

cannot guarantee that we will be able to do so.

**Thomas Pogacnik,**

*Deputy State Director, Natural Resources.*

**Authority:** 40 CFR 1501.7 and 43 CFR 1610.2.

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLCOS06000 L91310000.EI0000]

#### Notice of Proposed Supplementary Rules for Public Lands in Colorado: Saguache, Alamosa, Rio Grande, Conejos, and Costilla Counties

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

**ACTION:** Proposed supplementary rules.

**SUMMARY:** The Bureau of Land Management (BLM) Colorado is proposing supplementary rules for public land included in the San Luis Resource Area Travel Management Plan (TMP), approved on June 4, 2009. These supplementary rules would apply to the public lands within Saguache, Alamosa, Rio Grande, Conejos, and Costilla Counties, Colorado, within the TMP, and under the management of the San Luis Valley Public Lands Center. The proposed rules implement decisions found in the TMP relating to the use of the lands, conduct of visitors, health and safety of visitors, and protection of visitors and natural resources.

**DATES:** You should submit your comments by February 11, 2011. Comments postmarked or received in person or by electronic mail after this date may not be considered in the development of the final supplementary rules.

**ADDRESSES:** You may submit comments by the following methods: Mail or hand-deliver: Larry Velarde, Bureau of Land Management, San Luis Valley Public Lands Center, 1803 West Hwy 160, Monte Vista, Colorado, 81144.

You may also submit comments via electronic mail to:

[rgfo\\_comments@blm.co.gov](mailto:rgfo_comments@blm.co.gov) (include "Attn: San Luis Resource Area Travel Management Plan" in the subject line).

#### FOR FURTHER INFORMATION CONTACT:

Larry Velarde, Natural Resource Specialist, Recreation, San Luis Valley Public Lands Center, 1803 West Hwy 160, Monte Vista, Colorado 81144, (719) 852–5941. Persons who use a telecommunications device for the deaf (TDD) may contact these individuals by calling the Federal Information Relay

Service (FIRS) at (800) 877–8339, 24 hours a day, 7 days a week.

#### SUPPLEMENTARY INFORMATION:

- I. Authority
- II. Public Comment Procedures
- III. Background
- IV. Discussion of the Proposed Supplementary Rules
- V. Procedural Matters

#### I. Authority

43 U.S.C. 1740, 43 U.S.C. 315a, 43 CFR 8341.1, 8364.1, and 8365.1–6.

#### II. Public Comment Procedures

You may mail or hand-deliver comments to the Bureau of Land Management, San Luis Valley Public Lands Center, 1803 West Hwy 160, Monte Vista, Colorado 81144, or e-mail to [rgfo\\_comments@blm.co.gov](mailto:rgfo_comments@blm.co.gov).

Written comments on the proposed supplementary rule should be specific, confined to issues pertinent to the proposed supplementary rules, and explain the reason for any recommended change. 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 supplementary rule, 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 those listed above (*see ADDRESSES*).

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at the San Luis Valley Public Lands Center address listed in **ADDRESSES** during regular business hours (8 a.m. to 4 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.

#### III. Background

A "Notice of Intent to Prepare the San Luis Resource Valley Travel Management Plan and Amend San Luis Valley Resource Management Plan and Start the Scoping Period" was announced in the **Federal Register** on

March 30, 2004 (69 FR 16599). The completion of the San Luis Resource Area TMP Environmental Assessment (EA) led to a 30-day public comment period, starting on June 3, 2008. Following analysis of the public comments, the BLM issued two decisions: An RMP amendment proposed decision record (May 14, 2009), and an implementation decision on the San Luis Resource Area TMP (June 4, 2009). The decision restricts off-highway vehicle use to designated roads and trails in the TMP area and includes discussion of the proposed supplementary rules.

#### IV. Discussion of the Proposed Supplementary Rules

These proposed supplementary rules apply to the public lands within the San Luis Resource Area TMP area. The TMP area consists of 520,945 acres of public lands within Saguache, Alamosa, Rio Grande, Conejos, and Costilla Counties, Colorado, in the following described townships:

