

**DEPARTMENT OF THE INTERIOR****Bureau of Land Management**

[LLCON03000-L12200000-PA0000]

**Notice of Proposed Supplementary Rules for Public Lands in Colorado: North Fruita Desert Management Area****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Proposed supplementary rules.

**SUMMARY:** The Bureau of Land Management's (BLM) Grand Junction Field Office is proposing supplementary rules to regulate conduct on public lands within the North Fruita Desert Management Area (NFDMA). These supplementary rules are needed to implement decisions described in the North Fruita Desert Management Plan (NFDMP), to protect public lands, resources, public health, and provide for public safety.

**DATES:** Please send comments to the following address by October 5, 2009. Comments received or postmarked after this date may not be considered in the development of the final supplementary rules.

**ADDRESSES:** Please mail comments to Chris Ham, North Fruita Desert Management Area, 2815 H Road, Grand Junction, Colorado 81506; or e-mail comments to [gjfo\\_webmail@blm.gov](mailto:gjfo_webmail@blm.gov), Attn: "North Fruita."

**FOR FURTHER INFORMATION CONTACT:** Eric Boik, BLM Field Staff Law Enforcement Ranger, 970-244-3070, e-mail: [Eric\\_Boik@blm.gov](mailto:Eric_Boik@blm.gov) or Chris Ham, Recreation Program Lead, 970-244-3031, e-mail: [Chris\\_Ham@blm.gov](mailto:Chris_Ham@blm.gov).

**SUPPLEMENTARY INFORMATION:****I. Public Comment Procedures**

Written comments on the proposed supplementary rules should be specific, be confined to issues pertinent to the proposed supplementary rules, and explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the comment is addressing. The BLM is not obligated to consider or include in the Administrative Record for the supplementary rules, comments that 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 the address listed above (see **ADDRESSES**). Comments, including names, street addresses, and other contact information of respondents, will be available for public review at 2815 H

Road, Grand Junction, Colorado 81506, during regular business hours (7:30 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 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 that we will be able to do so.

**II. Background**

Recreation resource management decisions for the Grand Junction Field Office (GJFO) were detailed in the Grand Junction Resource Area (GJRA) Resource Management Plan (RMP) in 1987. The Grand Valley, including the North Fruita Desert, was designated as an Intensive Recreation Management Area (IRMA) in the RMP plan. The plan identified the need for additional planning for the IRMA due to its distinguishing characteristics and significance to recreation. The North Fruita Desert Management Plan fulfills the obligation of the GJFO to complete a site-specific recreation plan for this area. It establishes management objectives and identifies management strategies to achieve those objectives. The North Fruita Desert Management Plan amends the GJRA RMP, implements the Environmental Assessment (EA) and its amendments, and supports BLM policies. The North Fruita Desert Management Plan is an integrated, issue-driven recreation plan because it addresses all major resource disciplines present in the area and the issues associated with them. It is also consistent with direction for recreation actions found in the Recreation Guidelines to meet Public Land Health Standards on BLM Managed Lands in Colorado (2000), as well as the BLM National Mountain Bike Strategy, the BLM Off-Highway Vehicle (OHV) Strategy and the BLM Priorities for Recreation and Visitor Services. These three documents may be viewed at <http://www.blm.gov>.

**III. Discussion of the Proposed Supplementary Rules**

The proposed supplementary rules apply to the public lands within the North Fruita Desert Management Area (NFDMA). The North Fruita Desert Management Plan, a plan which amends the 1987 RMP within the North Fruita Desert Planning Area includes specific management actions that restrict certain

activities and define allowable uses. The proposed supplementary rules implement these management actions within the NFDMA. These rules do not propose or implement any land use limitations or restrictions other than those limitations or restrictions included within the decisions in the RMP or allowed for by existing law or regulation. Many of the proposed supplementary rules apply to the entire area, but some apply to specific areas within the NFDMA. This approach allows for flexibility in management actions based on the results of resource and visitor monitoring.

**IV. Procedural Matters***Executive Order 12866, Regulatory Planning and Review*

The supplementary rules do not comprise a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. The supplementary rules will not have an annual effect of \$100 million or more on the economy. They 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 supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The supplementary rules do not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor do they raise any novel legal or policy issues. The supplementary rules merely establish rules of conduct for public use of a limited area of public lands.

*Clarity of the Regulations*

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 supplementary rules clearly stated?
2. Do the supplementary rules contain technical language or jargon that interferes with their clarity?
3. Does the format of the supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce clarity?
4. Is the description of the supplementary rules in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding

the supplementary rules? How could this description be more helpful in making the supplementary rules easier to understand?

