

in accordance with the Refuge System Administration Act.

#### Public Outreach

We began public outreach by publishing a Notice of Intent in the **Federal Register** on August 14, 2007 (72 FR 45444), announcing our intent to complete a CCP/EA and inviting public comments. In October 2007, we distributed Planning Update 1, which included background information on the Refuges, preliminary issues and goals, and a mail-in comment form. In the later part of 2007 and first half of 2008, Refuge and regional office staff held meetings with other Federal agencies, State agencies, county-based Marine Resource Committees, the research community, and nongovernmental organizations. In August 2008, we distributed Planning Update 2, which included the results of initial scoping, preliminary management options, and an invitation to the public open house meetings. The open house public meetings were held on September 23 and 24, 2008, in Friday Harbor and Port Townsend, Washington, respectively. We presented preliminary management options and obtained public comments at these meetings.

#### Draft CCP/WSP/EA Alternatives We Are Considering

We identified and evaluated three alternatives for managing the Refuges, including current management (Alternative A). Brief descriptions of the alternatives follow.

##### Alternative A (Current Management)

Under Alternative A, the Refuges would continue with current management, which focuses on stewardship, including removing unnecessary roads and human structures; allowing natural processes to occur with minimal human intervention; monitoring wildlife species; and working with partners to reduce the risk of oil spills, clean up marine debris, and educate boaters to minimize human-caused wildlife disturbance. Protection Island NWR would continue to be closed to the general public. Scientific research activities on Protection Island would continue with an emphasis on existing long-term partnerships. Recreational activities, including wildlife observation, photography, and camping on Turn and Matia Islands within the San Juan Islands Refuge, would continue as they have in the past and be facilitated through a State Parks partnership.

##### Alternative B (Preferred Alternative)

This alternative would continue many of the activities in Alternative A, and would include more active habitat management projects, such as removing deer from Protection Island to enhance seabird nesting habitat and forest habitat; restoration projects on the spits, grasslands, and forests to increase native plant diversity; and the facilitation of new research and monitoring studies and partnerships to find answers to Refuge management questions. Public use changes include prohibiting pets on all Refuge lands and closing some areas on Turn Island, including all of the rocky shoreline to the east and the southeast beach as well as most of the island's interior. Overnight camping on Turn and Matia Islands would be limited to visitors arriving by human-powered craft, and a camping reservation system would be initiated. There would be more emphasis on enhancing the public's understanding and appreciation of the Refuges' natural, cultural, and wilderness resources through both on- and off-Refuge interpretation and education programs. There would be fewer large signs but more medium-sized signs installed on San Juan Islands Refuge units to discourage close approach or trespassing on closed islands. There would also be more emphasis on working with existing partners and developing new partnerships to accomplish objectives.

##### Alternative C

This Alternative is very similar to Alternative B; the primary differences are fewer acres of native habitat restoration, as well as less research and fewer monitoring studies and surveys. Camping would continue with fewer campsites on Matia Island, and Turn Island would be limited to day-use only. Compared to Alternative B, fewer and mostly smaller signs would be used in Alternative C to identify closed Refuge islands and reduce human-caused wildlife disturbance.

#### Public Availability of Documents

In addition to any methods in **ADDRESSES**, you can obtain a CD-ROM copy of the Draft CCP/WSP/EA from the Refuge by calling (360) 457-8451. Copies may be reviewed at the Refuge and on the Internet at <http://www.fws.gov/pacific/planning/main/docs/WA/docsprotectionIs.htm>. Printed copies will be available for review at the following libraries in northwestern Washington: Anacortes Public Library, Bellingham Public Library, Clinton Public Library, Coupeville Public

Library, Evergreen State College Library, Island Public Library, Jefferson County Central Library, Lopez Island Public Library, North Olympic Public Library, Oak Harbor Public Library, Orcas Island Public Library, Peninsula College Library, San Juan Islands Library, Shaw Island Library, University of Puget Sound Library, University of Washington Library, and Waldron Island Library.

#### Next Steps

After this comment period ends, we will analyze the comments and address them in the final CCP/WSP and decision document.

#### Public Availability of Comments

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 identifying information from the public, we cannot guarantee that we will be able to do so.

Dated: July 2, 2010.

**Carolyn A. Bohan,**

*Regional Director, Region 1, Portland, Oregon.*

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**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLWO120900-L10200000-PA0000; HAG-10-0097]

#### Final Supplementary Rules for Public Land in Oregon and Washington

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

**ACTION:** Final Supplementary Rules on the BLM lands in Oregon and Washington.

**SUMMARY:** The Bureau of Land Management (BLM) Oregon State Office is proposing Final Supplementary Rules for the BLM lands within the States of Oregon and Washington. These Final Supplementary Rules revise existing supplementary rules. These revisions are necessary in order to protect public land natural resources and provide for the public's health and safety. They provide needed guidance in the areas of special forest products and recreation, allow for the assessment of penalties that are commensurate with the magnitude of prohibited acts, and promote consistency among the BLM and other natural resource agencies.

