

**SUMMARY:** In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Dakotas Resource Advisory Council (RAC), will meet as indicated below.

**DATES:** The next regular meeting of the Dakotas Resource Advisory Council will be held on Aug. 17, 2011 in Dickinson, ND. The meeting will start at 8 a.m. and adjourn at approximately 3:30 p.m. When determined, the meeting location will be announced in a news release.

**FOR FURTHER INFORMATION CONTACT:** Mark Jacobsen, Public Affairs Specialist, BLM Eastern Montana/Dakotas District, 111 Garryowen Road, Miles City, Montana, 59301. *Telephone:* (406) 233-2831. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual 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:** The 15-member Council advises the Secretary of the Interior through the Bureau of Land Management on a variety of planning and management issues associated with public land management in the Dakotas. At these meetings, topics will include: North Dakota and South Dakota Field Office manager updates, subcommittee briefings, work sessions and other issues that the council may raise. All meetings are open to the public and the public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations should contact the BLM as provided above.

Dated: July 8, 2011.

**M. Elaine Raper,**

*Manager, Eastern Montana, Dakotas District*

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**BILLING CODE 4310-DN-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLID-931-000-L1020-0000-JP-0000252R]

#### Final Supplementary Rules To Require the Use of Certified Noxious-Weed-Free Forage and Straw on Bureau of Land Management Lands in the State of Idaho

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

**ACTION:** Final supplementary rules.

**SUMMARY:** The Bureau of Land Management (BLM) in Idaho is finalizing a supplementary rule that will require anyone using, feeding, or storing forage or straw on BLM-administered land in Idaho to use certified noxious-weed-free forage and straw. Restoration, rehabilitation, and stabilization projects also will be required to use weed-free straw bales and mulch for project work. This action is a cooperative effort among the BLM, the U.S. Forest Service (USFS), and the Idaho State Department of Agriculture (ISDA) that supports Idaho State noxious weed laws.

**DATES:** These supplementary rules are effective August 22, 2011.

**ADDRESSES:** You may direct inquiries by letter to Roger Rosentreter, Botanist, Bureau of Land Management, 1387 S. Vinnell Way, Boise, ID 83709, or by e-mail to [Roger\\_Rosentreter@blm.gov](mailto:Roger_Rosentreter@blm.gov).

**FOR FURTHER INFORMATION CONTACT:** Roger Rosentreter, Botanist, Bureau of Land Management, 1387 S. Vinnell Way, Boise, ID 83709; telephone (208) 373-3824; e-mail [Roger\\_Rosentreter@blm.gov](mailto:Roger_Rosentreter@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual 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
- II. Discussion of Public Comments
- III. Discussion of the Final Supplementary Rules
- IV. Procedural Matters

#### I. Background

Noxious and invasive weeds are a serious problem in the Western United States. Noxious weeds are spreading on BLM lands at a rate of over 2,300 acres per day, and on all Western public lands at approximately 4,600 acres per day. Species such as perennial pepperweed,

purple loosestrife, yellow starthistle, hoary cress (whitetop), leafy spurge, diffuse knapweed, spotted knapweed, Russian knapweed, Scotch thistle, Canada thistle, rush skeletonweed, and many others are non-native to the United States and have no natural enemies to keep their populations in balance. Consequently, depending on the circumstances (e.g., weed(s) involved, soil type, range condition, and climatic influences), these undesirable weeds may rapidly invade healthy ecosystems, displace native vegetation, reduce species diversity, destroy wildlife habitat, reduce forage for wild and domestic ungulates, weaken rehabilitation and landscape restoration efforts, increase soil erosion and stream sedimentation, create fire hazards, and/or degrade special resource values.

To curb the spread of noxious weeds, a growing number of Western States have jointly developed noxious-weed-free forage certification standards, and in cooperation with various Federal, State, and county agencies, have also passed weed management laws. Idaho participates in a regional inspection-certification process with Oregon, Montana, Washington, Nevada, and Wyoming and encourages, on a voluntary basis, forage producers in Idaho to grow and request voluntary certification inspections of forage products and straw.

Because forage products and straw containing noxious weed seed contribute to the spread and establishment of weed infestations, the USFS promulgated regulations in 1996, known as a "Weed Free Hay Order," to address this issue. In response to that Order, the State of Idaho implemented a noxious-weed-free forage and straw certification program in 1997. Under Idaho Code, the ISDA wrote regulations in 2007 (Title 22, chapter 24 Noxious-Weed-Free Forage and Straw Rules and IDAPA 02.06.31). This program, which is a cooperative effort between the ISDA and the USFS, was established to limit the introduction and spread of noxious weeds through forage and straw onto National Forest System lands and other lands within Idaho. The Federal Plant Protection Act of 2000 (7 U.S.C. 7701-7751) directs agencies to develop integrated management plans for noxious weeds. These supplementary rules are intended to complement the existing regulatory framework.

