

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[15XL1109AF.LLWY930000.L12200000.MD0000]

**Notice of Final Supplementary Rules for the Killpecker Sand Dunes Recreation Site,
Wyoming**

AGENCY: Bureau of Land Management, Interior.

ACTION: Final Supplementary Rules.

SUMMARY: The Bureau of Land Management (BLM) is finalizing supplementary rules for the Killpecker Sand Dunes Recreation Site located within the Greater Sand Dunes Area of Critical Environmental Concern (ACEC) Eastern Portion managed by the Rock Springs Field Office (RSFO) in Rock Springs, Wyoming. This action improves the safety of visitors in the open play sand dunes area by providing better visual identification of off-highway vehicles (OHVs), implementing a speed limit, and prohibiting the possession and use of glass containers in the OHV recreation area.

DATES: The final supplementary rules are effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Email blm_wy_rsfo_sand_dunes@blm.gov with “Supplementary Rules” in the subject line; fax (307) 352-0329; or mail to BLM Rock Springs Field Office, Attn: Supplementary Rules, 280 Highway 191 North, Rock Springs, WY 82901.

FOR FURTHER INFORMATION CONTACT: For information on the substance of the rule, please contact Jo Foster, RSFO Outdoor Recreation Planner, (307) 352-0327.

Persons who use a telecommunications device for the deaf may call the Federal

Information Relay Service (FIRS) at 1-800-877-8339 to speak with Georgia Foster during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

I. Background

Conditions of use for OHVs are defined under 43 CFR subpart 8341. Rules of conduct on public land are defined under 43 CFR subpart 8365. On December 11, 2014, the BLM proposed supplementary rules (79 FR 73623), in accordance with 43 CFR 8365.1-6, which authorizes state directors to establish supplementary rules for the protection of persons, property, and public lands and resources. The public comment period ended February 9, 2015.

The Killpecker Sand Dunes Recreation Site is managed in accordance with the 2006 Record of Decision and Jack Morrow Hills Coordinated Activity Plan/Green River Resource Management Plan Amendment, which designates 10,020 acres as open to OHV travel on the active sand dunes. These supplementary rules implement key decisions in the March 12, 2013, Killpecker Sand Dunes Recreation Site Facility Improvement Environmental Assessment (WY-040-EA13-098) Decision Record, which is in compliance with the 2006 Record of Decision.

The final supplementary rules apply to public lands administered by the BLM Rock Springs Field Office. The active sand dunes within the Killpecker Sand Dunes Recreation Site consist of approximately 10,500 acres of public lands within Sweetwater County, Wyoming in the following described township:

Sixth Principal Meridian, Wyoming

T. 23 N., R. 103 W., sec.16, SE1/4SW1/4 and SW1/4SE1/4.

The rules require safety flags on all vehicles in the OHV open area, prohibit speeds in excess of 15 miles per hour within 500 feet of access roads, and prohibit the use of glass containers within the OHV recreation area.

II. Discussion of Public Comment and Final Supplementary Rules

One substantive comment was received during the public comment period. The comment expressed no objection to the supplementary rules as they will promote public safety and a safer environment for OHV recreation by providing for better visual identification of OHVs, by implementing a speed limit, and by prohibiting the possession and use of glass containers.

No changes have been made to the supplementary rules in response to this public comment. However, the BLM has revised the wording of the first and second prohibited acts in order to clarify that they apply to all vehicles, including but not limited to OHVs. In addition, the paragraph labeled, “Penalties” has been replaced with a paragraph labeled, “Enforcement,” in accordance with BLM policy. While that paragraph has been re-worded, it cites the same statutory and regulatory authorities as the paragraph that was in the proposed rule.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These final supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. They will not have an effect of \$100 million or more on the economy and will not adversely

affect, in a material way, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. They will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. They will not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor do they raise novel legal or policy issues. They will not affect legal commercial activity, but merely impose limitations on certain recreational activities on certain public lands to protect natural resources and human health and safety.

