

section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. Section 1344), as well as special expertise in aquatic ecosystems that could be affected by the Ocotillo Project. The BLM and Corps agree that it will be beneficial to create a more streamlined, coordinated approach in developing the OWEF Draft PA/EIS/EIR. The two Federal agencies will be developing a Memorandum of Understanding for this purpose.

The BLM's purpose and need for the Draft PA/EIS/EIR is to respond to OE LLC's application for a ROW grant to construct, operate, maintain, and decommission a wind energy facility on public lands in compliance with FLPMA, BLM ROW regulations, and other applicable Federal laws. The BLM will decide whether to grant, grant with modification, or deny the ROW application for the proposed OWEF. Concurrently with its action on the ROW request, the BLM is also proposing to amend the CDCA Plan by designating the project area as either available or unavailable for wind energy projects. The CDCA Plan, while recognizing the potential compatibility of wind energy generation facilities with other uses on public lands, requires that all sites proposed for power generation or transmission not already identified in the CDCA Plan be considered through the plan amendment process. If the BLM decides to amend the CDCA Plan, a ROW for this project could be granted. If not, the ROW could not be granted.

In addition to the proposed action and a no action alternative, the BLM is analyzing a 137-turbine alternative and a 105-turbine alternative. The Draft PA/EIS/EIR also analyzes two "no project" alternatives that reject the project but amend the CDCA Plan to make the project area either (1) available to future wind energy generation projects; or (2) unavailable to future wind energy generation projects.

The Draft PA/EIS/EIR evaluates the potential impacts of the proposed OWEF on air quality, biological resources, cultural resources, water resources, geological resources and hazards, land use, noise, paleontological resources, public health, socioeconomics, soils, traffic and transportation, visual resources, wilderness characteristics, and other resources.

A Notice of Intent to Prepare an EIS/EIR for the OWEF project was published in the **Federal Register** on December 13, 2010 (75 FR 77654). The BLM held 2 public scoping meetings in El Centro and Ocotillo, California, on January 5th and 6th, 2011, respectively. The formal

scoping period ended on February 4, 2011.

Please note that public comments and information submitted including names, street addresses, and e-mail addresses of persons who submit comments will be available for public review at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays.

Before including your phone number, e-mail address, or other personal identifying information in your comments, 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.

**Authority:** 40 CFR 1506.6, 1506.10, 43 CFR 1610.2, and 1610.5.

**Thomas Pogacnik,**  
*Deputy State Director, California.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLID990000.L1210000.NU0000; G0-00]

#### Final Supplementary Rules on Public Lands in Idaho

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

**ACTION:** Notice of final supplementary rules.

**SUMMARY:** The Bureau of Land Management (BLM) Idaho State Office is establishing supplementary rules relating to the illegal use and possession of alcohol, drugs, and drug paraphernalia on public lands. The BLM State Office is also establishing final supplementary rules prohibiting the possession of an open alcoholic beverage container by operators or passengers in or on either a vehicle or off-highway vehicle, on public lands administered by the BLM in Idaho. These supplementary rules are necessary to protect natural resources and the health and safety of public land users. These supplementary rules will allow BLM Law Enforcement personnel to continue enforcing existing public land regulations pertaining to alcohol and drug use in a manner consistent with current State of Idaho statutes.

**DATES:** These rules are effective August 8, 2011.

**ADDRESSES:** You may direct inquiries to Keith McGrath, State Staff Law Enforcement Ranger, Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709; or by e-mail to *Keith\_McGrath@blm.gov*.

**FOR FURTHER INFORMATION CONTACT:**

Keith McGrath, Bureau of Land Management, (208) 373-4046, *Keith\_McGrath@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may contact this individual by calling the Federal Information Relay Service (FIRS) at (800) 877-8339, 24 hours a day, 7 days a week. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Discussion of Public Comments
- III. Discussion of Final Supplementary Rules
- IV. Procedural Matters

#### I. Background

Although two BLM Districts in the State of Idaho have issued rules mirroring the State of Idaho statutes pertaining to underage possession and consumption of alcohol, the BLM has no statewide supplementary rules regarding the illegal possession or use of alcohol on public lands. In the absence of specific regulations, law enforcement officers have regulated this illegal behavior under broader regulations, creating a lack of consistency with surrounding governing entities. These final supplementary rules will bring consistency to all BLM-administered land throughout the State and promote consistency between the BLM and other agencies, including the State of Idaho, County Sheriff's Offices, Idaho State Police, and various Federal agencies where working relationships and partnerships exist in public land management.

