



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8365

[212.LLAZP00000.L12200000.PM0000.LXSSA3610000]

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

AGENCY: Bureau of Land Management, Interior.

ACTION: Final supplementary rules.

SUMMARY: The Bureau of Land Management (BLM) is finalizing supplementary rules on selected public lands administered by the Hassayampa and Lower Sonoran Field Offices. These rules are being established by the Arizona State Director of the BLM to provide for public health and safety and to reduce user conflicts within developed recreation areas (or sites), including recreational shooting sports sites.

DATES: These supplementary rules are effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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

- *Mail:* BLM, Phoenix District, Attention: Braden Yardley, 21605 North 7th Avenue, Phoenix, AZ 85027.
- *Email:* BLM_AZ_PDO@blm.gov

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. Background

These final 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. In January 2020, the BLM Phoenix District 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 supports the establishment of the final supplementary rules and is 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 part 8365) apply in addition to these final supplementary rules.

To promote safe use and operation of each site, these supplementary rules are necessary to manage behavior. Within developed recreation areas established for recreational shooting sports, the discharge of firearms is allowed where authorized (see 43 CFR 8365.2–5). Each recreation area will be posted with appropriate signage at access points.

II. Discussion of Public Comments and Final Supplementary Rules

The BLM Arizona State Director proposed these supplementary rules in the *Federal Register* on August 17, 2020 (85 FR 49995). Final supplementary rules 1 through 4 apply to existing developed recreation areas throughout the Phoenix District, and to future developed recreation

areas. The rest of the final supplementary rules apply only to the recreational shooting sports sites and any future recreational shooting sports sites within the district.

The notice announced a 60-day public comment period on the proposed supplementary rules including the long-term closure of the Hazardous Exclusion Areas to public entry for public safety. The Hazardous Exclusion Area is the area within a recreational shooting sports site where errant ricochet projectiles could potentially land. The BLM notified by email approximately 215 individuals, organizations, and agencies of the comment period. This notification included Arizona Game and Fish Department and the Federal Lands Hunting, Fishing and Shooting Sports Roundtable. The BLM also published a news release and legal notice advertising the comment period. The news release was published in the *Wickenburg Sun and Daily Independent* on August 17, 2020. The legal notice was published in the *Arizona Business Gazette* on August 20, 2020.

The comment period ended on October 16, 2020. The BLM received 11 comment emails and letters to consider. Most of the commenters supported the supplementary rules without further substantive comments. A coalition of 18 recreation and conservation organizations endorsed the proposed long-term closures as needed for public safety. One commenter stated the long-term closure areas should be expanded. According to the John D. Dingell, Jr. Conservation, Management, and Recreation Act, closures should be the smallest area required for public safety. The Hazardous Exclusion Areas were based on Department of Energy guidance for calculating areas that could be impacted by ricochet/errant bullets. No changes were made to the Hazardous Exclusion Area rule (supplementary rule 13), implementing the long-term closures, resulting from public comments. A final decision authorizing the long-term closure of approximately 539 acres within the Hazardous Exclusion Areas is available online at:

<https://eplanning.blm.gov/eplanning-ui/project/2000693/510>.

The BLM received several comments primarily focused on rules 8 (hours of operation), 10 (authorized targets), and 12 (authorized ammunition). A commenter raised concerns that

proposed supplementary rules 8, 10 and 12 referenced future operating plans that have not yet been created and were not provided for public review. Rule 8 addresses the shooting site operation hours. The commenter requested that the BLM consider designating operating hours from 9:00 a.m. to 5:00 p.m. The commenter proposed these hours, more restrictive than state statutory requirements, due to concerns of user conflicts from other public land users and to provide harmony with adjacent properties. Proposed Rules 10 and 12 were not specific regarding restrictions on targets and ammunition but deferred to future operating plans. A commenter requested the BLM provide specific language about these restrictions in the regulatory language. The BLM agrees with the commenter in part and the following paragraph explains how the BLM modified final rules 8, 10, and 12 to address these comments.

Prior to the opening of a site, an operating plan for it will be available to the public at the Phoenix District Office (see **ADDRESSES**) and at www.blm.gov. Related to rule 8, the range hours will be set within the restricted time frame listed in Arizona Revised Statute section 17-604, which prohibits outdoor shooting ranges from operating from 10:00 p.m. through 7:00 a.m. The operating hours will be disclosed in each site's operating plan and posted at each site. Proposed Rule 10 has been revised in the final rules to define and give examples of authorized targets that can be used at those sites where shooters are allowed to supply their own targets. Final Rule 10 also addresses prohibited targets. These will also be further described in the operating plan for each site. Final Rule 12 has been revised to specify the ammunition restrictions for rifles, handguns, and shotguns. It specifies that rifles and handgun ammunition is restricted to .50 caliber or less and it prohibits the use of steel core, armor-piercing, incendiary, and tracer ammunition, and paintball equipment.