**DATES:** *Effective Date:* These rules are effective September 17, 2010.

**ADDRESSES:** You may send inquiries to the BLM, Office of Law Enforcement, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208.

**FOR FURTHER INFORMATION CONTACT:** State Staff Ranger Mike Roop, BLM, Oregon State Office, 333 SW. 1st Ave., Portland, Oregon, 97204, 503-808-6410 or *michael\_roop@blm.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The BLM proposed these Supplementary Rules in the **Federal Register** on September 21, 2009 (74 FR 48096). These Supplementary Rules revise existing Supplementary Rules. These revisions are necessary in order to protect public land natural resources and provide for the public's health and safety. They provide needed guidance in the areas of special forest products and recreation, allow for the assessment of penalties that are commensurate with the magnitude of prohibited acts, and promote consistency between the BLM and other natural resource agencies, including the U.S. Forest Service, National Park Service, Oregon State Parks and Recreation Department, and the State of Washington Department of Natural Resources. The BLM received one substantive comment regarding the Juniper Dunes Off-Highway Vehicle (OHV) area. The concern was about the definition of OHV/All Terrain Vehicle (ATV) and the required use of helmets for OHV/ATV users on the dunes. A revision was made to clarify the requirement. The occupants of street legal, four-wheeled vehicles are not required to wear helmets while in the Juniper Dunes OHV area. Otherwise, with the exception of minor non-substantive grammatical and formatting changes, the Final Supplementary Rules remain as proposed.

**II. Discussion**

These Final Supplementary Rules fill in gaps between existing Supplementary Rules and provisions administered by other land management agencies. The existing Supplementary Rules (70 FR 48584) for Oregon and Washington public lands were published on August 18, 2005.

Currently, the BLM's forest and plant products program in Oregon and Washington lacks specific rules with penalties for theft or permit violations.

From Fiscal Year (FY) 2000 to FY 2007, the BLM in Oregon and Washington experienced 533 firewood theft incidents and 372 forest product theft incidents. These incidents

involved sales of firewood at makeshift sites located on public lands, and other commercial uses of public lands that are not clearly prohibited in existing rules. The Final Supplementary Rules enable the BLM to address such incidents.

Additionally, the current regulations do not adequately protect the BLM's administrative and day-use sites in Oregon and Washington. Administrative sites include fire guard stations, maintenance buildings, ware yards, residences, and outbuildings. Day-use sites include the Dean Creek Elk Viewing Site, interpretive pull-outs, picnic areas, and other sites improved for public use during daylight hours. The Final Supplementary Rules prohibit unauthorized entry and overnight use of administrative and day-use sites.

Supplementary Rules are also necessary to address the Juniper Dunes OHV/ATV area. In the spring of 2007, the BLM obtained an easement for public access to the Juniper Dunes OHV/ATV area in Franklin County, which is located in southeast Washington State. The BLM constructed parking areas and an informational kiosk. After development, the BLM realized the existing rules did not address safety concerns adequately. In May 2007, the BLM posted temporary rules at the Dunes and in the BLM Spokane District Office. These rules were based on safety concerns and modeled on the State of Washington OHV/ATV regulations, and were intended to reduce conflicts with and damage to adjacent private landowners. The Final Supplementary Rules for the Juniper Dunes OHV/ATV area replace the temporary rules, which have reduced safety issues and user/resident conflicts.

Finally, Supplementary Rules are also necessary in order to address the process and requirements for permit applications and investigations. The wording of the Final Supplementary Rule is identical to the National Park Service (36 CFR 2.32 (a)(4)) and the U.S. Forest Service (36 CFR 261.3(b)) rules.

**III. Procedural Matters**

*Executive Order 12866, Regulatory Planning and Review*

The Final Supplementary Rules do not constitute a "significant regulatory action," and are not subject to review by the Office of Management and Budget under Executive Order 12866. The Final Supplementary Rules will not have an 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 Final Supplementary Rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The Final Supplementary Rules do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients, and they do not raise novel legal or policy issues. They merely impose rules of conduct and impose other limitations on certain recreational and commercial activities on certain public lands to protect natural resources and human health and safety.

*National Environmental Policy Act*

The BLM has found that the Final Supplementary Rules are of a procedural nature and thus are categorically excluded from environmental review under Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(C), pursuant to 43 CFR 46.210(i). In addition, the Final Supplementary Rules do not present any of the 12 extraordinary circumstances listed at 43 CFR 46.215. Pursuant to the White House Council on Environmental Quality's regulations (40 CFR 1508.4) and the environmental regulations, policies, and procedures of the Department of the Interior, the term "categorical exclusions" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

*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. These Final Supplementary Rules should have no effect on business entities of any size. They would merely impose reasonable restrictions on certain recreational or commercial activities on public lands in order to protect natural resources and the environment and provide for human health and safety. Therefore, the BLM has determined, under the RFA, that these Final Supplementary Rules would

not have a significant economic impact on a substantial number of small entities.