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

#### *National Environmental Policy Act*

The Management Plan and Final Environmental Assessment (EA) for the NFDMA were completed and the Record of Decision signed in August 2004. The supplementary rules are consistent with and necessary to properly carry out the direction of the RMP and the North Fruita Desert Management Plan. They establish rules of conduct for public use within NFDMA to protect public health and safety and improve the protection of the resources.

#### *Regulatory Flexibility Act*

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

#### *Small Business Regulatory Enforcement Fairness Act*

The supplementary rules are not considered a “major rule” as defined under 5 U.S.C. 804(2). The supplementary rules merely establish rules of conduct for public use of a limited area of public lands and do not affect commercial or business activities of any kind.

#### *Unfunded Mandates Reform Act*

The supplementary rules do 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 do they have a significant or unique effect on small governments. The rules have no effect on governmental or tribal entities and would impose no requirements on any of these entities. The supplementary rules merely establish rules of conduct for public use of a limited area of public lands and do 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)*

These supplementary rules do not have significant takings implications, nor are they capable of interfering with Constitutionally-protected property rights. The supplementary rules merely establish rules of conduct for public use of a limited area of public lands and do not affect anyone’s property rights. Therefore, the BLM has determined that these rules will not cause a taking of private property or require preparation of a takings assessment under this Executive Order.

#### *Executive Order 13132, Federalism*

These supplementary rules will not have a substantial direct effect on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. These supplementary rules do not come into conflict with any state law or regulation. Therefore, in accordance with Executive Order 13132, the BLM has determined that these 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, these supplementary rules will not unduly burden the judicial system and they meet 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, the BLM has found that these supplementary rules do not include policies that have tribal implications. The supplementary rules do not affect land held for the benefit, nor impede the rights of Indians or Alaska Natives.

#### *Paperwork Reduction Act*

The proposed supplementary rules do not directly provide for any information collection that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Any information collection that may result from Federal criminal investigations or prosecutions conducted under these proposed

supplementary rules is exempt from the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3518(c)(1).

#### *Author*

The principal author of these proposed supplementary rules is Eric Boik, BLM Field Staff Law Enforcement Ranger, McInnis Canyons National Conservation Area, 2815 H Road, Grand Junction, Colorado 81506.

For the reasons stated in the preamble and under the authorities for supplementary rules found under 43 U.S.C. 1740 and 43 CFR 8365.1–6, the Colorado State Director, Bureau of Land Management, proposes supplementary rules for public lands managed by the BLM in Colorado, to read as follows:

#### **Supplementary Rules for North Fruita Desert Management Area**

1. These supplementary rules apply, except as specifically exempted, to activities in the North Fruita Desert Management Area (NFDMA), which is comprised of public lands administered by the Bureau of Land Management near Grand Junction, Colorado.

2. These supplementary rules are in effect on a year-round basis and will remain in effect until modified by the authorized officer.

3. You must not start or maintain a fire outside of a metal fire ring at sites or areas where fire rings are provided by the BLM. Mechanical stoves and other appliances that are fueled by gas, and equipped with a valve that allows the operator to control the flame, are among the devices that fulfill the requirement for a metal fire ring.

4. You must not start or maintain a fire in sites or areas not designated as open for such use by a BLM sign or map.

5. You must not cut or collect live, dead, or down wood except in areas designated as open to such use by a BLM sign or map.

6. You must not use roads and/or trails by motorized or mechanized vehicle or equestrian or pedestrian travel except when designated as open to such use by a BLM sign or map.

7. You must not discharge a firearm of any kind, including those used for target shooting or paintball as indicated by a BLM sign or map. Licensed hunters in legitimate pursuit of game during the proper season with appropriate firearms, as defined by the Colorado Division of Wildlife, are exempt from this rule.

8. The hours of operation are sunrise to sunset in any area that is for day-use only as indicated by a BLM sign or map. You must not enter or remain in such an area after sunset or before sunrise.

9. You must not enter an area that is designated as closed by a BLM sign or map.

10. You must not camp in sites or areas not designated as open to camping by a BLM sign or map.

11. You must not burn material, including wood that contains nails, glass or any metal.

12. You must not park in areas not designated for parking by a BLM sign or map.

13. You must not bring any dog into the NFDMA that is not controlled by visual, audible, or physical means.

14. You must remove and properly dispose of canine solid waste when indicated by a BLM sign or map.

15. You must dispose of solid human waste as indicated by a BLM sign or map.

**Exemptions:** Persons who are exempt from the restrictions contained in these Rules include:

A. Federal, state, local and/or military personnel in the scope of their official duties;

B. Members of any organized rescue or fire-fighting force in performance of their official duties; and

C. Persons, agencies, municipalities, or companies holding an existing special use permit inside the NFDMA and operating within the scope of their permit.