Proposed Rules 3, 6, 7, and 14 were revised in the Final Rule based on recommendations from BLM staff. Rule 3 has been revised to define "disorderly conduct." Final Rule 6 has been clarified to say that no projectile device may be discharged while an individual is beyond the designated firing line. Final Rule 7 added the line, "as defined by State and/or Federal law" to

clarify the laws pertaining to the use and consumption of alcohol and illegal drugs at the shooting sports site. The word “berms” was removed from Rule 14 to clarify that firearms may only be discharged at authorized targets with a developed or designated backstop and not into side berms constructed to delineate shooting lanes.

III. Procedural Matters

Executive Orders 12866 and 13563, Regulatory Planning and Review

These final 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 supplementary rules do not have an effect of \$100 million or more on the economy.

These final supplementary rules establish rules for recreational shooting sports sites to protect public health and safety and avoid user conflicts. These final supplementary rules do 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 final supplementary rules do not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These final 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 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.

National Environmental Policy Act

The BLM prepared an EA and found that these 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, 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 address 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 final 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 final supplementary rules do not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These final supplementary rules do not constitute “major rules” as defined at 5 U.S.C. 804(2).

These final 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 final supplementary rules have no effect on business, commercial, or industrial use of the public lands.

Unfunded Mandates Reform Act

These final 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 final supplementary rules have a significant or unique effect on state, local, or tribal governments or the private sector. The final 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 final supplementary rules do not represent a government action capable of interfering with constitutionally protected property rights. These final 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 final 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 final supplementary rules do 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 final 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 final 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 final supplementary rules do 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 final supplementary rules do not include policies that have tribal implications and 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 final 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 final 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 final supplementary rules do not impede the facilitation of cooperative conservation. These final supplementary rules 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 final 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 final 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 final 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.*

FINAL SUPPLEMENTARY RULES:

Author

The principal author of these supplementary rules is Braden Yardley, 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, establishes 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 or 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 in the trash.
- 3) You must not engage in disorderly conduct including, but not limited to: fighting, violent or seriously disruptive behavior; using abusive or offensive language or gestures to any person present in a manner likely to provoke immediate physical retaliation by such person; refusing to obey a lawful order; or recklessly handling, displaying or discharging a deadly weapon or dangerous instrument.
- 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 will 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 or any other projectile device while an individual is beyond the designated firing line.
- 7) You must not use, possess, consume, or be under the influence of alcohol or controlled substances as defined by State and/or Federal law.
- 8) You must only use a site during the designated operating hours as defined in the BLM Phoenix District's operating plan, which will also be posted at each site and listed on the BLM's website www.blm.gov, and consistent with State law.
- 9) You must not climb on any buildings or structures, occupied or unoccupied.
- 10) You must only use authorized stationary targets as specified in the operating plan for each site. These targets may be made of cardboard, paper, self-healing, steel, and biodegradable clay (clay targets). All other items, such as aluminum cans, glass bottles, bowling pins, plastic bottles and other items which may leave debris, are not authorized to be used as targets. Exploding targets are prohibited. All user-supplied steel targets must be specifically designed for use with firearms and must be used at a distance of 100 yards or greater. Target frames must be designed to be reusable. The use of wooden pallets and other items not specifically designed as target frames are not authorized. All user-supplied targets, target frames, and debris must be removed from the site and disposed of properly after use and before leaving the site.
- 11) You must not enter a site for any purpose other than activities associated with recreational shooting.
- 12) Rifles and handguns are restricted to ammunition that is .50 caliber or less. Common shotgun ammunition, such as birdshot, buckshot, and slugs, is authorized. Sporting clay

and skeet ranges are restricted to birdshot only. Steel core, armor-piercing, incendiary, and tracer ammunition and paintball equipment is prohibited.

13) You must not enter the Hazardous Exclusion Areas.

14) You must discharge a firearm only from a designated firing line towards an authorized target with a developed or designated backstop.

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 are exempt from these supplementary rules: (1) any Federal, State, and local government employee, including law enforcement, fire fighting, and search and rescue, acting within the scope of their duties and (2) persons, agencies, municipalities, or companies holding a 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