*Small Business Regulatory Enforcement Fairness Act (SBREFA)*

The Final Supplementary Rules do not constitute a “major rule” as defined at 5 U.S.C. 804(2). The Final Supplementary Rules would not result in an effect on the economy of \$100 million or more, an increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. They would merely impose reasonable restrictions on certain recreational and illegal commercial activities on certain public lands to protect natural resources, the environment, and human health and safety.

*Unfunded Mandates Reform Act*

The 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. They would not have a significant or unique effect on State, local, or Tribal governments or the private sector. They would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. They also specifically call for compliance with State laws and regulations. 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 Final Supplementary Rules do not constitute a government action capable of interfering with constitutionally protected property rights. Therefore, the BLM has determined that the rule would not cause a taking of private property or require preparation of a takings assessment under this Executive Order.

*Executive Order 13132, Federalism*

The Final 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. The Final Supplementary Rules, in several

instances, call for compliance with State law. 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*

The BLM has determined that the Final Supplementary Rules do not unduly burden the judicial system and 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 will not result in significant changes to BLM policy and that tribal governments will not be unduly affected by this rule. This rule has no bearing on trust lands or on lands for which title is held in fee status by Indian Tribes of U.S. Government-owned lands managed by the Bureau of Indian Affairs.

*Information Quality Act*

In developing the 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, Effects on the Nation's Energy Supply*

The Final Supplementary Rules have no implications under Executive Order 13211.

*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 of 1995 (44 U.S.C. 3501 *et seq.*).

*Author*

The principal author of these Final Supplementary Rules is Mike Roop, State Staff Ranger, Bureau of Land Management.

For the reasons stated in the preamble and under the 43 CFR 8365.1–6, 43 U.S.C. 1740, 16 U.S.C. 670h(c)(5), and 43 U.S.C. 315a, the BLM Oregon/Washington State Director proposes to issue supplementary rules for public lands managed by the BLM in Oregon and Washington, to read as follows:

**Supplementary Rules for Oregon and Washington**

*Definitions*

*ATV/OHV* means any motor vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swamp land, or other natural terrain.

*Authorized Employee* means any employee of the Bureau of Land Management who has been designated the authority to perform the duties in these rules.

*Commercial Use* means a use or activity for which an entry or participation fee is charged or for which the primary purpose is the sale of a good or service and, in either case, regardless of whether the use or activity is intended to produce a profit.

*Damage* means to injure, mutilate, deface, destroy, cut, chop, girdle, dig, excavate, or kill.

*Day-Use Area* means an area that is to be utilized in the hours of daylight or within the posted hours of operation. No camping is allowed.

*Forest or Plant Product* means all vegetative material that is not normally measured in board feet but can be sold or removed from public lands by means of the issuance of a contract or permit.

*Street Legal, Four-Wheeled Vehicle* means any vehicle with four wheels, which meets the state vehicle equipment requirements for a passenger vehicle, is registered with a state Department of Motor Vehicles, and carries vehicle insurance.

*Prohibited Acts:*

Unless otherwise authorized, the following acts are prohibited on public lands within Oregon and Washington:

1. *Forest or Plant Products.*

(a) You must not cut or otherwise damage any timber, tree, other forest product or plant, either live or dead, except as authorized by written permit, special-use authorization, contract, Federal law or regulation, or with written permission from an authorized employee.

(b) You must not remove any timber, tree, other forest product or plant, either live or dead, without authorization by written permit, special-use authorization, contract, or Federal law or regulation, or without written permission from an authorized employee.

(c) You must not fail to properly tag, mark, or transport any forest product or plant, either live or dead, as required by Federal or State regulation or law.

(d) You must not fail to possess and properly fill out any permit paperwork as required by Federal or State permit stipulation, regulation, or law.

(e) You must not violate the terms or conditions of any BLM-issued permit.

(f) You must not dispose of, burn, or possess any type of firewood or wood pallets containing nails, screws, or other metal hardware.

(g) You must not introduce new species without authorization.

(h) You must not possess, use, or store any hay, straw, or mulch that has not been certified as free of prohibited noxious vegetative parts and/or seeds at any time of the year. Certification must comply with the State, Regional, or Federal Weed-Free Forage Certification Standards.

#### 2. Day-Use Areas.

(a) You must not enter or use any day-use area before or after the posted use hours.

(b) You must not enter any closed day-use area.

