



**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**[LLORC03000.L63320000.DD0000.16XL1116AF.HAG16-0044]**

**Interim Final Supplementary Rules for Public Lands at Bastendorff Beach and the Associated Headlands in Coos County, Oregon**

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

**ACTION:** Interim Final Supplementary Rules.

**SUMMARY:** The Bureau of Land Management (BLM) Oregon/Washington State Director hereby establishes interim final supplementary rules limiting the duration of camping at Bastendorff Beach and the associated headlands within the Umpqua Field Office, Coos Bay District, Coos County, Oregon. The rules are needed in order to protect public health and safety and the area's natural resources.

**DATES:** The interim final supplementary rules are effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. You may submit comments to the BLM at one of the addresses below on or before [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. The BLM will not necessarily consider any comments received after that date in reaching decisions on the final supplementary rules.

**ADDRESSES:** Bureau of Land Management, Attention: Heather Partipilo, BLM Umpqua Field Office, 1300 Airport Lane, North Bend, OR 97459, or email: [BLM\\_OR\\_CB\\_Mail@blm.gov](mailto:BLM_OR_CB_Mail@blm.gov).

**FOR FURTHER INFORMATION CONTACT:** Heather Partipilo, Umpqua Field Office Planning and Environmental Coordinator, at 541-756-0100 or by email at

BLM\_OR\_CB\_Mail@blm.gov, Attention: Heather Partipilo. Persons who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to leave a message or question with the above individual. The FIRS is available 24 hours a day, seven days a week. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:**

The BLM is establishing these interim final supplementary rules under the authority of 43 Code of Federal Regulations (CFR) 8365.1-6, which allows state directors to establish supplementary rules for the protection of persons, property, and the public lands and resources. This provision allows the BLM to issue rules of less than national effect without codifying the rules in the CFR. These interim final supplementary rules apply to public lands managed by the Umpqua Field Office.

Maps of the management areas and boundaries can be obtained by contacting the Umpqua Field Office (see **ADDRESSES**). The Coos Bay District Office will post this notice on its website at: <http://www.blm.gov/or/districts/coosbay/index.php>. The final supplementary rules will be available for inspection in the Umpqua Field Office.

**I. Public Comment Procedures**

Please submit your comments on issues related to the rules, in writing, in accordance with the **ADDRESSES** section above. Comments on the rules should be specific, should be confined to issues pertinent to the rules, and should explain the reason for any recommended change.

The BLM is not obligated to consider, or include in the Administrative Record for the final supplementary rules, comments delivered to an address other than those listed

above (see **ADDRESSES**) or comments that the BLM receives after the close of the comment period (see **DATES**), unless they are postmarked or electronically dated before the deadline.

The BLM will make your comments, including your name and address, available for public review at the Coos Bay District address listed in **ADDRESSES** above during regular business hours (8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays). Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment — including your personal identifying information — may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

## II. Discussion of Interim Final Supplementary Rules

On August 18, 2005, the BLM Oregon/Washington State Office established supplementary rules for all public lands in the states of Oregon and Washington (70 FR 48584). The interim final supplementary rules that are established today revise the first two rules, pertaining to camping and occupancy, only with regard to public lands at Bastendorff Beach and the associated headlands within the Umpqua Field Office, Coos Bay District, Oregon.

The 2005 camping and occupancy rule prohibits camping longer than 14 days in a 28 day period on public land in Oregon or Washington. The rule also requires that campers move at least 25 air miles from a previously occupied site after 14 days of camping.

The interim final supplementary rule that is established today revises the 2005 rule by limiting camping to a single stay of up to 24 hours in any 14-day period within the public lands at Bastendorff Beach and the associated headlands, unless otherwise authorized, and requiring campers to move at least 25 air miles from a previously occupied site after 24 hours of camping.

The BLM will continue to enforce all of the other 2005 supplementary rules, including the prohibition against leaving personal property unattended in a day use area, campground, designated recreation area or on public lands for more than 24 hours. This new camping limit will help the BLM minimize damage to natural resources, maintain public access for recreational uses, and reduce threats to public health, safety, and property.