These supplementary rules are promulgated under the authority of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1733(a) and 1740) and 43 CFR 8365.1-6.

## II. Discussion of Public Comments

The BLM Idaho State Office proposed supplementary rules in the **Federal Register** on September 21, 2010 (75 FR 57496). Public comments were accepted for a 60-day period ending on November 22, 2010. The BLM received three written comments concerning the proposed rules. All three comments supported the proposed supplementary rules.

Two of the comments suggested revising proposed paragraph (4): “Certified noxious-weed-free compressed forage bales are identified with yellow binding (strapping) material with the statement ‘ISDA NWFFS’ and the manufacturer’s name printed in purple.” The commenters suggested that the paragraph be reworded as follows: “Certified noxious-weed-free compressed forage bales are identified by strapping/binding material authorized by NAWMA [the North American Weed Management Association] with the same color and marking requirements on products certified by other NAWMA approved agencies.” This revision is consistent with the use of certification identifiers required by other agencies, and has been included in the final supplementary rules.

The third comment suggested that the BLM monitor livestock for what they have eaten during the three days before they are turned out onto the public lands, to address the possibility that weed seeds might pass through the digestive tracts of the livestock and subsequently germinate on the rangelands. Although there is a slight possibility of weed seeds surviving in this manner, BLM staff concluded that the resources and logistics of such monitoring would provide marginal benefit and would result in a significant regulatory burden for the agency and public. Consequently, these supplementary rules were not amended as suggested.

## III. Discussion of the Final Supplementary Rules

The final supplementary rules apply to BLM-administered lands in Idaho and provide for consistent management with National Forest System lands across jurisdictional boundaries. The final supplementary rules will be implemented by including a standard stipulation in all Special Recreation Permits and most other use authorizations. Livestock grazing permits would not need to include such a stipulation because 43 CFR 4140.1(a)(3) already requires the permittee to secure authorization before

supplemental feeding, maintenance feeding, and emergency feeding on lands administered by the BLM.

The supplementary rules require holders of affected permits and use authorizations to use certified noxious-weed-free forage and straw when they use hay, cubes, and straw on BLM-administered public lands in Idaho. Affected permittees includes recreationists using pack and saddle stock, grazing permittees, outfitters, and contractors and operators who use straw or mulch for reclamation or re-seeding purposes. These individuals or groups are required to use certified noxious-weed-free forage and straw while on BLM-administered public lands in Idaho, unless they have a permit or letter signed by a BLM authorized officer specifically authorizing the otherwise-prohibited act, or are transporting forage across public lands from one private property to another private property. The BLM in Idaho allows forage certified by other States to be used as forage on lands administered by Idaho BLM offices.

In addition, in cooperation with the USFS hay closure and the Idaho State Department of Agriculture (ISDA) Noxious-Weed-Free Forage and Straw Certification (NWFFS) program, the BLM prohibits the use of forage and straw that has not been certified as noxious-weed-free for all BLM-administered public lands within Idaho. The BLM State Office in Idaho, in cooperation with the ISDA, will implement a public information plan intended to publicize the supplementary rules and notify visitors and land users where they can purchase state-certified noxious-weed-free forage and straw.

Paragraph (1) of the proposed supplementary rules provided for a 60-day grace period between the effective date and enforcement of the supplementary rules. The BLM recognizes that immediate compliance with these supplementary rules might not be realistic, and has determined that it is appropriate to postpone enforcement of these supplementary rules for 30 days after the effective date of these supplementary rules. During that time, the BLM plans to concentrate on education and outreach. The proposed regulatory text referring to a grace period has been revised to provide for a specific enforcement date that is 30 days after the effective date of these supplementary rules. This revised language appears in the penalty provision (*i.e.*, paragraph (7)) of these supplementary rules.

These supplementary rules are in conformance with all BLM land use

plans within Idaho. The final supplementary rules are consistent with and supportive of the statewide Conservation Plan for the Greater Sage-Grouse in Idaho (Idaho Sage-Grouse Advisory Committee, 2006), which recommends that the use of weed-free forage on public and state lands be required to discourage the spread of invasive annuals and noxious weeds.