#### 3. Commercial Use Permits.

(a) You must not operate any commercial business on public lands without a permit or written permission from an authorized employee.

(b) You must not violate the terms or conditions of any BLM-issued permit.

(c) You must not conduct research projects or scientific studies without a permit.

#### 4. Juniper Dunes ATV/OHV Use Area.

(a) You must wear an industry-approved safety helmet when operating a motorcycle or ATV/OHV on all BLM public or leased lands and roads within the Juniper Dunes area. This requirement does not apply to occupants of street-legal, four-wheeled vehicles.

(b) You must not carry a passenger when operating a motorcycle or ATV/OHV on BLM public lands and roads unless the ATV/OHV is designed by the manufacturer to carry a passenger.

(c) You must not operate a motorcycle or ATV/OHV without a safety flag while on BLM lands in the Juniper Dunes. All such vehicles must have a whip mast and a 6-inch x 12-inch red/orange safety flag. Flags may be of pennant, triangle, square, or rectangular shape. Safety flags must be attached within 10 inches of the tip of the whip mast with club or other flags mounted below the safety flag or on another whip. Masts must be a minimum of 6 feet in height/length or industry standard height/length.

(d) You must not operate a motorcycle or ATV/OHV without a safety flag on Peterson Road, Juniper Road, Smith Canyon Road, and/or Wilderness Road. Safety flags are not required for street-legal, four-wheeled passenger vehicles on those roads.

(e) You must not use wood pallets for any type of fire on BLM lands or roads in the Juniper Dunes area.

(f) You must not race or drive recklessly or carelessly on Peterson Road, Juniper Road, Smith Canyon Road, and/or Wilderness Road.

#### 5. Administrative Sites.

(a) You must not enter or climb on any BLM buildings or structures, occupied or unoccupied, unless authorized.

(b) You must not operate or park any motorized vehicle on any closed service road or any closed BLM residential road or any area adjacent to a BLM building.

(c) You must not stay or park overnight on the grounds of any BLM residential building, unless authorized.

(d) You must not enter any closed BLM residential or work area, unless authorized.

#### 6. Conduct.

You must not give any false, fictitious, or fraudulent report or other misleading information:

(a) To a BLM officer investigating an accident or violation of law or regulation;

(b) to an authorized employee engaged in his/her official duties; or

(c) on an application for a permit.

**Exemptions:** The following persons are exempt from these rules: any Federal, State, or local officer or employee acting within the scope of his/her duties; members of any organized rescue or firefighting force in performance of an official duty; and any person authorized in writing by the BLM.

#### Penalties

Any person who violates any of these supplementary rules on public lands in grazing districts (see 43 U.S.C. 315a) or public lands leased for grazing under 43 U.S.C. 315m, may be tried before a United States Magistrate Judge, and fined no more than \$500. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Any person who violates any of these supplementary rules on public lands subject to a conservation and rehabilitation program implemented by the Secretary of the Interior under 16 U.S.C. 670g *et seq.* (Sikes Act), may be tried before a United States Magistrate Judge, and fined no more than \$500 or imprisoned for no more than six months or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

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 8360-7, any person who violates any of these supplementary rules may be tried before a United States Magistrate Judge and

fined no more than \$1,000 or imprisoned for no more than 12 months or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

**Edward W. Shepard,**

*State Director, Oregon/Washington.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Liquor Ordinance of the Wichita and Affiliated Tribes; Correction

**AGENCY:** Bureau of Indian Affairs, Interior

**ACTION:** Notice; correction

**SUMMARY:** The Bureau of Indian Affairs published a document in the **Federal Register** of July 27, 2010, concerning the Liquor Ordinance of the Wichita and Affiliated Tribes. The notice refers to an amended ordinance of the Wichita and Affiliated Tribes when in fact the Liquor Ordinance adopted by Resolution No. WT-10-31 on May 14, 2010 is an entirely new ordinance. The notice also erroneously refers in one location to an "amended ordinance of the Prairie Band Potawatomi Nation."

**DATES:** *Effective Date:* This correction is effective as of August 18, 2010.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Colliflower, Office of Tribal Services, 1849 C Street, NW., Mail Stop 4513-MIB, Washington, DC 20240; Telephone (202) 513-7641; Fax (202) 208-5113.

#### Correction

In the **Federal Register** of July 27, 2010, in FR Doc. 2010-18319, on page 44011, in the first and second columns, delete the word "amended" wherever it appears. On page 44011, in the second column, remove the sentence:

"The amended Liquor Ordinance of the Prairie Band Potawatomi Nation reads as follows:" and add in its place the sentence:

"The Liquor Ordinance of the Wichita and Affiliated Tribes reads as follows:"

Dated: August 11, 2010.

**George Skibine,**

*Acting Principal Deputy Assistant Secretary, Office of the Assistant Secretary—Indian Affairs.*

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