and/or alcohol related concerns within recreational shooting sports sites for the purpose of public health and safety. Existing supplementary rules only address underage drinking and open containers of alcohol while operating or riding on/in motor vehicles.

Supplementary Rule 8 would establish hours of operation for recreational shooting sports sites in the operating plans. Site hours would be posted at the site and on the agency's website and would depend on time of year and type of use. Flexibility in operating times are needed to appropriately enforce times of use.

Supplementary Rule 9 would prohibit climbing on buildings or structures, unless authorized, to protect public safety.

Supplementary Rule 10 would limit the use of targets, as established through the operating plan and as posted at each site, for the purpose of managing shooting related waste.

Supplementary Rule 11 would restrict the public from impeding recreational target shooting and provide the ability to manage sites for their intended use.

Supplementary Rule 12 would limit the use of ammunition as established through the operating plan, and as posted at each site and on the agency's website, for the purpose of promoting safe shooting practices and managing shooting related waste.

Supplementary Rule 13 would prohibit access into the Hazardous Exclusion Areas to avoid projectile or ricochet concerns and promote public safety. The Hazardous Exclusion Areas will be posted with appropriate signage.

Supplementary Rule 14 would restrict the direction of firearm discharge into appropriate backstops to reduce resource damage and to protect public, contractor, volunteer, and BLM employee safety.

Supplementary Rule 15 would establish site capacity user limits through the operating plan and as posted. The limiting of the number of users would provide for user safety.

Supplementary Rule 16 would align with a local shooting range policy by stating that children under the age of 16 must be accompanied by a responsible adult within the recreational shooting sports site for the purpose of promoting safety.

IV. Procedural Matters

Executive Orders 12866 and 13563, Regulatory Planning and Review

These proposed supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. These proposed supplementary rules would not have an effect of \$100 million or more on the economy.

These proposed supplementary rules would establish rules for recreational shooting sports sites to protect public health and safety and avoid user conflicts. These proposed supplementary rules would 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. These proposed supplementary rules would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These proposed supplementary rules do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients, nor do these rules raise novel legal or policy issues. These proposed supplementary rules protect resources and human health and safety, and enable BLM law enforcement personnel to efficiently enforce, where appropriate, regulations pertaining to unlawful usage of a recreation area (or site) in a manner consistent with state and local laws, ordinances, regulations, or orders on public lands.

Clarity of the Supplementary Rules

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

- (1) Are the requirements in the proposed supplementary rules clearly stated?
- (2) Do the proposed supplementary rules contain technical language or jargon that interferes with their clarity?
- (3) Does the format of the proposed supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- (4) Would the proposed supplementary rules be easier to understand if they were divided into more (but shorter) sections?
- (5) Is the description of the proposed supplementary rules in the SUPPLEMENTARY INFORMATION section of this preamble helpful to your understanding of the proposed supplementary rules? How could this description be more helpful in making the

proposed supplementary rules easier to understand?

Please send any comments you have on the clarity of the proposed supplementary rules to an address specified in the ADDRESSES section.

National Environmental Policy Act (NEPA)

The BLM prepared an EA and found that these proposed supplementary rules do not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). The BLM completed a 30-day scoping period and a 15-day public review of the draft EA in 2019.

The BLM completed the EA to analyze the construction and operation of the recreational shooting sports sites which included the proposed supplementary rules. The Decision Record for this EA was signed in January 2020. The BLM has placed the EA and associated documents in the administrative record at the addresses specified in the ADDRESSES section.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601, et seq., to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule has a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These proposed supplementary rules do not pertain specifically to commercial or governmental entities of any size but contain rules to protect the health and safety of the public and reduce user conflicts on public lands within the Hassayampa and Lower Sonoran Field Office areas. Therefore, the BLM has determined, under the RFA, that these proposed supplementary rules do not have a significant economic impact on a

substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These proposed supplementary rules do not constitute “major rules” as defined at 5 U.S.C. 804(2). These proposed supplementary rules are intended to manage behavior and establish rules of conduct in developed recreation areas (or sites) within the Hassayampa and Lower Sonoran Field Office areas. These proposed supplementary rules would have no effect on business, commercial, or industrial use of the public lands.

Unfunded Mandates Reform Act

These proposed supplementary rules do not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than \$100 million per year, nor do the proposed supplementary rules have a significant or unique effect on state, local, or tribal governments or the private sector. The proposed supplementary rules do not require anything of state, local, or tribal governments. Therefore, the 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)

These proposed supplementary rules do not represent a government action capable of interfering with constitutionally protected property rights. These proposed supplementary rules do not address property rights in any form and do not cause the impairment of anyone’s property rights. Therefore, the BLM has determined that these proposed supplementary rules do not cause a taking of private property or require further discussion of takings implications under this executive order.

