



4310-DQ-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8360

[16XL 1109AF LLUTY0100 L12200000.EA0000 24-1A]

Notice of Proposed Supplementary Rules for Public Lands Managed by the Moab Field Office in Grand County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Supplementary Rule.

SUMMARY: The Bureau of Land Management (BLM) is proposing a supplementary rule addressing conduct on public lands in the vicinity of Corona Arch and Gemini Bridges in Grand County, Utah. The proposed supplementary rule would prohibit roped activities around Corona Arch and Gemini Bridges. Such activities involve the use of ropes or other climbing aids, and include, but are not limited to, ziplining, highlining, slacklining, traditional rock climbing, sport rock climbing, rappelling, and swinging.

DATES: Comments on the proposed supplementary rule must be received or postmarked by [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER] to be assured of consideration. Comments received, postmarked or electronically dated after that date will not necessarily be considered in the development of the final supplementary rules.

ADDRESSES: Please mail or hand deliver all comments concerning the proposed supplementary rule to the Bureau of Land Management, 82 E. Dogwood, Moab, UT

84532, or email comments to Katie Stevens, at *kstevens@blm.gov*. The proposed supplementary rule and a map depicting the area that would be affected are available for public review at the Moab Field Office, located at 82 E. Dogwood, Moab, UT 84532. The affected area is also shown on a map on the Moab Field Office's Web site at <http://www.blm.gov/ut/st/en/fo/moab.html>.

FOR FURTHER INFORMATION CONTACT: Beth Ransel, Moab Field Manager, BLM Moab Field Office, 82 E. Dogwood, Moab, UT 84532, or telephone (435) 259-2110. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339 to leave a message or question with the above individual. The FIRS is available 24 hours a day, 7 days a week. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

The public is invited to provide comments on the proposed supplementary rule. See the DATES and ADDRESSES sections for information on submitting comments. Written comments on the proposed supplementary rule must be sent in accordance with the information outlined in the **DATES** and **ADDRESSES** sections of this notice. The BLM need not consider, or include in the Administrative Record for the final supplementary rule, (a) comments delivered to an address other than those listed above (See ADDRESSES), or (b) comments that the BLM receives after the close of the comment period (See DATES), unless they are postmarked or electronically dated before the deadline.

Written comments on the proposed supplementary rule should be specific, confined to issues pertinent to the proposed supplementary rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section of the rule that the comment is addressing. Comments, including names, street addresses, and other contact information of respondents, will be available for public review at 82 E. Dogwood, Moab, UT 84532, during regular business hours (8:00 a.m. to 4:30 p.m.), Monday through Friday, except Federal 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.

II. Background

The BLM establishes supplementary rules under the authority of 43 CFR 8365.1–6, which allows the BLM State Directors to establish such rules for the protection of persons, property, and public lands and resources. This regulation allows the BLM to issue rules of less than national effect without codifying the rules in the Code of Federal Regulations.

Corona Arch and Gemini Bridges are two of the most popular locations in the Moab Field Office. Corona Arch is a partly freestanding arch with a 110-foot by 110-foot opening. Gemini Bridges are two large arches standing side-by-side. Corona Arch is visited by approximately 40,000 visitors per year, and Gemini Bridges are visited by approximately 50,000 visitors per year. The BLM has received many complaints that

roped activities, including swinging from the arches, conflict with other visitors' use and enjoyment of the arches. The BLM finds merit in these complaints. People setting up and using swings and rappels from the arches endanger both themselves and those viewing them from below. In addition, the rock arches may be damaged by ropes "sawing" on the rock spans. The supplementary rules currently in effect in the Moab Field Office (at 81 FR 9498 (Feb. 25, 2016)) do not address roped activities on the affected arches, although a temporary restriction (80 FR 27703 (May 14, 2015)) is in effect until May 2017.

The legal descriptions of the affected public lands are:

Salt Lake Meridian

T. 25 S., R. 20 E.,

sec. 34, NW1/4 SW1/4, that part surrounding Gemini Bridges.

T. 25 S., R. 21 E.,

sec. 32, SE1/4 SE1/4, that part surrounding Corona Arch.

T. 26 S., R. 21 E.,

sec. 5, NE1/4, that part surrounding Corona Arch.

The areas described aggregate 37.3 acres.

This proposed supplementary rule would allow for enforcement as a tool in minimizing the adverse effects of roped activities within the affected areas. After it goes into effect, the supplementary rule will be available for inspection in the Moab Field Office, and it will be announced broadly through the news media and direct mail to the constituents included on the Moab Field Office mailing list. It will also be posted on signs at main entry points to the affected areas.

III. Discussion of the Proposed Supplementary Rule

The Moab Field Office proposes to ban roped activities in the vicinity of Corona Arch and Gemini Bridges. The prohibited activities would include, but not be limited to, ziplining, highlining, slacklining, traditional rock climbing, sport rock climbing, rappelling, and swinging, using equipment such as ropes, cables, climbing aids, webbing, or anchors. The proposed supplementary rule would affect 31 acres surrounding Corona Arch and 6.3 acres surrounding Gemini Bridges. The proposed supplementary rule is necessary for the protection of visitors and for the protection of the arches.

