

180.930, and 180.940. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

C. Notice of Filing—New Tolerances for Non-Inerts

1. *PP 0F8842.* EPA–HQ–OPP–2020–0533. Meiji Seika Pharma Co., Ltd, c/o Landis International, Inc., 3185 Madison Highway, P.O. Box 5126, Valdosta, GA 31603–5126, requests to establish a tolerance in 40 CFR part 180 for residues of the herbicide, L-glufosinate Free Acid, in or on apple at 0.05 parts per million (ppm); beet, sugar, molasses at 5.0 ppm; beet, sugar, roots at 0.9 ppm; beet, sugar, tops (leaves) at 1.5 ppm; bushberry subgroup 13B at 0.15 ppm; canola, meal at 1.1 ppm; canola, seed at 0.40 ppm; cattle, fat at 0.40 ppm; cattle, meal at 0.15 ppm; cattle, meat byproducts at 6.0 ppm; corn, field, forage at 4.0 ppm; corn, field, grain at 0.20 ppm; corn, field, stover at 6.0 ppm; corn, sweet, forage at 1.5 ppm; corn, sweet, kernels plus cob with husks removed at 0.30 ppm; corn, sweet, stover at 6.0 ppm; cotton, gin byproducts at 15 ppm; cotton, undelinted seed at 4.0 ppm; egg at 0.15 ppm; fruit, citrus, crop group 10–10 at .15 ppm; fruit, pome, crop group 11–10 at .25 ppm; fruit, stone, crop group 12–12 at 0.30 ppm; goat, fat at 0.40 ppm; goat, meat at 0.15 ppm; goat, meat byproducts at 6.0 ppm; grape at 0.05 ppm; hog, fat at 0.40 ppm; hog, meat at 0.15 ppm; hog, meat byproducts at 6.0 ppm; horse, fat at 0.40 ppm; horse, meat at 0.15 ppm; horse, meat byproducts at 6.0 ppm; milk at 0.15 ppm; nut, tree, crop group 14–12 at 0.50 ppm; olive at 0.50 ppm; potato at 0.80 ppm; potato, chips at 1.6 ppm; potato, granules/flakes at 2.0 ppm; poultry, fat at 0.15 ppm; poultry, meat at .15 ppm; poultry, meat byproducts at 0.60 ppm; sheep, fat at 0.40 ppm; sheep, meat at 0.15 ppm; sheep, meat byproducts at 6.0 ppm; soybean at 2.0 ppm; soybean, hulls at 10.0 ppm. The analytical methods HRAV–5A and BK/01/99 are used to measure and evaluate the chemical L-glufosinate free acid. *Contact:* RD.

2. *PP 2F9042.* EPA–HQ–OPP–2023–0459. UPL NA Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406, requests to establish a tolerance in 40 CFR part 180 for residues of the herbicide, L-Glufosinate Ammonium, in or on almond, hulls at 0.25 parts per million (ppm); beet, sugar, molasses at 2.5 ppm; beet, sugar, roots at 0.45 ppm; bushberry subgroup 13b at 0.075 ppm; canola, meal at 0.55 ppm; canola, seed at 0.2 ppm; cattle, fat at 0.2 ppm; cattle, meat at 0.075 ppm;

cattle, meat byproducts at 3 ppm; corn, field forage at 2 ppm; corn, field, grain at 0.1 ppm; corn, field, stover at 3 ppm; corn, sweet, forage at 0.75 ppm; corn, sweet, kernels plus cob with husks removed at 0.15 ppm; corn, sweet, stover at 3 ppm; cotton, gin byproducts at 15 ppm; cotton, undelinted seed at 7.5 ppm; egg at 0.075 ppm; citrus fruit (crop group 10–10) at 0.075 ppm; pome fruit (crop group 11–10) at 0.125 ppm; stone fruit (crop group 12–12) at 0.15 ppm; goat, fat at 0.2 ppm; goat, meat at 0.075 ppm; goat, meat byproducts at 3 ppm; grain aspirated fractions at 12.5 ppm; grape at 0.025 ppm; hog, fat at 0.2 ppm; hog, meat at 0.075 ppm; hog, meat byproducts at 3 ppm; horse, fat at 0.2 ppm; horse, meat at 0.075 ppm; horse, meat byproducts at 3 ppm; milk at 0.075 ppm; tree nut (crop group 14–12) at 0.25 ppm; olive at 0.25 ppm; potato at 0.4 ppm; potato, chips at 0.8 ppm; potato granules/flakes at 1ppm; poultry, fat at 0.075 ppm; poultry, meat at 0.075 ppm; poultry, meat byproducts at 0.3 ppm; sheep, fat at 0.2 ppm; sheep, meat at 0.075 ppm; sheep, meat byproducts at 3 ppm; soybean at 1 ppm; soybean, hulls at 5 ppm and inadvertent or indirect uses on Barley, hay at 0.2 ppm; barley, straw at 0.2 ppm; buckwheat, fodder at 0.2 ppm; buckwheat, forage at 0.2 ppm; oat, forage at 0.2 ppm; oat, hay at 0.2 ppm; oat, straw at 0.2 ppm; rye, forage at 0.2 ppm; rye, straw at 0.2 ppm; teosinte at 0.2 ppm; triticale at 0.2 ppm; wheat, forage at 0.2 ppm; wheat, hay at 0.2 ppm; wheat, straw at 0.2 ppm. The analytical method uses liquid chromatograph-tandem mass spectrometer (LC–MS/MS) is used to measure and evaluate the chemical L-glufosinate ammonium. *Contact:* RD.