In keeping with the BLM's goal to reduce threats to public health, safety, and property, these final supplementary rules are necessary to protect natural resources, allow for safe public recreation, reduce the potential for damage to the environment, and enhance the safety of visitors and neighboring residents. Alcohol-related offenses are a growing problem on the public lands. Unlawful consumption of alcohol and drugs has the potential to pose a significant health and safety hazard to all users. Operation of motor vehicles while under the influence of alcohol or drugs has been demonstrated to result in the destruction of natural resources and property, and/or serious physical injury or death. Vandalism to public land resources resulting from illegal alcohol and drug use and the

clear risks to public safety demonstrate the need for greater regulation of these activities.

For the purposes of these final supplementary rules, an alcoholic beverage is any liquid or solid containing more than 3 percent of alcohol by weight. The BLM has chosen 3 percent alcohol by weight to account for 3.2 percent beer sold in Idaho. The State of Idaho defines an alcoholic beverage as a liquid or solid containing more than 4 percent of alcohol by weight, and addresses prohibition of open containers of beer in motor vehicles, including 3.2 percent beer, in a slightly different manner than BLM rules. The BLM has determined that setting the threshold at 3 percent alcohol by weight would be the clearest way to account for all Idaho State prohibitions.

Possession of drug paraphernalia has frequently been linked to other illegal uses of controlled substances including cultivation, manufacture, and possession for distribution. The BLM, in keeping with the mandates of the President's Office of National Drug Control Policy National Drug Control Strategy, will continue its efforts to reduce illegal use of controlled substances on public lands. These final supplementary rules provide for consistent application and enforcement of alcohol and drug regulations on public lands, further enhancing public safety by all public land users.

These final supplementary rules supersede that portion of the existing supplementary rule enacted in the BLM Idaho Falls District (67 FR 30958) and the restriction orders (ID-060-20 and ID-420-05) currently in place for the BLM Coeur d'Alene District pertaining to the underage possession and consumption of alcoholic beverages and the possession of an open container of alcohol in a motor vehicle.

## II. Discussion of Public Comments

The BLM Idaho State Office proposed supplementary rules in the **Federal Register** on September 22, 2010 (75 FR 57813). Public comments were accepted by mail and/or e-mail for a 60-day period ending on November 22, 2010. The BLM received two written comments concerning the proposed rules. One commenter sought clarification on whether violators of the rules would be required to appear before a magistrate. Under these rules, violators would have the option of mailing payment of the fine associated with the citation or appearing before a magistrate.

The second commenter voiced concern about the fiscal impact of the

proposed supplementary rules, as well as about the creation of new laws. These final supplementary rules will have no budgetary impact and do not create new laws, but rather serve to allow BLM Law Enforcement to continue to enforce existing laws in a manner consistent with Idaho Statutes and those of surrounding States. As such, neither comment resulted in changes to the proposed rules.

## III. Discussion of Final Supplementary Rules

The final supplementary rules apply to BLM-managed lands within the State of Idaho. These final supplementary rules are necessary to protect natural resources and the health and safety of public land users. These supplementary rules will allow BLM Law Enforcement personnel to enforce existing public land regulations pertaining to alcohol and drug use in a manner consistent with current State of Idaho statutes.

No changes to the proposed supplementary rules were necessary after public comment and the final supplementary rules remain as proposed, with the exception of some minor editing that is not substantive.

## IV. Procedural Matters

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

The 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. The final supplementary rules will not have an effect of \$100 million or more on the economy. They will not adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities. The final supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The final supplementary rules do not materially 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. The rules merely contain rules of conduct for public use of a limited selection of public lands and provide greater consistency with the Idaho State Code to protect public health and safety.

### *National Environmental Policy Act*

The BLM has found that these final supplementary rules comprise a category or kind of action that has no

significant individual or cumulative effect on the quality of the human environment. See 40 CFR 1508.4; 43 CFR 46.210. Specifically, the establishment of these final supplementary rules is an action that is of an administrative, financial, legal, technical, or procedural nature within the meaning of 43 CFR 46.210(i), and none of the extraordinary circumstances listed at 43 CFR 46.215 are applicable. Therefore, the BLM is not required to prepare an environmental assessment or an environmental impact statement for these final supplementary rules.

### *Regulatory Flexibility Act*

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601-612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These final supplementary rules merely establish rules of conduct for public use of a limited area of public lands and should have no effect on business entities of any size. Therefore, the BLM has determined under the RFA that these final supplementary rules would not have a significant economic impact on a substantial number of small entities.

