



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8360

[BLM_WY_FRN_MO4500173295]

Notice of Proposed Supplementary Rule for Public Lands in Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed supplementary rule.

SUMMARY: The Bureau of Land Management (BLM) is proposing a supplementary rule to protect natural resources and provide for public health and safety. The proposed supplementary rule would apply to all public lands and BLM facilities in Wyoming.

DATES: You should submit your comments by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by the following methods: Mail or hand deliver to Deborah Sullivan, State Chief Ranger, BLM Wyoming State Office, 5353 Yellowstone Rd., Cheyenne, WY 82009. You may also submit comments via email to dsullivan@blm.gov (include "Proposed Supplementary Rule" in the subject line).

FOR FURTHER INFORMATION CONTACT: Deborah Sullivan, State Chief Ranger (see address listed above), by phone at (307) 775-6268, or email at dsullivan@blm.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Ms. Sullivan. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Written comments on the proposed supplementary rule should be specific, be confined to issues pertinent to the proposed supplementary rule, and explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposed supplementary rule that the comment is addressing. The BLM is not obligated to consider or include in the Administrative Record for the final supplementary rule comments the BLM receives after the close of the comment period (see DATES) unless they are postmarked or electronically dated before the deadline, or comments delivered to an address other than one of the addresses listed above (see ADDRESSES).

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at the address listed above, during regular business hours (7:30 a.m. to 4:30 p.m., Monday through Friday, except on Federal holidays). Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire 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 we will be able to do so.

II. Background

BLM state offices have issued various statewide supplementary rules to protect natural resources and provide for public health and safety. Individual BLM field offices have also issued various supplementary rules for travel management, protection of natural resources, and public health and safety.

III. Discussion of the Proposed Supplementary Rule

This proposed supplementary rule would apply to all public lands in Wyoming. Proposed supplementary rule numbers 1 and 2 address general public conduct on public lands. Proposed supplementary rule numbers 3 through 7 address resource damage and public

safety concerns involving the use of exploding targets, flammable devices, and target shooting. Proposed supplementary rule numbers 8 and 9 address the possession or use of alcohol on public lands. Proposed supplementary rule number 10 addresses the possession of drug paraphernalia in violation of state law. Proposed supplementary rule number 11 requires trailers on public land to have current registration. Proposed supplementary rule number 12 adopts Wyoming Revised Statutes regarding hunting, fishing, boating, and outfitters. Proposed supplementary rule number 13 further clarifies existing Federal regulations found in 43 CFR 9264.1(h) relating to vehicles, game animals, boating, and river outfitters.

Proposed supplementary rule number 14 addresses the burning of wood pallets containing nails or staples on public land. Campsites in popular areas on public land are used repeatedly throughout the spring, summer, and fall. As use increases, the availability of firewood decreases, leading more campers to bring construction debris or wood pallets with nails or staples in them to use as firewood. The nails and staples end up in campfire ash left at the campsite. In an effort to return campsites to a more primitive condition, many campers scatter ashes and rock rings before leaving their campsite. The nails or staples end up on the ground surface, causing flat tires. Proposed supplementary rule number 14 would reduce the risk of tire damage from discarded nails and staples in popular camping areas.

Proposed supplementary rule numbers 15 and 16 address impacts to wild horses from increased visitation, photography, and tours within their natural habitat. Wild horses can lose their wariness of humans due to acclimation with, close proximity to, and feeding by humans; this results in an increased likelihood of injury to a visitor or to a wild horse.

The proposed supplementary rule is in conformance with the following resource management plans (RMPs), as amended:

- Rock Springs RMP (“Green River RMP”) (1997)

- Newcastle Field Office RMP (2000)
- Casper Field Office RMP (2007)
- Pinedale Field Office RMP (2008)
- Snake River RMP (2004)
- Rawlins Field Office RMP (2008)
- Kemmerer Field Office RMP (2010)
- Lander Field Office RMP (2014)
- Buffalo Field Office RMP (2015)
- Bighorn Basin RMP – Cody Field Office (2015)
- Bighorn Basin RMP – Worland Field Office (2015)

IV. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

The proposed supplementary rule is not a significant regulatory action and is not subject to review by the Office of Management and Budget under Executive Order (E.O.) 12866, as amended by E.O. 14094. It does not have an annual effect of \$200 million or more on the economy. It does 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. It does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. It does not materially alter the budgetary effects of entitlements, grants, user fees, loan programs, or the rights or obligations of their recipients, nor does it raise novel legal or policy issues. The proposed supplementary rule merely establishes conduct for public use of a limited area of public lands.

National Environmental Policy Act (NEPA)

The BLM has found that the proposed supplementary rule comprises a category or kind of action that has no significant individual or cumulative effect on the quality of the

human environment. See 40 CFR 1508.4; 43 CFR 26.210. Specifically, the promulgation of the proposed supplementary rule—which prohibits violating existing state laws or engaging in activities that fall within 43 CFR 8365.1-4’s general prohibition on creating a hazard or nuisance—is an action that is of an administrative, financial, legal, technical, or procedural nature within the meaning of 43 CFR 26.210(i), and none of the extraordinary circumstances listed at 43 CFR 26.215 are applicable.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), 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. This proposed supplementary rule merely establishes conduct for public use of a limited area of public lands. Therefore, the BLM has determined under the RFA that the proposed supplementary rule would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

The proposed supplementary rule is not considered a ‘major rule’ as defined under 5 U.S.C. 804(2). The proposed supplementary rule merely establishes conduct for public use of a limited area of public lands and does not affect commercial or business activities of any kind.