3. *PP 3E9058.* EPA–HQ–OPP–2023–0399. UPL Delaware, Inc. (UPL), 630 Freedom Business Center, Suite 402 King of Prussia, PA 19406, requests to establish an import tolerance in 40 CFR part 180 for residues of the fungicide, kasugamycin, in or on tea, dried at 3 ppm. The analytical method uses LC–MS/MS method is used to measure and evaluate the chemical kasugamycin. *Contact:* RD.

Authority: 21 U.S.C. 346a.

Dated: November 13, 2023.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2023–25751 Filed 11–20–23; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8360

[BLM_HQ_FRN_MO4500172968]

RIN 1004–AE89

Temporary Closure and Restriction Orders

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to modernize and streamline how the agency notifies the public of temporary closure and restriction orders; clarify that the BLM may issue temporary closure or restriction orders to implement management responsibilities, avoid conflicts among public land users, and ensure the privacy of Tribal activities for traditional or cultural use; require that all orders specify the date and time that a temporary closure or restriction becomes effective and terminates; and make the penalties for violating temporary closure and restriction orders consistent with current statutory authority.

DATES: Please submit comments on this proposed rule on or before January 22, 2024. The BLM is not obligated to consider comments received after this date in making its decision on the final rule.

ADDRESSES:

Mail, personal, or messenger delivery: U.S. Department of the Interior, Director (HQ–630), Bureau of Land Management, Room 5646, 1849 C St. NW, Washington, DC 20240, Attention: Regulatory Affairs: 1004–AE89.

Federal eRulemaking Portal: <https://www.regulations.gov>. In the Searchbox, enter “RIN 1004–AE89” and click the “Search” button. Follow the instructions at this website.

FOR FURTHER INFORMATION CONTACT:

Kevin Oliver with the BLM Headquarters Division of Recreation and Visitor Services at (801) 450–3134 or via email at koliver@blm.gov. For questions relating to regulatory process issues, email Brittney D. Rodrigues at: brodrigues@blm.gov. Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. 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. In compliance with the Providing Accountability Through Transparency Act of 2023, please see the Abstract section in Docket No. BLM–2023–0007 on <https://www.regulations.gov> for a summary of the proposed rule.

SUPPLEMENTARY INFORMATION:

- I. Executive Summary
- II. Public Comment Procedures
- III. Background
- IV. Discussion of the Proposed Rule
- V. Procedural Matters

I. Executive Summary

The BLM proposes to modernize and streamline how the agency notifies the public of temporary closure and restriction orders; clarify that the BLM may issue temporary closure or restriction orders to implement management responsibilities, avoid conflicts among public land users, and ensure the privacy of Tribal activities for traditional or cultural use; require that all orders specify the date and time that a temporary closure or restriction becomes effective and terminates; and make the penalties for violating temporary closure and restriction orders consistent with current statutory authority.

The proposed revisions would allow the BLM to better notify the public about the presence, nature, and scope of temporary closure and restriction orders and would make the BLM's procedures for issuing temporary closure and restriction orders more consistent with those of the United States Forest Service (USFS) and the National Park Service (NPS).

The requirement in 43 CFR 8364.1 to publish temporary closure and restriction orders in the **Federal Register** frequently delays the BLM's ability to issue such orders. The BLM's ability to expeditiously close or restrict the use of public lands temporarily is also hampered by the time it takes for an order to become effective after being signed by an authorized officer. Because emergencies and unforeseen events on public lands often require a more immediate response, any delay caused by the current regulatory scheme can compromise the BLM's ability to carry out its mission and protect the public. The proposed rule would enhance the BLM's ability to adequately meet the public's expectation for the protection of health, safety, property, and public land resources. Importantly, the proposed rule would not itself close or restrict use of any public land, nor would it require the BLM to issue any new or additional closure or restriction orders.