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

These final supplementary rules do not constitute a "major rule" as defined at 5 U.S.C. 804(2). They would not result in an effect on the economy of \$100 million or more, an increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. These rules merely establish rules of conduct for public use of a limited area of public lands and do not affect commercial or business activities of any kind.

### *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. These final rules have no effect on State, local, or Tribal governments and do not impose any requirements on any of

these entities. 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 final supplementary rules do not have significant takings implications, nor are they capable of interfering with constitutionally protected property rights. Therefore, the BLM has determined that these rules will not cause a "taking" of private property or require preparation of a takings assessment.

*Executive Order 13132, Federalism*

The 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. The final supplementary rules do not conflict with any Idaho State law or regulation. Therefore, in accordance with Executive Order 13132, the BLM has determined that these final supplementary rules do not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

*Executive Order 12988, Civil Justice Reform*

The BLM has determined that these final supplementary rules would not unduly burden the judicial system and that they meet the requirements of Sections 3(a) and 3(b)(2) of Executive Order 12988.

*Executive Order 13175, Consultation and Coordination With Indian Tribal Governments*

The BLM has found that these supplementary rules do not include policies that have Tribal implications. The supplementary rules prohibit the illegal use of alcoholic beverages and illegal drugs on public lands and do not involve Indian Tribal rights.

*Information Quality Act*

The Information Quality Act (Section 515 of Pub. L. 106-554) requires Federal agencies to maintain adequate quality, objectivity, utility, and integrity of the information that they disseminate. In developing these supplementary rules, the BLM did not conduct or use a study, experiment, or survey or disseminate any information to the public.

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

These final supplementary rules do not constitute a significant energy action. The final supplementary rules will not have an adverse effect on energy supplies, 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 *et seq.*

**Author**

The principal author of this supplementary rule is Keith McGrath, State Staff Law Enforcement Ranger, Bureau of Land Management.

For the reasons stated in the Preamble, and under the authority of 43 CFR 8365.1-6, the Idaho State Director, Bureau of Land Management, issues supplementary rules for public lands in Idaho, to read as follows:

**Supplementary Rules for the State of Idaho**

*Definitions*

*Alcoholic beverage* means any liquid or solid, patented or not, containing alcohol, spirits, or wine, and susceptible of being consumed by a human being, for beverage purposes, and containing more than 3 percent of alcohol by weight.

*Alcohol* means the product of distillation of any fermented liquor, rectified either once or more often, whatever may be the origin thereof, or synthetic ethyl alcohol.

*Beer* means any alcoholic beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and/or other ingredients in drinkable water.

*Wine* means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits (grapes, apples, *etc.*) or other agricultural products containing sugar (honey, milk, *etc.*).

*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.

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

On public land administered by the BLM within the State of Idaho:

A. You must not violate any State laws relating to the purchase, possession, supply, use or consumption of alcohol.

B. You must not drink or possess an open alcoholic beverage, including beer or wine, while operating or as a passenger in or on either a vehicle or off highway vehicle.

C. You must not possess any drug paraphernalia in violation of any State law.

*Penalties:* On public lands under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and 43 CFR 8360.0-7, any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than \$1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to enhanced fines provided for by 18 U.S.C. 3571.

**Peter J. Ditton,**

*BLM Idaho State Director, Acting.*

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**DEPARTMENT OF JUSTICE**

**Notice of Lodging of Consent Decrees**

Notice is hereby given that on July 1, 2011, two proposed Consent Decrees were lodged with the United States District Court for the Central District of California. The Consent Decrees were lodged in the case *United States et al. v. Seachrome Corporation*, Civil Action No. 11-0382 (C.D. Cal.) (consolidated with, *inter alia*, Civil Action No. 02-4565 (C.D. Cal.)).

The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), and the California Department of Toxic Substances Control ("Department") filed a complaint pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9607, seeking reimbursement of response costs incurred or to be incurred for response actions taken in connection with the release or threatened release of hazardous substances at the South El Monte Operable Unit of the San Gabriel Valley Area 1 Superfund Site in South El Monte, Los Angeles County, California (the "South El Monte O.U."). The United States' and Department's suit was consolidated with existing lawsuits also related to the South El Monte O.U.

Under the first proposed Consent Decree, Aerojet-General Corp., a potentially responsible party with respect to the South El Monte O.U., will pay a total of about \$6.8 million to the United States, the Department, and certain plaintiffs in the consolidated lawsuits. Under the second Consent Decree, Mammoet Western, Inc., Time Realty Investments, and Tonks Properties, potentially responsible parties with respect to the South El Monte O.U., will collectively pay a total