National Environmental Policy Act

The final supplementary rules were analyzed in and will implement key decisions in the March 12, 2013, Killpecker Sand Dunes Recreation Site Facility Improvement Environmental Assessment (WY-040-EA13-098) Decision Record. This decision record is in compliance with the actions identified for this area in the 2006 Record of Decision and Jack Morrow Hills Coordinated Activity Plan/Green River Resource Management Plan Amendment.

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 rules would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The final supplementary rules do not pertain specifically to commercial or governmental entities of any size, but contain rules to protect the health and safety of individuals, property, and resources on the public

lands. Therefore, the BLM has determined under the RFA that these final supplementary rules will not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These final supplementary rules do not constitute a “major rule” as defined at 5 U.S.C. 804(2). These final supplementary rules merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and human health and safety. The final supplementary rules have no effect on business, commercial, or industrial use of the public lands.

Unfunded Mandates Reform Act

These 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 final supplementary rules have a significant or unique effect on state, local, or tribal governments or the private sector. The final supplementary rules do not require anything of state, local, or tribal governments. The final supplementary rules merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1501-1571).

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. The final supplementary rules

do not address property rights in any form and do not cause the impairment of constitutionally protected property rights. Therefore, the BLM has determined that the final supplementary rules will not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The final supplementary rules will 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. The final supplementary rules apply only in Wyoming and do not address jurisdictional issues involving the Wyoming State government. 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

Under Executive Order 12988, the BLM Wyoming State Director has determined that these final supplementary rules will 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, the BLM has found that these final supplementary rules do not include policies that have tribal implications and will have no bearing on trust lands or on lands for which title is held in fee status by Indian tribes or U.S. Government owned lands managed by the Bureau of Indian Affairs.

Executive Order 13352, Facilitation of Cooperative Conservation

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

Information Quality Act

In developing these 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, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

These final supplementary rules do not comprise a significant energy action. The rules will not have an adverse effect on energy supply, production, or consumption and have no connection with energy policy.

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. 3501-3521.

Author

The principal author of these supplementary rules is Georgia Foster, Outdoor Recreation Planner, BLM Wyoming, High Desert District, RSFO, Rock Springs, Wyoming.

IV. Final Supplementary Rules

Definitions

Off-Highway Vehicle (OHV) means any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain.

Vehicle means any motorized transportation conveyance designed and licensed for use on roadways, such as an automobile, bus, or truck, and any motorized conveyance originally equipped with safety belts. This includes two-wheeled motorcycles.

Prohibited Acts

1. You must not operate any vehicle or OHV within the Killpecker Sand Dunes Recreation Site without an appropriate safety flag. All vehicles and OHVs must be equipped with a whip mast and a 6 inch x 12 inch red or orange flag. A whip mast is any pole, rod, or antenna mounted on the vehicle that extends at least eight feet from the surface of the ground to the mast tip. It must stand upright when the vehicle is stationary. Masts must be securely mounted on the vehicle. Safety flags must be attached within 10 inches of the tip of the whip mast with other flags mounted below the safety flag or on another whip. Flags may be of pennant, triangle, square, or rectangular shape.
2. You must not operate a vehicle or OHV in excess of 15 miles per hour on public lands within 500 feet of access roads within the Killpecker Sand Dunes Recreation Site.
3. You must not possess or use any glass container within the Killpecker Sand Dunes Recreation Site.

Exemptions

The following persons are exempt from these supplementary rules: Any Federal, State, local, and/or military employees acting within the scope of their official duties; members of any organized rescue or firefighting forces acting within the scope of their official

duties; and persons who are expressly authorized or otherwise officially approved by the BLM.

Enforcement

Any person who violates any of these 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 CFR 8365.1-7, State or local officials may also impose penalties for violations of Wyoming law.

Mary Jo Rugwell
BLM Wyoming State Director

[FR Doc. 2016-13757 Filed: 6/9/2016 8:45 am; Publication Date: 6/10/2016]