II. Public Comment Procedures

If you wish to comment on this proposed rule, you may submit your comments to the BLM by mail, personal or messenger delivery, or through <https://www.regulations.gov> (see **ADDRESSES**, above). Please make your comments on the proposed rule as specific as possible, confine them to issues pertinent to the proposed rule, explain the reason for any changes you recommend, and include any supporting documentation. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing. The BLM is not obligated to consider or include in the administrative record for the final rule any comments received after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed previously (see **ADDRESSES**). Comments, including names and street addresses of respondents, will be available for public review at the address listed under “**ADDRESSES**: Mail, personal or messenger delivery” during regular hours (7:45 a.m. to 4:15 p.m. Eastern Time), Monday through Friday, except holidays. Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised 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 from public review your personal identifying information, we cannot guarantee that we will be able to do so.

III. Background

The Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1701–1787) establishes the agency's multiple use and sustained yield mandate. In managing the public lands in accordance with FLPMA, the BLM occasionally issues temporary closure and restriction orders under 43 CFR 8364.1 to protect persons, property, public lands, and resources. The need to temporarily close or restrict the use of public land often arises in response to emergencies or unplanned events such as a flood or fire, hazardous material incident, discovery of unexploded ordnance, public health emergency, or change in public land use that creates a public safety hazard. For example, the BLM issued temporary closure or restriction orders to protect the public from unsafe conditions in a community rock pit in Doña Ana County, New Mexico (88 FR 42984 (July 5, 2023));

close nine acres of public land near Rowley, Utah that were inundated with a hydrochloric acid spill (79 FR 26265 (May 7, 2014)); and close a recreation site near Challis, Idaho to protect the public from dangerous flooding and ice jams impacting the recreation site (87 FR 25523 (April 29, 2022)). Occasionally, the BLM also temporarily closes public land or restricts its uses to protect resources, implement certain management activities, or avoid conflict among visitor use activities. In such situations, the BLM may restrict an area to certain types of travel to facilitate restoration or close an area to public access to facilitate the preparation for and occurrence of a special recreation event, such as the Burning Man Project (88 FR 39863 (June 20, 2023)); the King of the Hammers off-road race (87 FR 69300 (November 11, 2022)); the Reno Air Races (84 FR 31337 (July 1, 2019)); the Mint 400 off-road race in Las Vegas (88 FR 7994 February 7, 2023)); and the Desert Classic racecourse (87 FR 20457 (April 7, 2022)).

However, aspects of 43 CFR 8364.1—such as the requirement to publish temporary closure and restriction orders in the **Federal Register** and the absence of a provision authorizing the BLM to issue temporary closure and restriction orders with immediate full force and effect—can hinder the BLM's ability to respond effectively to exigencies that arise on public lands. Streamlining and modernizing the manner in which the BLM notifies the public about temporary closure and restriction orders, as well as providing authorized officers with the ability to issue such orders with immediate effectiveness, would allow the BLM to better perform its mission to responsibly manage public lands and protect public safety. Revising § 8364.1 would also make the BLM's closure and restriction authorities more consistent with those of the USFS and the NPS (agencies with which BLM-administered public lands often share a common boundary) and, in turn, would allow the BLM to be a more effective cooperator with other federal and local jurisdictions when responding to multijurisdictional emergency incidents or unforeseen events.

Section 310 of FLPMA, which authorizes the Secretary to promulgate regulations to carry out the purposes of that Act and other laws with respect to public lands, provides authority for revising the BLM's regulatory authority for closing and restricting the use of public lands. Other statutes, such as the Archaeological Resources Protection Act (16 U.S.C. 470aa–470mm), also authorize the Secretary to promulgate

regulations relating to closures and use restrictions in certain contexts.

IV. Discussion of the Proposed Rule

As resource uses and demands for access to public lands have increased, the need for the BLM to issue temporary closure and restriction orders under 43 CFR 8364.1 to protect persons, property, and public lands has also increased. However, current regulatory requirements can hinder the BLM's ability to issue temporary closure and restriction orders.