This action is necessary because an increasing number of users of Bastendorff Beach have established long-term residency under the pretext of camping. Public concern about the effects of this unauthorized occupancy requires the BLM to develop stronger regulations to address this issue. The proliferation of residential camping interferes with legitimate recreational use of public lands; creates sanitation and other health and safety concerns; and damages natural resources because of the attendant increase of open raw sewage, trash dumping, abandoned trailers and vehicles, clearing and trampling of vegetation, brushfires caused by unattended campfires, aggressive panhandling, vehicle burglary, assault, and other law enforcement incidents.

The interim final supplementary rules are consistent with:

- The Bastendorff Beach Cooperative Management Plan approved by the BLM, Oregon Parks and Recreation Department, and Coos County Commissioners (July 20, 2011); and
- The Bastendorff Beach Cooperative Management Plan Environmental Assessment (DOI-BLM-OR-C030-2011-0006-EA) and the Finding Of No Significant Impact (FONSI) (February 27, 2012); and the Decision Record (March 1, 2012).

The rules apply to the public lands at Bastendorff Beach and the associated headlands within sections 2 and 3 of Township 26 South, Range 14 West of the Willamette Meridian. The Environmental Assessment (EA) analyzed specific management actions that would restrict camping and define route designation. One of the principal public and agency concerns raised during the plan scoping and comment period was long-term, residential camping and how the effects of this activity were detracting from the quality and safety of recreation at this popular beach near the community of Charleston, Oregon.

Since 2011, ongoing efforts to contain the problems at Bastendorff Beach have proved insufficient, and the threats to public health and safety have intensified. The BLM has determined that these rules are necessary to preserve the health and safety of visitors and neighboring residents, to maintain public access to recreation, and to limit damage to the environment. This notice, with detailed maps, will be available at the Coos Bay District Office.

In accordance with section 533(b)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(B)), the BLM finds good cause that prior notice and public procedure are contrary to the public interest. The urgency and magnitude of the need to reduce the

risks to public safety and health associated with long-term, residential camping warrants expedited action with regard to Bastendorff Beach.

Good cause under section 553(d)(3) of the APA (5 U.S.C. 553(d)(3)), also exists for making these rules effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] because the Coos County Commissioners, the Coos County Sheriff's Office, Oregon Parks and Recreation Department, adjacent land owners, and concerned citizens are asking the BLM to take immediate and assertive law enforcement action to curtail illegal activities on public lands at Bastendorff Beach. In addition, there is good cause to forgo prior notice and comment regarding the rules in order to provide relief to recreational visitors and nearby residents from the immediate and ongoing health and safety risks identified in the discussion.

The BLM invites public comment on these interim final supplementary rules until [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. If we receive any substantive comments in response to this notice, we will determine whether or not to modify these interim final supplementary rules. Regardless of whether or not we receive substantive comments, we will publish a notice establishing final supplementary rules.

### III. Procedural Matters

#### Executive Order 12866 and 13563, Regulatory Planning and Review

These supplementary rules are not significant regulatory actions and are not subject to review by the Office of Management and Budget under Executive Order 12866. The supplementary rules will not have an effect of \$100 million or more on the economy. These rules establish a duration for camping visits and 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. These supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These supplementary rules do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients, nor do the rules raise novel legal or policy issues. These supplementary rules enable BLM law enforcement personnel to efficiently track occupancy and enforce regulations pertaining to unlawful occupancy in a manner consistent with current Oregon State and county laws, where appropriate on public lands.

#### Clarity of the Supplemental 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 the interim final supplementary rules easier to understand, including answers to questions such as the following:

- (1) Are the requirements in these interim final supplementary rules clearly stated?
- (2) Do these interim final supplementary rules contain technical language or jargon that interferes with their clarity?
- (3) Does the format of these interim final supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- (4) Would these interim final supplementary rules be easier to understand if they were divided into more (but shorter) sections?
- (5) Is the description of these interim final supplementary rules in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful to your

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

Please send any comments you have on the clarity of the interim final supplementary rules to the address specified in the **ADDRESSES** section.

#### National Environmental Policy Act

The BLM has prepared an EA and has found that these interim final supplementary rules do not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). These interim final supplementary rules will enable BLM law enforcement personnel to cite persons for unlawful camping and use of public land for residential purposes. The BLM completed an EA to analyze the change in the camping limit in the planning area. The Decision Record for this EA was signed on March 1, 2012. The BLM has placed the EA and the FONSI on file in the BLM Administrative Record at the address specified in the **ADDRESSES** section. The BLM invites the public to review these documents (<http://www.blm.gov/or/districts/coosbay/plans/plans-details.php?id=2003>) and requests that anyone wishing to submit comments do so in accordance with the Public Comment Procedures section, above.