##### Colorado, New Mexico Principal Meridian

T. 45 N., R. 4 E. through T. 45 N., R. 11 E.;  
 T. 46 N., R. 4 E. through T. 46 N., R. 11 E.;  
 T. 41 N., R. 6 E. and R. 7 E.;  
 T. 40 N., R. 4 E. through T. 40 N., R. 6 E.;  
 T. 40 N., R. 11 E.;  
 T. 42 N., R. 5 E. through T. 42 N., R. 7 E.;  
 T. 42 N., R. 9 E. and R. 10 E.;  
 T. 43 N., R. 5 E. through T. 43 N., R. 7 E.;  
 T. 43 N., R. 9 E. through T. 43 N., R. 12 E.;  
 T. 44 N., R. 4 E. through T. 44 N., R. 12 E.;  
 T. 47 N., R. 7 E. through T. 47 N., R. 10 E.;  
 T. 48 N., R. 8 E. and R. 9 E.;  
 T. 36 N., R. 6 E. through T. 36 N., R. 8 E.;  
 T. 36 N., R. 11 E. and R. 12 E.;  
 T. 38 N., R. 6 E. and R. 7 E.;  
 T. 38 N., R. 11 E. through T. 38 N., R. 13 E.;  
 T. 37 N., R. 6 E. and R. 7 E.;  
 T. 37 N., R. 12 E. and R. 13 E.;  
 T. 37 N., R. 4 E. through T. 37 N., R. 7 E.;  
 T. 37 N., R. 11 E. through T. 37 N., R. 13 E.;  
 T. 32 N., R. 7 E. through T. 32 N., R. 11 E.;  
 T. 33 N., R. 8 E. through T. 33 N., R. 11 E.;  
 T. 34 N., R. 6 E. through T. 34 N., R. 8 E.;  
 T. 34 N., R. 10 E. and R. 11 E.;  
 T. 35 N., R. 5 E. through T. 35 N., R. 8 E.;  
 and  
 T. 35 N., R. 10 E. and R. 11 E.  
 6th Principal Meridian  
 T. 27 S., 73 W. through T. 29 S., R. 73 W.

The proposed supplementary rules are consistent with the record of decision of the San Luis Resource Area TMP, approved on June 4, 2009. The TMP includes specific management actions that restrict certain activities and define allowable uses. Restrictions on general travel and off-highway vehicle use are intended to enhance user safety and ensure compliance with travel management restrictions. These restrictions are designed to protect critical resources and scenic values in

different management areas within the TMP. The proposed supplementary rules implement these management actions within the San Luis Resource Area TMP area. The proposed rules apply to mechanized and motorized travel. A mechanized vehicle is propelled by human power without use of a motor. Motorized use includes off-road vehicles and off-highway vehicles, and may include motorcycles, all-terrain vehicles, or full-sized vehicles. The restrictions include limiting motorized travel to designated and signed routes, limiting mountain bikes and other mechanized vehicles to routes designated and signed for motorized and mechanized use only, closing cross-country travel off of designated routes for motorized and mechanized vehicles, closing the area to snowmobile use off of designated routes except for the designated Villa Grove Snowmobile Area, and closing motorized and mechanized travel in critical winter wildlife habitat yearly from January 1 to April 30. This closure would be adjusted to December 1 through April 30 should the Colorado Division of Wildlife close late season cow elk hunts in Game Management Units 68, 681, 682, 79, 791, 80, 81, 82, 861, and 83. Those routes utilized for commercial, administrative, and private property access will remain available for those uses during the seasonal motorized restriction period. Any seasonal restriction will not affect county maintained roads, rights-of-ways, or legal easements. This notice, with detailed maps, will be available at the San Luis Valley Public Lands Center.

## V. Procedural Matters

### *Executive Order 12866, Regulatory Planning and Review*

These supplementary rules would not comprise a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. These supplementary rules would not have an annual effect of \$100 million or more on the economy. They would not adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities. These supplementary rules would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The supplementary rules would not materially alter the budgetary effects of entitlements, grants, user fees, loan programs, or the rights or obligations of their recipients, nor do they raise novel legal or policy issues.

These rules merely govern conduct for public use of a limited selection of public lands.

### *Clarity of the Supplementary Rules*

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 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 proposed 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) Would the proposed supplementary rules be easier to understand if they were divided into more (but shorter) sections?
- (5) Is the description of the proposed 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 proposed supplementary rule to the addresses specified in the **ADDRESSES** section.

### *National Environmental Policy Act*

These proposed supplementary rules implement key land use planning decisions in the San Luis Resource Area TMP, approved on June 4, 2009. During the National Environmental Policy Act process for the TMP, many proposed decisions were fully analyzed, including the substance of these supplementary rules. The BLM has placed the San Luis Resource Area TMP Environmental Assessment EA, Finding of No Significant Impact, and Decision Record on file in the BLM Administrative Record at the address specified in the **ADDRESSES** section.