For example, the requirement to publish temporary closure and restriction orders in the **Federal Register** frequently impedes the agency from closing and restricting the use of public lands in a timely fashion. As a result of these requirements, the window of opportunity for the BLM to effectively respond to emergency incidents or unforeseen events can pass before a closure or restriction order takes effect. This hinders the agency's ability to prevent or reduce the risk to public health or safety, property, or important resources. Although the **Federal Register** may have been the most effective way to convey access and use limitations when 43 CFR 8364.1 was promulgated in 1983, that is less true today. The tools for a bureau to communicate its actions to stakeholders and the public have become more numerous and direct, such that publication of a **Federal Register** notice is no longer likely to be the most effective way for the public to learn of a temporary closure or restriction in an expedient fashion.

The proposed rule is intended to harmonize 43 CFR 8364.1 with that reality by eliminating the need to publish temporary closure and restriction orders issued under 43 CFR 8364.1 in the **Federal Register**. Instead, the proposed rule would require the BLM to inform the public about temporary closure and restriction orders by notifying local media outlets and posting information about the closure or restriction on at least one BLM-controlled, publicly available online communication system. By relying on more current communication methods and technologies, the BLM would be better positioned to serve the public and maximize the number of stakeholders and visitors who are aware of potential access and use limitations.

Online systems have become widely used by government agencies in the time since 43 CFR 8364.1 was initially promulgated, and new online systems are already evolving that may soon supersede or supplant those used today as the most effective means for

informing public land users about government actions. Language in the proposed rule is intended to describe the communications systems in common use today, while at the same time being sufficiently flexible to account for new systems and rapidly emerging best practices in communications and public affairs without needing to update the rule again in the near future.

In addition to the **Federal Register** publication requirement in 43 CFR 8364.1, the time it takes for an order to become effective after being signed by an authorized officer also hampers the BLM's ability to expeditiously issue temporary closure and restriction orders. Under 43 CFR 4.21(a), orders that temporarily close or restrict the use of BLM-managed public lands are typically not effective during the 30-day period in which a person may file an appeal of the decision before the Department's Office of Hearings and Appeals. Emergencies and unforeseen events on public lands often require a more immediate response, however, and the delay in a closure or restriction order taking effect can compromise the BLM's ability to carry out its mission and protect the public. To adequately meet the public's expectation for the BLM to protect health, safety, property, and resources, the agency needs the ability to issue temporary closure or restriction orders that are immediately effective, when necessary.

Under the proposed rule, BLM authorized officers would have discretion to provide that orders issued under 43 CFR 8364.1 will become effective upon issuance or at a date and time established in the order. While this change would not negate someone's ability to appeal an order under 43 CFR part 4, it would make the orders effective during the time in which they are subject to appeal, which would allow the BLM to begin enforcing temporary closure and restriction orders in a timelier fashion, thus aiding the agency in protecting public lands, resources, and public safety.

Notably, eliminating the **Federal Register** publication requirement and authorizing the issuance of temporary closure and restriction orders with immediate full force and effect would make 43 CFR 8364.1 more consistent with the NPS and USFS's closure and restriction authorities. For example, USFS's closure authority at 36 CFR 261.50 does not have a **Federal Register** publication requirement. Instead, it requires closure and restriction orders to be placed in the offices of the Forest Supervisor and District Ranger who have jurisdiction over the subject lands,

and the relevant prohibitions to be displayed in such locations and manner as to reasonably bring the prohibitions to the attention of the public. NPS similarly does not need to publish closure and restriction orders in the **Federal Register** in a wide variety of situations, such as those related to emergency situations, those that will not result in a significant alteration in the public use pattern of a park area, and those that will not adversely affect a park's natural, aesthetic, scenic, or cultural values. Moreover, both USFS and NPS can issue closure and restriction orders with immediate full force and effect. Eliminating the **Federal Register** publication requirement and authorizing the issuance of temporary closure and restriction orders with immediate full force and effect would allow the BLM to better coordinate with other federal land management agencies (as well as Tribal, state, and local government agencies), especially in situations where the agencies manage land either adjacent to or in proximity with each other.

The proposed rule would also effectuate other important changes intended to clarify the nature and extent of the restrictions temporarily being placed on the use of public lands. For example, the proposed rule would require all temporary closure and restriction orders issued under 43 CFR 8364.1 to state the date and time that a closure or restriction would become effective, as well as the date and time that the closure or restriction would terminate. The proposed rule would also clarify the BLM's ability to exempt certain persons from closure and restriction orders. Currently, 43 CFR 8364.1 provides that the authorized officer may identify persons who are exempt from closure or restriction orders. The proposed rule clarifies that specific groups can also be exempt from closure or restriction orders, such as Tribal members that may need to access an otherwise closed area for traditional or cultural uses.