Unfunded Mandates Reform Act

The proposed supplementary rule will not impose an unfunded mandate on State, local, or Tribal governments in the aggregate, or the private sector, of more than \$100 million per year, nor will it have a significant or unique effect on small governments. The proposed supplementary rule will have no effect on governmental or Tribal entities and will impose no requirements on any of these entities. The proposed supplementary rule

merely establishes conduct for public use of a limited area of public lands and does not affect Tribal, commercial, or business activities of any kind. 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)

The proposed supplementary rule is not a government action capable of interfering with constitutionally protected property rights. The proposed supplementary rule does not address property rights in any form and would not cause the impairment of constitutionally protected property rights. Therefore, the BLM has determined that the proposed supplementary rule will not cause a “taking” of private property or require further discussion of takings implications under this Executive order.

Executive Order 13132, Federalism

The proposed supplementary rule would 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. Therefore, in accordance with Executive Order 13132, the BLM has determined that this proposed supplementary rule will 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 this proposed supplementary rule will not unduly burden the judicial system and that it meets 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 this proposed supplementary rule does not include policies that have Tribal implications and would have no bearing on trust lands, 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.

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

This proposed supplementary rule does not constitute a significant energy action. This proposed supplementary rule would not have an adverse effect on energy supply, production, or consumption and has no connection with energy policy.

Executive Order 13352, Facilitation of Cooperative Conservation

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

Paperwork Reduction Act

This proposed supplementary rule does 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. 3501–3521.

Author

The principal author of this proposed supplementary rule is Deborah Sullivan, State Chief Ranger, BLM Wyoming State Office.

V. Proposed Rule

For the reasons stated in the Preamble and under the authority of 43 U.S.C. 1733(a), and 1740, and 43 CFR 8365.1-6, the BLM Wyoming State Director proposes a supplementary rule for public lands and BLM facilities in Wyoming, to read as follows:

SUPPLEMENTARY RULE FOR PUBLIC LANDS IN WYOMING

Definitions

Alcoholic beverage means a beverage as defined in W.S. 12-1-101(a)(i).

Disorderly conduct means “breach of peace.”

A person commits breach of peace as defined by W.S. 6-6-102 if s/he disturbs the peace of a community or its inhabitants by unreasonable loud noise or music or by using threatening, abusive, or obscene language or violent actions with knowledge or probable cause s/he will disturb the peace.

Federal Officer means any Federal law enforcement officer.

Wild horse means all unbranded and unclaimed horses that use public lands as all or part of their habitat, that have been removed from these lands by an authorized officer, or that have been born of wild horses or burros in authorized BLM facilities, but have not lost their status under section 3 of the Wild and Free-Roaming Horses and Burros Act of 1971.

Open alcoholic beverage container means a bottle, can, or other receptacle that contains any amount of alcoholic beverage and:

- (a) That is open or has a broken seal; or
- (b) The contents of which are partially removed.

Passenger area means the area designed to seat the driver and passengers while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his or her seating position, including but not limited to the glove compartment.

Public indecency has the same meaning as defined by W.S. 6-4-201.

Public land means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except (1) lands located on the Outer Continental Shelf; and (2) lands held for the benefit of Indians, Aleuts, and Eskimos.

Prohibited Acts

Unless otherwise authorized, the following acts are prohibited on all public lands, roads, trails, facilities, or waterways administered by the BLM in Wyoming:

1. You must not engage in disorderly conduct.
2. You must not engage in public indecency.
3. You must not possess or discharge fireworks.
4. You must not possess, discharge, or use explosives, incendiary or chemical devices, or exploding targets, including but not limited to ammonium nitrate- and aluminum powder-based binary explosives.
5. All rifle and pistol target shooting activities shall be into a backstop of material that prevents further travel or ricochet of the bullet.
6. You must not shoot at materials other than paper or cardboard targets, biodegradable clay pigeons, or plastic and steel targets manufactured specifically for shooting sports. Shooting at electrical components such as televisions, computers, or computer monitors; propane bottles; or glass containers is prohibited.
7. You must not possess, discharge, or use flammable devices, including but not limited to gasoline bombs commonly referred to as “Sobe Bombs” or flammable projectiles discharged from a launching tube or other device.
8. You must not drink an alcoholic beverage or possess an open alcoholic beverage container while in the passenger area of a motor vehicle, including off-highway vehicles.

9. You must not violate any State laws relating to the purchase, possession, use, or consumption of alcohol.
10. You must not possess any drug paraphernalia in violation of State law.
11. You must not tow or be in possession of a trailer requiring registration under Wyoming Revised Statutes that is either unregistered or has an expired registration.
12. You must not violate any Wyoming Revised Statute regarding hunting, fishing, boating, or outfitters.
13. You must not violate any Federal or State laws or regulations concerning conservation or protection of natural resources or the environment, including but not limited to those relating to air and water quality, protection of fish and wildlife, plants, and the use of a chemical toxicant.
14. You must not burn wood pallets containing nails or staples.
15. You must not intentionally engage in any activity within any distance that disturbs, displaces, or otherwise interferes with the free unimpeded movement of wild horses.
16. You must not feed, water, or touch any wild horse.

Exceptions

The following persons are exempt from the supplementary rule: any Federal, State, local, or military employees or contractors acting within the scope of their official duties; members of any organized rescue or fire-fighting force performing an official duty; and persons who are expressly authorized or approved by the BLM.

Enforcement

Any person who violates this supplementary rule may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8560.0-7, or both. In accordance with 43 CFR 8365.1-7, State or local officials may also impose penalties for violations of Wyoming law.

Andrew Archuleta,

BLM Wyoming State Director.

[FR Doc. 2023-19634 Filed: 9/11/2023 8:45 am; Publication Date: 9/12/2023]