Executive Order 13132, Federalism

These proposed supplementary rules would not have a substantial, direct effect on the states, on the relationship between the Federal government and the states, or on the distribution of power and responsibilities among the various levels of government. These proposed supplementary rules apply in only one state, Arizona, and do not address jurisdictional issues involving the Arizona State government. Therefore, in accordance with Executive Order 13132, the BLM has determined that these proposed supplementary rules do not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM has determined that these proposed supplementary rules would not unduly burden the judicial system and that the rules meet the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that these proposed supplementary rules do not include policies that have tribal implications and would have no bearing on trust lands or on lands for which title is held in fee status by Indian tribes or U.S. Government-owned lands managed by the Bureau of Indian Affairs. Since these proposed supplementary rules do not change BLM policy and do not involve Indian reservation lands or resources, we have determined that the government-to-government relationships remain unaffected. These proposed supplementary rules affect developed recreation areas (or sites), including recreational shooting sports sites on public lands managed by the BLM Hassayampa and Lower Sonoran Field Offices.

Executive Order 13352, Facilitation of Cooperative Conservation

Under Executive Order 13352, the BLM has determined that these proposed supplementary rules would not impede the facilitation of cooperative conservation. These proposed supplementary rules would take appropriate account of, and consider the interests of, persons with ownership or other legally recognized interests in land or other natural resources; properly accommodate local participation in the Federal decision-making process; and provide that the programs, projects, and activities are consistent with protecting public health and safety.

Information Quality Act

In developing these proposed supplementary rules, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106-554).

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

The proposed supplementary rules do not constitute a significant energy action since they have no impact on energy supplies, production, or consumption, and have no connection with energy policy.

Paperwork Reduction Act

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

PROPOSED SUPPLEMENTARY RULES:

Author

The principal author of these proposed supplementary rules is Tyler Lindsey, Project Manager, Phoenix District Office, Bureau of Land Management.

For the reasons stated in the preamble, and under the authority for supplementary rules at 43 U.S.C. 1740 and 43 CFR 8365.1-6, the Arizona State Director, BLM, proposes to establish the following supplementary rules for all BLM developed recreation sites and areas, in addition to supplementary rules specific to recreational shooting sports sites, within the Phoenix District boundary, Arizona, to read as follows:

Definitions

Developed recreation sites and areas, as defined by 43 CFR 8360.0-5(c), means sites and areas that contain structures of capital improvements primarily used by the public for recreation purposes.

Hazardous Exclusion Area means a designated area within a recreational shooting sports site where errant/ricochet projectiles could potentially land.

Recreational shooting sports site means a developed recreation site or area meeting the definition found at 43 CFR 8360.0-5(c) and where the primary purpose is recreational shooting.

Rules and Prohibited Acts Within Developed Recreation Sites and Areas

- 1) You must not block, restrict, place signs, create a hazardous condition, or otherwise interfere with the use of a road, gate, or other legal access to and/or through a developed recreation site or area boundary.
- 2) You must pick up and properly dispose of pet excrement.
- 3) You must not engage in disorderly conduct as described in Arizona Revised Statute 13-2904.
- 4) You must not shoot at wildlife, livestock, or vegetation.

Rules and Prohibited Acts Within Recreational Shooting Sports Sites

In addition to the preceding supplementary rules, the following rules would apply within a

recreational shooting sports site:

- 5) You must not leave any personal property unattended within a site.
- 6) You must not discharge a firearm while an individual is past the designated firing line.
- 7) You must not use, possess, consume, or be under the influence of alcohol or controlled substances.
- 8) You must not use a site during the restricted times outlined in the operating plan, posted at each site, and listed on the agency's website.
- 9) You must not climb on any buildings or structures, occupied or unoccupied.
- 10) You must only use authorized targets as outlined in the operating plan and as posted at each site.
- 11) You must not enter a site for any purpose other than activities associated with recreational shooting.
- 12) You must only use authorized ammunition as outlined in the operating plan, posted at each site, and listed on the agency's website.
- 13) You must not enter the Hazardous Exclusion Areas.
- 14) You must discharge a firearm only from a designated firing line and into developed backstops and berms.
- 15) You must not exceed the maximum occupancy posted at each site.
- 16) Children under 16 must be accompanied by a responsible adult while in a site.

Exemptions

The following persons would be exempt from the proposed supplementary rules: any Federal, state, local, and/or military employee acting within the scope of their duties; members of any organized rescue or fire-fighting force performing an official duty; and persons, agencies, municipalities, or companies holding an existing special-use permit or

written authorization from an authorized officer and operating within the scope of their permit or authorization.

Penalties

On public lands under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a) and 43 CFR 8360.0-7), any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than \$1,000, imprisoned for no more than 12 months, or both. Such violations may also be subject to enhanced fines provided for by 18 U.S.C. 3571.

Raymond Suazo
Bureau of Land Management
State Director, Arizona

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