Additionally, the proposed rule would help clarify the broad range of situations in which the BLM may issue temporary closure and restriction orders. While the BLM may currently issue closure and restriction orders to protect persons, property, and public lands and resources, the proposed rule would reinforce that the BLM may issue temporary closure and restriction orders to provide for implementation of management responsibilities; avoid conflicts among public land users; or ensure the privacy of Tribal activities for traditional or cultural use. While implementing various resource

management strategies, it is sometimes necessary to exclude the public from areas of the public lands for either implementation efficiency or effectiveness. For instance, the BLM may need to exclude the public from an area to facilitate construction, demolition, resource monitoring, or invasive species control projects. Restricting access to areas of public lands may also be necessary to avoid conflicts between user groups, such as an off-road racecourse being closed to other uses during the race, or to ensure privacy to Tribal members during traditional or cultural uses. The proposed revisions to 43 CFR 8364.1 are intended to make clear that the temporary closure and restriction orders are intended to achieve such purposes.

The proposed rule would update the penalty provision in 43 CFR 8364.1. The year after the current regulation was promulgated, Congress passed the Sentencing Reform Act of 1984 (98 Stat. 1995) (18 U.S.C. 3571), which identifies criminal penalties that supersede the fines set in the FLPMA at 43 U.S.C. 1743. The proposed rule would amend 43 CFR 8364.1 to be consistent with current statutory authorities. Moreover, the elastic nature of the proposed rule language would make it unlikely that the BLM would need to amend the regulation if Congress updates 18 U.S.C. 3571 with new fines in the future.

Finally, the proposed rule would clarify that closure and restriction orders issued under § 8364.1 are “temporary” in nature. However, this clarification would not change how or when the BLM would implement closures or restrictions, nor would it limit or impede the BLM’s ability to issue orders that remain in effect for the duration of the activity, situation, or unforeseen event that the closure or restriction order responds to or addresses. In other words, the term “temporary” should be understood in relation to the underlying condition for which the BLM determines that a closure or restriction is warranted; it would not impose any specific time limitations on a closure or restriction order issued under § 8364.1. Instead, a temporary closure or restriction order would generally remain in effect until the situation it is addressing has ended or abated, it expires by its own terms, or the BLM issues a superseding decision, which can include incorporating the terms of a closure or restriction order into a resource management plan in accordance with the regulations at 43 CFR part 1600.

Importantly, the proposed rule would not itself close or restrict the use of any specific public land, nor would it

require the BLM to issue any new or additional temporary closure and restriction orders. The proposed rule would merely modernize and streamline the procedures governing how the BLM issues temporary closure and restriction orders, providing the public with better clarity about the scope of these orders and when they are effective. Under the proposed rule, the BLM would continue to establish closures and use restrictions after other management strategies and alternatives have been explored, including, but not limited to, increased law enforcement, cooperative efforts with local governments, engineering, education, and outreach.

The proposed rule would not impact the public’s ability to provide feedback on temporary closures and restrictions. In its current form, 43 CFR 8364.1 requires that closure and restriction orders be published in the **Federal Register**, but the provision does not require that the public have an opportunity to provide feedback on these closures and restrictions prior to their implementation. To the degree that the public receives an opportunity to provide feedback on proposed closures and restrictions, that opportunity stems from other authorities, such as the National Environmental Policy Act (NEPA), the John D. Dingell, Jr. Conservation, Management, and Recreation Act of 2019 (Dingell Act), and the regulations implementing the Alaska National Interest Lands Conservation Act of 1980. That would still be the case under the proposed rule, which would neither require the BLM to seek public feedback on proposed closures and restrictions nor modify any separate statutory or regulatory provisions that do impose such requirements. For example, even though the proposed rule would eliminate the **Federal Register** publication requirement in 43 CFR 8364.1, the BLM may still need to publish a **Federal Register** notice and provide the public with an opportunity to comment in accordance with section 4103 of the Dingell Act (16 U.S.C. 7913) if proposing to close public lands to hunting, fishing, or recreational shooting.

The proposed rule would not affect how the BLM complies with NEPA and other statutory obligations when issuing closure or restriction orders. While most temporary closure and restriction orders are unlikely to have significant effects on the quality of the human environment, the BLM would continue to ensure that individual closure and restriction orders satisfy NEPA’s requirements.