## IV. Procedural Matters

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

These 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. These rules will not have an annual 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. These 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. They merely impose rules regarding the use of certified noxious-weed-free forage and straw on BLM-administered public lands in Idaho.

### *National Environmental Policy Act*

The BLM has prepared an environmental assessment (EA) titled “Implementation of Requirements for Certified Noxious-Weed-Free Forage and Straw On Bureau of Land Management Lands in Idaho.” The 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). A detailed environmental 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. The BLM invites the public to review these documents.

### *Regulatory Flexibility Act*

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, 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. The final supplementary rules are not specific to commercial, organizational, or governmental entities of any size, but instead are widely applicable rules to protect the natural resources and the environment on public lands. The rules would have no significant impact on a substantial number of entities of any size. Therefore, the BLM has determined under the RFA that these final supplementary rules do not require preparation of a regulatory flexibility analysis.

#### *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). They would not result in an annual effect on the economy of \$100 million or more, in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or in 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. They would merely impose rules regarding the use of certified noxious-weed-free forage and straw on BLM-administered public lands in Idaho.

#### *Unfunded Mandates Reform Act*

These final supplementary rules do not impose an unfunded mandate on State, local, or Tribal governments in the aggregate, or the private sector, of more than \$100 million per year, nor do these final supplementary rules have a significant or unique effect on small governments. The 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)*

The final supplementary rules are not government action capable of interfering with constitutionally protected property rights. The final supplementary rules do not have takings implications, 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 the final supplementary rules would 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 in only one State, Idaho, and do not address jurisdictional issues involving the Idaho 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 Idaho State Office 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 the Order.

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

In accordance with Executive Order 13175, the proposed supplementary rules and EA were mailed to all Idaho Tribes for comment. Consultation was conducted with the Shoshone-Paiute Tribes, and no concerns were expressed. In addition, the BLM Idaho State Office has found that the final supplementary rules do not include policies that have tribal implications.

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

These final supplementary rules are not a significant energy action. The rules will not have an adverse effect on energy supplies, distribution, or use. They only address the use of certified noxious-weed-free forage and straw on public lands 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 these final supplementary rules is Roger Rosentreter, Botanist, BLM Idaho State Office.

For the reasons stated in the preamble and under the authorities for supplementary rules at 43 U.S.C. 1733(a) and 1740 and 43 CFR 8365.1-6, the BLM Idaho State Director establishes final supplementary rules for public lands managed by the BLM in Idaho, to read as follows:

#### *Supplementary Rules To Require the Use of Certified Noxious Weed-Free Forage on Bureau of Land Management-Administered Lands in Idaho*

(1) To prevent the spread of noxious weeds on BLM-administered public lands in Idaho, it is a prohibited act to feed or store forage or straw on BLM-administered land that has not been certified as noxious-weed-free. Restoration, rehabilitation, and stabilization projects also are required to use noxious-weed-free straw bales and mulch for project work.

(2) The certification program currently includes 57 weeds that have been designated as noxious in Idaho under the Idaho State noxious-weed-free standards, or certified to be free from those weeds designated in the North American Weed Free Forage Program list, which was developed by the North American Weed Management Association (NAWMA). This NAWMA list currently includes the 57 weeds designated noxious in Idaho and also includes an additional 15 invasive weeds. The BLM in Idaho allows forage that meets Idaho, NAWMA, or other States' standards for certification as noxious-weed-free. Although weeds may be added or removed from these various lists, the BLM recognizes this forage as certified noxious-weed-free as long as it has been marked indicating that it meets the standards for certification.

(3) Certified noxious-weed-free hay must be identified by one of the following:

(a) State certification tag attached to the bale string;

(b) At least one strand of purple and yellow (intertwined) bale twine encircling the bale;

(c) Blue and orange (intertwined) bale twine encircling the bale; or

(d) Other colored twine encircling the bale that is used to designate certified forage.

(4) Certified noxious-weed-free compressed forage bales are identified by strapping/binding material authorized by NAWMA with the same color and marking requirements on products certified by other NAWMA approved agencies.

(5) Certified noxious-weed-free forage in bags is identified by a stamp, sticker, or printing on the bag identifying it as certified forage.

(6) The following persons/activities are exempt from these supplementary rules:

(a) Any person with a permit or letter signed by a BLM authorized officer specifically authorizing the prohibited act, such as an authorized livestock permittee during an emergency situation in which livestock must be fed uncertified forage or hay for a short period of time until they can be moved to safety; and

(b) Any person transporting hay or forage across public lands from private property to private property.