#### Regulatory Flexibility Act (RFA)

Congress enacted the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601, *et seq.*, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule has a significant economic impact, either detrimental or beneficial, on a

substantial number of small entities. These interim final supplementary rules do not pertain specifically to commercial or governmental entities of any size, but contain rules to limit the duration of overnight camping on public lands in the Bastendorff Beach area in the Coos Bay District. Therefore, the BLM has determined, under the RFA, that these interim final supplementary rules do not have a significant economic impact on a substantial number of small entities.

#### Small Business Regulatory Enforcement Fairness Act (SBREFA)

These interim final supplementary rules do not constitute “major rules” as defined at 5 U.S.C. 804(2). These interim final supplementary rules only establish a 24-hour limitation on overnight camping over a 14-day period at Bastendorff Beach and the associated headlands, and require campers to move at least 25 air miles from a previously occupied site after 24 hours of camping. The limitation is necessary to protect the public lands and facilities and those, including small business concessionaires and outfitters, who use them. These interim final supplementary rules will have no effect on business, commercial, or industrial use of the public lands.

#### Unfunded Mandates Reform Act

These interim 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, nor do these interim final supplementary rules have a significant or unique effect on state, local, or tribal governments or the private sector. The interim final supplementary rules do not require anything of state, local, or tribal governments. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531, et seq.).

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

These interim final supplementary rules do not represent a Government action capable of interfering with constitutionally protected property rights. The interim final supplementary rules do not address property rights in any form and do not cause the impairment of anyone's property rights. Therefore, the Department of the Interior has determined that these interim final supplementary rules do not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

These interim final supplementary rules will 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. These interim final supplementary rules apply in only one state, Oregon, and do not address jurisdictional issues involving the Oregon State government. Therefore, in accordance with Executive Order 13132, the BLM has determined that these interim final supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Oregon/Washington State Office of the BLM has determined that these interim final supplementary rules do not unduly burden the judicial system and that the rule meets 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, we have found that these interim final supplementary rules do not include policies that have tribal implications. Since these interim final supplementary rules do not change BLM policy and do not involve Indian reservation lands or resources, we have determined that the government-to-government relationships remain unaffected. These interim final supplementary rules only prohibit camping longer than 24 hours in any 14-day period.

Executive Order 13352, Facilitation of Cooperative Conservation

Under Executive Order 13352, the Oregon/Washington State Office of the BLM has determined that these interim final supplementary rules will not impede the facilitation of cooperative conservation. These interim final supplementary rules will take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources; properly accommodate local participation in the Federal decision-making process; and provide that the programs, projects, and activities are consistent with protecting public health and safety.

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

These interim final supplementary rules do not comprise a significant energy action. These interim final supplementary rules will not have an adverse effect on energy supplies, production, or consumption. The rules only address unauthorized occupancy on public lands and have no connection with energy policy.

Paperwork Reduction Act

These interim 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 – 3521.

**INTERIM FINAL SUPPLEMENTARY RULES:**

For the reasons stated in the preamble, and under the authority of 43 CFR 8365.1-6, 43 U.S.C. 1740, and 43 U.S.C. 315a, the State Director establishes interim final supplementary rules for public lands managed by the BLM in Coos County, Oregon, subject to the Coos Bay District Resource Management Plan, to read as follows:

*Prohibited Acts*

Unless otherwise authorized, the Bureau of Land Management will enforce the following rules on public lands at Bastendorff Beach and the associated headlands within the Umpqua Field Office, Coos Bay District, Oregon:

*Camping and Occupancy*

1. You must not camp longer than a single stay of up to 24 hours in a 14-day period on public land.
2. After a single stay of up to 24 hours, you must move at least 25 air miles away from the previously occupied site.

*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.

*Enforcement*

Any person who violates these interim final supplementary rules may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0-7, or both. In accordance with 43 U.S.C. 8365.1-7, state or local officials may also impose penalties for violations of Oregon law.

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Jamie E. Connell

Bureau of Land Management

Oregon/Washington Acting State Director

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