The proposed rule would not diminish or eliminate the public’s opportunity to challenge the issuance of temporary closure or restriction orders, which would remain subject to appeal to the Department of the Interior’s Board of Land Appeals (IBLA) in accordance with 43 CFR part 4 or challenge in Federal court. The proposed rule would merely provide that the BLM may issue temporary closure and restriction orders with immediate full force and effect and that such orders would remain in effect pending a decision on administrative appeal unless a stay is granted by the IBLA.

V. Procedural Matters

Regulatory Planning and Review *(Executive Orders 12866 and 13563)*

Executive Order (E.O.) 12866 (58 FR 51725, October 4, 1993), as amended by E.O. 14094, provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. The OIRA has determined that this proposed rule is not significant.

E.O. 13563 (76 FR 3821, January 11, 2011) reaffirms the principles of E.O. 12866 while calling for improvements in the Nation’s regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rule making process must allow for public participation and an open exchange of ideas. The BLM has developed this proposed rule in a manner consistent with these requirements.

The BLM reviewed the proposed requirements and has determined that the proposed rule does not meet any of the E.O. 12866 criteria of significance. The OIRA has also concluded that the proposed rule is not a significant regulatory action. Therefore, the proposed rule is not a significant regulatory action, and the BLM is not required to submit a regulatory impact analysis to OMB for review.

The BLM reviewed the requirements of the proposed rule and determined that it would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal

governments or communities. For more detailed information, see the Economic and Threshold analysis prepared for this proposed rule. This analysis has been posted in the docket for the proposed rule on the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Searchbox, enter “RIN 1004–AE89”, click the “Search” button, open the Docket Folder, and look under Supporting Documents.

Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations (E.O. 12898)

E.O. 12898 (59 FR 7629, February 16, 1994) requires that, to the extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. E.O. 12898 provides that each Federal agency conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or national origin. This proposed rule would amend the process the BLM uses to issue temporary closure and restriction orders. The proposed rule change is not expected to have an effect on any particular population. Therefore, this proposed rule is not expected to negatively impact any community and is not expected to cause any disproportionately high or adverse impacts to minority or low-income communities.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that Federal agencies prepare a regulatory flexibility analysis for rules subject to the notice-and-comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 500 *et seq.*), if the rule would have a significant economic impact, whether detrimental or beneficial, on a substantial number of small entities. See 5 U.S.C. 601–612. Congress enacted the RFA to ensure that government regulations do not unnecessarily or disproportionately burden small entities. Small entities include small businesses, small governmental jurisdictions, and small not-for-profit enterprises. Based on the available information, we conclude that the proposed rule would not have a

significant impact on a substantial number of small entities. Therefore, neither a final Regulatory Flexibility Analysis nor a Small Entity Compliance Guide is required.

Congressional Review Act

This proposed rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 804(2). This proposed rule:

- (a) Does not have an annual effect on the economy of \$100 million or more.
- (b) Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

Under the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531 *et seq.*), agencies must prepare a written statement about benefits and costs prior to issuing a proposed or final rule that may result in aggregate expenditure by State, local, and Tribal governments, or by the private sector, of \$100 million or more in any one year.

This proposed rule is not subject to the requirements under the UMRA. The proposed rule does not contain a federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or to the private sector in any one year. The proposed rule would not significantly or uniquely affect small governments. A statement containing the information required by the UMRA is not required.

Takings (E.O. 12630)

This proposed rule would not affect a taking of private property or otherwise have taking implications under E.O. 12630. Section 2(a) of E.O. 12630 (53 FR 8859, March 15, 1988) identifies policies that do not have takings implications, such as those that abolish regulations, discontinue governmental programs, or modify regulations in a manner that lessens interference with the use of private property. The proposed rule would not interfere with private property and does not have takings implications under E.O. 12630. Accordingly, a takings implication assessment is not required.

Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132 (64 FR 43255, August 4, 1999), this proposed rule does not have

sufficient federalism implications to warrant the preparation of a federalism summary impact statement. The proposed rule would not have substantial direct effects 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. A federalism summary impact statement is not required.

Civil Justice Reform (E.O. 12988)

This proposed rule complies with the requirements of E.O. 12988 (61 FR 4729, February 5, 1996). Specifically, this proposed rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (E.O. 13175 and Departmental Policy)

The Department of the Interior (DOI) strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty.

In accordance with E.O. 13175 (65 FR 67249, November 9, 2000), the BLM has evaluated this proposed rulemaking and determined that it would not have substantial direct effects on Federally recognized Indian Tribes. Nevertheless, on a government-to-government basis we initiated consultation with Tribal governments that wish to discuss the proposed rule.