(7) Any person who knowingly and willfully violates the provisions of these supplementary rules on or after September 19, 2011 may be required to appear before a United States Magistrate and may be subject to a fine of not more than \$1,000 or imprisonment of not more than 12 months, or both, in accordance with 43 U.S.C. 1733(a) and 43 CFR 8360.0-7.

Such violations may also be subject to enhanced fines provided for by 18 U.S.C. 3571.

**Steven A. Ellis,**

*Idaho State Director, Bureau of Land Management.*

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**BILLING CODE 4310-GG-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[2253-665]

#### **Notice of Inventory Completion: Denver Museum of Nature & Science, Denver, CO**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Denver Museum of Nature & Science has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes. Representatives of any Indian tribe that

believes itself to be culturally affiliated with the human remains and associated funerary objects may contact the Denver Museum of Nature & Science.

Repatriation of the human remains and associated funerary objects to the Indian tribes stated below may occur if no additional claimants come forward.

**DATES:** Representatives of any Indian tribe that believes it has a cultural affiliation with the human remains and associated funerary objects should contact the Denver Museum of Nature & Science at the address below by August 22, 2011.

**ADDRESSES:** Chip Colwell-Chanthaphonh, Denver Museum of Nature & Science, 2001 Colorado Blvd., Denver, CO 80204, telephone (303) 370-6378.

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Denver Museum of Nature & Science, Denver, CO. The human remains and associated funerary objects were removed from Lancaster County, PA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

#### **Consultation**

A detailed assessment of the human remains was made by the Denver Museum of Nature & Science professional staff in consultation with representatives of the Absentee-Shawnee Tribe of Indians of Oklahoma; Cayuga Nation of New York; Delaware Nation, Oklahoma; Delaware Tribe of Indians, Oklahoma; Eastern Shawnee Tribe of Oklahoma; Oneida Nation of New York; Oneida Tribe of Indians of Wisconsin; Onondaga Nation of New York; Saint Regis Mohawk Tribe, New York; Seneca Nation of New York; Seneca-Cayuga Tribe of Oklahoma; Shawnee Tribe, Oklahoma; Stockbridge Munsee Community, Wisconsin; Tonawanda Band of Seneca Indians; Tuscarora Nation of New York; and the Haudenosaunee Standing Committee on Burial Rules and Regulations, a non-Federally recognized Indian organization for the purposes of NAGPRA.

#### **History and Description of the Remains**

Between 1926 and 1932, human remains representing a minimum of two individuals were removed from a burial context at the Keller Site (a burial component of the Washington Boro Village Site), in Lancaster County, PA, by Gerald B. Fenstermaker. On December 15, 1965, Francis and Mary Crane purchased the human remains as a part of a larger collection from Mr. Fenstermaker. At the time of the purchase, the human remains were on loan to the Hershey Museum, in Hershey, PA, where they remained until they were collected by the Cranes on October 18, 1966. In 1983, the Cranes donated the human remains to the Denver Museum of Natural History, as the museum was then called, and the remains were accessioned into the collections (DMNS catalogue numbers AC.9471 and AC.9542). The human remains are represented by one corked vial of cut hair and ten teeth. Through research and consultation, it was determined that the hair and teeth are human remains under NAGPRA. The human remains were originally determined to be culturally unidentifiable, but have been subsequently culturally affiliated. No known individuals were identified. The four associated funerary objects are one corked vial of white paint (AC.9472); one corked vial of red paint (AC.9473); a double-necked ceramic jar (AC.9474); and one necklace, which is made from red, white, blue, and black trade beads, four copper bells, two tubular copper beads, one bear tooth, and one scoop spoon made from a brass kettle (AC.9542).

Between 1926 and 1935, human remains representing a minimum of one individual were removed from a burial context in Pennsylvania by Gerald B. Fenstermaker. Based on museum records, Mr. Fenstermaker's collection history, and the associated funerary objects, dating to the Contact period, it is likely that these human remains were removed from the Washington Boro Village Site, in Lancaster County, PA. On December 15, 1965, the Cranes also purchased these human remains from Mr. Fenstermaker. In 1983, the Cranes donated the human remains to the museum and the remains were accessioned into the collections (AC.9812A). The human remains are represented by five teeth. Through research and consultation, it was determined that the teeth are human remains under NAGPRA. The human remains were originally determined to be culturally unidentifiable, but have been subsequently culturally affiliated.