### *Regulatory Flexibility Act*

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended (5 U.S.C. 601–612) 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 and protect the health and safety of visitors and natural resources. 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*

These proposed supplementary rules do not constitute a “major rule” as defined at 5 U.S.C. 804(2). 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. These rules would not result in an annual effect on the economy of \$100 million or more; cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

### *Unfunded Mandates Reform Act*

These supplementary rules would not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year; nor would these rules have a significant or unique effect on State, local, or Tribal governments or the private sector. The rules would have no effect on State, local, or Tribal governments and would not impose any requirements on any of these entities. The supplementary rules merely establish rules of conduct for public use of a limited area of public lands to protect the health and safety of visitors and natural resources 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)*

The proposed supplementary rules would not represent a government action capable of interfering with constitutionally protected property rights. These supplementary rules do not address property rights in any form, and do not cause the impairment of one's property rights. Therefore, the BLM has determined that the proposed

supplementary rules would not cause a "taking" of private property or require further implications under this Executive Order.

#### *Executive Order 13132, Federalism*

The proposed supplementary rules would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. These supplementary rules do not conflict with any Colorado State law or regulation. Therefore, in accordance with Executive Order 13132, the BLM has determined that the proposed supplementary rules would not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

#### *Executive Order 12988, Civil Justice Reform*

Under Executive Order 12988, the Colorado State Office of the BLM has determined that the proposed supplementary rules would not unduly burden the judicial system, and that 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, BLM has found that these proposed supplementary rules do not include policies that have Tribal implications. The proposed supplementary rules merely restrict the use of motorized vehicles to certain areas and do not involve Indian lands, property rights, or sacred sites access. However, formal consultation with 14 Tribes was completed for the San Luis Resource Area TMP.

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

Under Executive Order 13211, BLM has determined that the proposed supplementary rules would not comprise a significant energy action. These rules would not have an adverse effect on energy supplies, production, or consumption and have no connection with energy policy.

#### *Paperwork Reduction Act*

The proposed supplementary rules would not directly provide for any information collection that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 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 are exempt from the provisions of 44 U.S.C. 3518(c)(1).

#### *Author*

The principal author of these supplementary rules is John Murphy, Natural Resource Specialist, Recreation, San Luis Valley Public Lands Center, Bureau of Land Management.

For the reasons stated in the Preamble, and under the authorities of 43 U.S.C. 315a and 1740, and 43 CFR 8365.1–6, the Colorado State Director, Bureau of Land Management proposes supplementary rules for public lands within the San Luis Valley Travel Management Plan Area administered by the BLM San Luis Valley Public Lands Center in Monte Vista, Colorado, to read as follows:

#### **Proposed Supplementary Rules for the San Luis Valley Travel Management Plan Area**

##### *Definitions*

*Camping* means erecting a tent or a shelter of natural or synthetic materials, preparing a sleeping bag or other bedding material for use, or parking a motor vehicle, motor home, or trailer for the purpose or apparent purpose of overnight occupancy.

*Designated road or trail* means roads and trails open to specified modes of travel and identified on a map of designated roads and trails that is maintained and available for public inspection at the Bureau of Land Management (BLM) San Luis Valley Public Lands Center, Monte Vista, Colorado. Designated roads and trails are open to public use in accordance with such limits and restrictions as are, or may be, specified in the resource management plan (RMP) or travel management plan (TMP), or in future decisions implementing the RMP. However, this definition excludes any road or trail with BLM-authorized restrictions that prevent use of the road or trail. Restrictions may include signs or physical barriers such as gates, fences, posts, branches, or rocks.

*Public land* means any land or interest in land owned by the United States and administered by the Secretary of the Interior through the BLM without regard to how the United States acquired ownership.

*Mechanized vehicle* is propelled by human power without use of a motor.

*Motorized vehicle* is used synonymously with off-road vehicles and off-highway vehicles, and may

include motorcycles, all-terrain vehicles, or full-sized vehicles.

#### **Prohibited Acts**

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

2. You must not use mechanized or motorized vehicles on roads and/or trails except where designated as open to such use by a BLM sign or map.

3. You must not travel cross-country with a snowmobile except where designated as open to such use by a BLM sign or map.

4. You must not park a motorized vehicle or trailer farther than 300 feet from a designated motorized road or trail.

5. You must not use a motorized vehicle or trailer for camping more than 300 feet from a designated road or trail.

6. You must not use a motorized vehicle for retrieving game more than 300 feet from a designated road or trail.

#### **Exemptions**

The following persons are exempt from these supplementary rules: Any Federal, State, local, and/or military employee acting within the scope of their duties; members of any organized rescue or fire-fighting force or law enforcement in performance of an official duty; and persons, agencies, municipalities, or individual authorized by the BLM while operating within the scope of their permit or authorization.

#### **Penalties**

Under the Taylor Grazing Act of 1934, 43 U.S.C. 315a, any willful violation of these supplementary rules on public lands within a grazing district shall be punishable by a fine of not more than \$500. Under Section 303(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, any person who violates any of these supplementary rules on public lands within Colorado may be tried before a United States Magistrate and fined no more than \$1,000 and/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.

#### **John Mehlhoff,**

*Associate State Director.*

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