On March 22, 2023, the BLM sent a letter to Federally recognized Indian Tribes and Alaska Native Corporations notifying them about the BLM's intent to pursue this proposed rulemaking. In that letter, the BLM invited the Tribes and Corporations to engage in government-to-government consultation. We look forward to continuing close interaction with Tribal leaders throughout this proposed rulemaking process.

*Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)*

This rule does not contain information collection requirements, and a submission to the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is not required.

National Environmental Policy Act

The BLM intends to apply the Departmental categorical exclusion at 43 CFR 46.210(i) to comply with NEPA. This categorical exclusion covers policies, directives, regulations, and guidelines that are of an administrative, financial, legal, technical, or procedural nature or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case. The BLM plans to document the applicability of the categorical exclusion concurrently with development of the final rule.

The proposed rule is procedural and administrative in nature. The proposed rule would not be self-executing and would not result in access being prohibited or use being restricted on any specific public lands. The proposed rule also would not limit or reduce any current public participation opportunities. The proposed rule would merely streamline the administrative process through which the BLM issues and publicizes temporary closure and restriction orders in an effort to enhance the agency's ability to respond to emergencies, unforeseen events, and other management exigencies. Because the proposed rule is administrative and procedural in nature and would not result in any on-the-ground changes or other environmental effects, it satisfies the first prong of the categorical exclusion at 43 CFR 46.210(i).

The proposed rule also satisfies the second prong of 43 CFR 46.210(i). Because the proposed rule would not result in access being prohibited or use being restricted on any specific public lands, the environmental effects that may flow from the procedural changes being proposed are entirely speculative or conjectural at this time and do not lend themselves to meaningful analysis. Moreover, any environmental effects associated with future orders would be subject to the NEPA process on a case-by-case basis. Accordingly, reliance on the second prong of the categorical exclusion at 43 CFR 46.210(i) is also appropriate.

The BLM has determined, as a preliminary matter, that the proposed rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under the NEPA.

Effects on the Energy Supply (E.O. 13211)

This proposed rule is not a significant energy action under E.O. 13211 (66 FR 28355, May 22, 2001). Section 4(b) of

E.O. 13211 defines a "significant energy action" as "any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1) (i) that is a significant regulatory action under E.O. 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of OIRA as a significant energy action."

The BLM reviewed the proposed rule and determined that it is not a significant energy action as defined by E.O. 13211. A Statement of Energy Effects is not required.

Clarity of This Regulation

We are required by E.O.s 12866 (section 1(b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you believe that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the proposed rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Authors

The principal authors of this proposed rule are Kevin Oliver, Cory Roegner, Russell Scofield, and David Jeppesen, Recreation and Visitor Services Division; Rebecca Moore, Branch of Decision Support; Heather Feeney, Division of Public Affairs; Jon Young, Office of Law Enforcement and Security; Kyle W. Moorman Division of Regulatory Affairs; and Darrin King, Division of Regulatory Affairs, and assisted by the Office of the Solicitor, Ryan Sklar.

List of Subjects in 43 CFR Part 8360

Penalties, Public lands, Recreation and recreation areas.

For the reasons set out in the preamble, the Bureau of Land Management proposes to amend 43 CFR part 8360 as follows:

PART 8360—VISITOR SERVICES

- 1. The authority citation for part 8360 continues to read as follows:

Authority: 16 U.S.C. 470aaa, *et seq.*; 670, *et seq.*; 877, *et seq.*; 1241, *et seq.*; and 1281c; and 43 U.S.C. 315a and 1701 *et seq.*

- 2. Revise § 8364.1 to read as follows:

§ 8364.1 Temporary closure and restriction orders.

(a) The authorized officer may issue an order to temporarily close or restrict the use of designated public lands to protect persons, property, public lands, or resources; provide for implementation of management responsibilities; avoid conflict among public land users; or ensure the privacy of Tribal activities for traditional or cultural use.

(b) Each order shall:

- (1) Identify the public lands, roads, trails, or waterways that are closed to entry or restricted as to use;
- (2) Specify the uses that are restricted;
- (3) Specify the date and time that the closure or restriction order will become effective and the date and time the order will terminate;
- (4) Identify any persons or groups who are exempt from the closure or restrictions;
- (5) Be posted in a Bureau of Land Management (BLM) Office having jurisdiction over the public lands, roads, trails, or waterways to which the order applies;
- (6) Be posted at places near or within the area to which the closure or restriction applies, in such manner and location as is reasonable to bring prohibitions to the attention of users; and
- (7) Include a statement that includes the reasons for the closure or restriction.