IV. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

This proposed supplementary rule is not a significant regulatory action and is not subject to review by the Office of Management and Budget under Executive Order 12866. This proposed supplementary rule would not have an annual effect of \$100 million or more on the economy. It is not intended to affect commercial activity, but imposes a rule of conduct on recreational visitors for public safety and resource protection reasons in a limited area of public lands. This supplementary rule 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. This proposed supplementary rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This proposed supplementary rule does not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients, nor does it raise novel legal or policy issues; it merely strives to protect public safety and the environment.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. The BLM invites comments on how to make this proposed supplementary rule easier to understand, including answers to questions such as the following:

- (1) Are the requirements in the proposed supplementary rule clearly stated?
- (2) Does the proposed supplementary rule contain technical language or jargon that interferes with their clarity?
- (3) Does the format of the proposed supplementary rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?
- (4) Would the proposed supplementary rule be easier to understand if it was divided into more (but shorter) sections?
- (5) Is the description of the proposed supplementary rule in the SUPPLEMENTARY INFORMATION section of this preamble helpful to your understanding of the proposed supplementary rule? How could this description be more helpful in making the proposed supplementary rule easier to understand?

Please send any comments you have on the clarity of the proposed supplementary rule to the address specified in the ADDRESSES section.

National Environmental Policy Act (NEPA)

A temporary restriction on roped activities was analyzed in Environmental Assessment (EA) DOI-BLM-UT-2014-0170-EA, *Temporary Restriction of Roped Activities at Corona Arch and Gemini Bridges*. This document was subject to a 30-day public comment period; it was signed on January 6, 2015. The permanent restriction on

roped activities was analyzed in Environmental Assessment DOI-BLM-UT-2015-0227, Permanent Restriction of Corona Arch and Gemini Bridges to Roped Activities. This document was subject to a 30-day scoping period and a 30-day public comment period. The Decision Record was signed on May 5, 2016. The EA found that the proposed supplementary rule would 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). The proposed supplementary rule merely contains rules of conduct for the BLM public lands administered by the Moab Field Office within a 31-acre area around Corona Arch and 6.3-acre area around Gemini Bridges. This rule is designed to protect the environment and public safety. A detailed impact statement under NEPA is not required. The BLM has placed the EA and the Finding of No Significant Impact on file in the BLM Administrative Record at the address specified in the ADDRESSES section.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA), 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. The proposed supplementary rule does not pertain specifically to commercial or governmental entities of any size, but to public recreational use of specific public lands. Therefore, the BLM has determined under the RFA that the proposed supplementary rule would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

This proposed supplementary rule would not constitute a “major rule” as defined at 5 U.S.C. 804(2). This proposed supplementary rule merely contains rules of conduct for recreational use of public lands. This proposed rule would not affect business, commercial, or industrial use of public lands.

Unfunded Mandates Reform Act

This proposed supplementary rule would not pose an unfunded mandate on State, local, or tribal governments of more than \$100 million per year; nor would it have a significant or unique effect on small governments. This proposed supplementary rule does 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)

This proposed supplementary rule is not a government action capable of interfering with constitutionally protected property rights. This proposed supplementary rule does not address property rights in any form, and does not cause the impairment of anybody’s property rights. Therefore, the BLM has determined that this proposed supplementary rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

This proposed supplementary rule would 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.

Therefore, the BLM has determined that this proposed supplementary rule does not have sufficient Federalism implications to warrant preparation of a Federalism assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM has determined that this proposed supplementary rule would not unduly burden the judicial system and that the requirements of sections 3(a) and 3(b)(2) of the Order are met. This supplementary rule contains rules of conduct for recreational use of certain public lands to protect public safety and the environment.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that this proposed supplementary rule does not include policies that have tribal implications. This proposed supplementary rule does not affect lands held in trust for the benefit of Native American tribes, individual Indians, Aleuts, or others, nor does it affect 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.

Paperwork Reduction Act

This proposed supplementary rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

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

This proposed supplementary rule does not comprise a significant energy action.

This proposed supplementary rule would not have an adverse effect on energy supplies, production, or consumption. It only addresses rules of conduct for recreational use of certain public lands to protect public safety and the environment, and has no connection with energy policy.

Author

The principal author of the proposed supplementary rule is Beth Ransel, Field Manager for the Moab Field Office, Utah.

For the reasons stated in the preamble, and under the authority for supplementary rules at 43 U.S.C. 1740 and 43 CFR 8365.1-6, the Utah State Director, BLM, proposes to issue this supplementary rule for public lands managed by the BLM in Utah, to read as follows:

V. Proposed Supplementary Rule

Definitions

Roped activities means activities that involve the use of ropes, cables, climbing aids, webbing, or anchors, and includes, but is not limited to, ziplining, highlining, slacklining, traditional rock climbing, sport rock climbing, rappelling, and swinging.

Prohibited Acts

1. You must not participate in any roped activities on public lands in the vicinity of Corona Arch or Gemini Bridges. This prohibition includes, but is not limited to, the use of ropes, cables, climbing aids, webbing, anchors, and similar devices.

Exemptions

The following persons are exempt from this supplementary rule: Any Federal, State, local government officer or employee in the scope of their duties; members of any organized law enforcement, rescue, or firefighting force in performance of an official

duty; and any persons, agencies, municipalities or companies whose activities are authorized in writing by the BLM.

Enforcement

Any person who violates this supplementary rule 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 Utah law.

Jenna Whitlock
Bureau of Land Management
Acting State Director, Utah
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