**Penalties:** Any person who violates any of the supplementary rules may be tried before a United States Magistrate and fined no more than \$1,000 or imprisoned for no more than 12 months, or both. 43 U.S.C. 1733(a); 43 CFR 8360.0-7. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571. In accordance with 43 CFR 8365.1-7, State or local officials may also impose penalties for violations of Colorado law.

#### Dave Hunsaker,

Associate State Director.

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

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### Notice of Temporary Closures and Prohibitions of Certain Activities on Public Lands in Pershing County, NV

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of temporary closure.

**SUMMARY:** Certain lands located in northwestern Nevada partly within the

Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area (NCA) will be temporarily closed or restricted and certain activities will be temporarily prohibited in and around the Burning Man event site administered by the Bureau of Land Management (BLM) Winnemucca District. The specified closures, restrictions and prohibitions are made in the interest of public safety at and around the event. The 2006 Decision Record and associated Environmental Assessment (EA) authorized issuance of a five-year permit to Black Rock City LLC (BRC LLC) to conduct the event on public lands within the NCA. The authorization for 2009 represents year four of the permit.

**DATES:** August 3, 2009 to September 18, 2009.

#### FOR FURTHER INFORMATION CONTACT:

Dave Hays, Field Manager, Bureau of Land Management, Black Rock Field Office, Winnemucca District, 5100 E. Winnemucca Blvd., Winnemucca, NV 89445-2921, telephone: (775) 623-1500.

**SUPPLEMENTARY INFORMATION:** Issues raised during public scoping for the EA included public health, socioeconomics, event management, and playa access/conditions. The EA analyzed a full spectrum of resources including, but not limited to, recreation, wildlife, air quality, solid waste and hazardous waste. Cumulative effects of the proposed action were also fully analyzed in the EA. An annual review of the permit, BRC LLC operations plan, closure orders, and special stipulations is done prior to issuance of an annual operations authorization.

Two areas are proposed for temporary closures during portions of August and September 2009. The smaller of the two areas, the Event Closure Area, is described in Section I of this notice and includes about 2,550 acres that will be subject to additional restrictions. During the 48-day period from August 3 through September 18 this area will be closed to public camping, public use, possession of weapons, possession of fireworks, building of fires on the ground, waste water discharge and other restrictions. The second and larger area is the Public Closure Area as described in Section II of this notice and encompasses about 6,200 acres. This area will be closed to camping and discharge of weapons during the same 48-day period. Additional restrictions including public use and aircraft landing will apply during an 11-day period that corresponds to the actual event which is August 31 through September 7, 2009.

I. The 2009 Event Area is within the following legally described locations:

#### Mount Diablo Meridian, Nevada

Unsurveyed T. 33 N., R. 24 E.,

Sec. 1, portion within event perimeter fence and 50 yards outside the fence;

Sec. 2, portion within event perimeter fence, 50 yards outside the fence and the aircraft parking area;

Sec. 3, portion within event perimeter fence, 50 yards outside the fence and within 50 yards of the event entrance road;

Secs. 4 and 5, portions within 50 yards of the event entrance road.

Unsurveyed T. 33½ N., R. 24 E.,

Sec. 25, portion within event perimeter fence and 50 yards outside the fence;

Sec. 26;

Secs. 27 and 34, portions within event perimeter fence and 50 yards outside the fence;

Sec. 35;

Sec. 36, portion within event perimeter fence and 50 yards outside the fence.

Unsurveyed T. 34 N., R. 24 E.,

Secs. 34, 35 and 36, portions within event perimeter fence and 50 yards outside the fence.

The area described contains 2,550 acres, more or less.

Between August 3, 2008 and September 18, 2009 inclusive the following restrictions and provisions apply:

#### A. Aircraft Landing

Aircraft as defined in Title 18, United States Code, section 31(a)(1) and includes lighter-than-air craft, ultra-light craft, and remotely controlled powered craft are prohibited from landing, taking off, or taxiing. The following exceptions apply:

1. Aircraft operations conducted through the authorized event landing strip and such ultra-light and helicopter take-off and landing areas designated for Burning Man event staff and participants, law enforcement, and emergency medical services.

2. Helicopters providing emergency medical services may land in other locations when required for medical incidents.

3. Landings or take-offs of lighter-than-air craft previously approved by the BLM authorized officer.

#### B. Alcohol

1. Possession of an open container of an alcoholic beverage by the driver or operator of any motorized vehicle, whether or not the vehicle is in motion is prohibited.

2. Possession of alcohol by minors.

(a) The following are prohibited:

(1) Consumption or possession of any alcoholic beverage by a person under 21 years of age on public lands.