(c) When issuing closure or restriction orders pursuant to this section, the authorized officer shall provide public notice:

- (1) By notifying local media outlets; and
- (2) Posting information on at least one BLM-controlled, publicly available online communication system.

(d) Orders issued pursuant to this section shall be effective upon issuance or a date and time established in the order and shall remain in effect during the time in which it may be appealed to

the Office of Hearings and Appeals under part 4 of this title. If appealed, such orders shall remain in effect pending the decision on appeal unless a stay is granted.

(e) Any person who violates a temporary closure or restriction order 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 § 8360.0–7, or both.

Steven H. Feldgus,

Deputy Assistant Secretary, Land and Minerals Management.

[FR Doc. 2023–25698 Filed 11–20–23; 8:45 am]

BILLING CODE 4331–30–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2022–0081; FF09E21000 FXES1111090FEDR 234]

RIN 1018–BF83

Endangered and Threatened Wildlife and Plants; Threatened Species Status With Section 4(d) Rule for the Kern Canyon Slender Salamander and Endangered Species Status for the Relictual Slender Salamander; Designation of Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; revisions and reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are reopening the comment period on our October 18, 2022, proposed rule to list the Kern Canyon slender salamander (*Batrachoseps simatus*) and the relictual slender salamander (*Batrachoseps relictus*) under the Endangered Species Act of 1973, as amended (Act), and to designate critical habitat. This action will allow all interested parties an additional opportunity to comment on the October 18, 2022, proposed rule, as well as the opportunity to comment on the new areas we are considering for relictual slender salamander critical habitat, small changes to Kern Canyon slender salamander critical habitat, and our updates to the physical or biological features for the Kern Canyon slender salamander, in response to previously submitted public comments. Comments previously submitted need not be resubmitted as they are already incorporated into the public record and will be fully considered in the final rule.

DATES: The comment period on the proposed rule that published October 18, 2022 (87 FR 63150), is reopened. We will accept comments received or postmarked on or before December 6, 2023.

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

(1) *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter FWS–R8–ES–2022–0081, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on “Comment.”

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R8–ES–2022–0081, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Availability of supporting materials: This document and supporting materials (including the species status assessment report, the coordinates or plot points or both from which the critical habitat maps are generated, comments and information received on the proposed rule, the updated economic analysis, and references cited are available at <https://www.regulations.gov> at Docket No. FWS–R8–ES–2022–0081.

FOR FURTHER INFORMATION CONTACT:

Michael Fris, Field Supervisor, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Sacramento, CA 95825; telephone 916–414–6700. 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. 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. In compliance with the Providing Accountability Through Transparency Act of 2023, please see Docket No. FWS–R8–ES–2022–0081 on <https://www.regulations.gov> for a document that summarizes this proposed rule.

SUPPLEMENTARY INFORMATION:

Information Requested

We will accept written comments and information during this reopened comment period on our proposed rule to list the Kern Canyon slender salamander and the relictual slender salamander and designate critical habitat for both species. We will consider information and recommendations from all interested parties. We intend that any final action resulting from the proposal will be based on the best scientific data available. Our final determination will take into consideration all comments and any additional information we receive during the reopened comment period on the proposed rule.

Because we will consider all comments and information received during both comment periods, our final determination may differ from our October 18, 2022 (87 FR 63150), proposed rule. Based on the new information we receive (and any comments on that new information), we may conclude that the Kern Canyon slender salamander is endangered instead of threatened, that the relictual slender salamander is threatened instead of endangered, or we may conclude that either or both species do not warrant listing as either endangered species or threatened species. For critical habitat, our final designation may not include all areas proposed, may include some additional areas that meet the definition of critical habitat, and may exclude some additional areas if we find the benefits of exclusion outweigh the benefits of inclusion and will not lead to the extinction of the species.

In addition, we may change the parameters of the prohibitions or the exceptions to those prohibitions in the proposed 4(d) rule for the Kern Canyon slender salamander if we conclude it is appropriate in light of comments and new information received. For example, we may expand the prohibitions to include prohibiting additional activities if we conclude that those additional activities are not compatible with conservation of the species. Conversely, we may establish additional exceptions to the prohibitions in the final rule if we conclude that the activities would facilitate or are compatible with the conservation and recovery of the species. In our final rule, we will clearly explain our rationale and the basis for our final decision, including why we made changes, if any, that differ from this proposal.

If you already submitted comments or information on the October 18, 2022, proposed rule, please do not resubmit them. Any such comments are incorporated as part of the public record