

§ 60.3069 [Removed and Reserved]

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DEPARTMENT OF THE INTERIOR**Bureau of Land Management****43 CFR Part 8360****[BLM_CO_FRN_MO4500177561]****Notice of Final Supplementary Rule for Canyons of the Ancients National Monument in Dolores and Montezuma Counties, CO****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Final supplementary rule.

SUMMARY: The Bureau of Land Management (BLM) is finalizing a supplementary rule to regulate conduct on public lands within Canyons of the Ancients National Monument (CANM or Monument). This final supplementary rule will implement planning decisions in the 2010 CANM Resource Management Plan (RMP). The final supplementary rule will provide for the protection of persons, property, and public-land resources administered by the BLM's Tres Rios Field Office and CANM, located in Dolores and Montezuma Counties, Colorado.

DATES: The final supplementary rule is effective on December 16, 2024.

ADDRESSES: Inquiries may be directed to the BLM CANM at (970) 882-5600 or 27501 Highway 184, Dolores, CO 81323. The final supplementary rule and accompanying environmental documents are available for inspection at the BLM CANM. A map of the management area and boundaries can be obtained by contacting the CANM.

FOR FURTHER INFORMATION CONTACT:

Tyler Fouss, Field Staff Ranger, Bureau of Land Management, Tres Rios Field Office, 29211 Hwy. 184, Dolores, CO 81323; telephone (970) 882-1131; email: tfouss@blm.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

I. Background

II. Discussion of Public Comments

III. Discussion of Final Supplementary Rule

IV. Procedural Matters

V. Final Supplementary Rule

I. Background

The BLM is establishing this supplementary rule under the authority of 43 CFR 8365.1-6, which authorizes BLM state directors to establish supplementary rules for the protection of persons, property, and public lands and resources.

CANM is part of the BLM's National Conservation Lands system and consists of approximately 174,881 acres of BLM-administered public lands. The monument is located in Dolores and Montezuma counties in the Four Corners region of southwestern Colorado. President Clinton established CANM on June 9, 2000, by Presidential Proclamation Number 7317, pursuant to the Antiquities Act of 1906 (34 Stat. 225, 54 U.S.C. 320301), to preserve the cultural and natural objects of the Monument. Prior to the issuance of Proclamation 7317, CANM was managed as the Anasazi Culture Multiple Use Area of Critical Environmental Concern, established through the 1985 San Juan-San Miguel RMP Record of Decision (ROD).

The BLM developed the CANM RMP with extensive input from the public, Tribes, and elected officials through scoping, opportunities for public comment, and advisory committee meetings.

The BLM signed the CANM RMP and ROD in June 2010, replacing portions of the San Juan-San Miguel RMP/ROD and incorporating management direction from the Presidential Proclamation establishing CANM. The CANM RMP identifies specific management actions that restrict certain activities and define allowable uses within CANM. This final supplementary rule will facilitate the implementation and enforcement of those management actions.

This final supplementary rule implements management decisions in the CANM RMP related to recreational sporting activities, camping, travel management, and collecting geological and biological materials. Within the Sand Canyon-Rock Creek Special Recreation Management Area (SRMA), activities such as hiking, mountain biking, and horseback riding and packing will be allowed only on designated travel routes, as provided in the CANM RMP.

II. Discussion of Public Comments

The BLM published a proposed supplementary rule on April 6, 2023 (88 FR 20449), and received 116 comment submissions during the 60-day public

comment period. Three commenters expressed support for the supplementary rule.

One comment submitted by 112 individuals through a form email expressed opposition to the proposed rule prohibiting camping within 300 feet of riparian areas and indicated that the BLM should instead implement a 100-foot buffer between campsites and riparian areas. The 300-foot restriction is set forth in the RMP and cannot be changed without a plan amendment. The prohibition on camping within 300 feet of springs, seeps, or streams affects approximately 2,785 acres (roughly 1.6 percent of the monument) within CANM. Most of the acreage is not conducive to camping and has few established campsites. The areas most impacted are in lower Yellowjacket Creek and McElmo Creek, where some roads are close to streams. The definition of riparian area has been refined to match the definition in the RMP, and the final rule has been updated to clarify areas where the rule applies. The definition in the proposed rule was too broad and did not properly identify the area where the rule will apply.

A second comment in the form email expressed the view that the BLM should create additional routes and remove wilderness study areas (WSAs). Designating new routes is beyond the scope of this supplementary rulemaking process, which is focused solely on implementing existing decisions that the BLM has already analyzed in accordance with the National Environmental Policy Act (NEPA). Designated routes identified in the CANM transportation management plan (TMP) are intended to avoid sensitive cultural resources and other resource concerns. Removal of WSAs identified under section 603 of the Federal Land Policy and Management Act (FLPMA) would require Congress to release them from WSA status.

One individual commented that the NEPA process was flawed and the RMP was deficient in providing a range of alternatives. The commenter outlined several recommendations for producing alternatives. The commenter also expressed the view that WSAs should be removed and that camping restrictions, geocaching, and gathering of pine nuts should be analyzed. This supplementary rule is not a planning document but implements decisions already analyzed through the CANM RMP planning process. Compliance with NEPA is documented in Section IV. Procedural Matters, later in this preamble. The restriction on camping, geocaching, and pine nut collecting is

set forth in the RMP and cannot be changed without a plan amendment. Removal of WSAs identified under section 603 of FLPMA would require Congress to release them from WSA status.

In response to public comments, the BLM revised the definition for “riparian area” and clarified where the riparian area rule applies in the final rule. The remainder of the proposed supplementary rules have been incorporated into this final rule.

III. Discussion of Final Supplementary Rule

The purpose of the final supplementary rule is to protect public health and safety and prevent damage to natural and cultural resources, as well as other resources, objects, and values identified in the CANM Proclamation and the CANM RMP. Certain activities, by their very nature, have the potential to adversely impact the objects the Monument was established to protect. The CANM RMP contains management actions directing how the BLM manages those activities, consistent with the Proclamation. Many uses are permissible so long as the objects of the Monument are protected. Additionally, the average user is unlikely to notice changes resulting from the establishment of this supplementary rule implementing the CANM RMP.

The President established CANM to protect objects of historic and scientific interest, including archaeological and geological resources, raptors and other bird species, and reptiles. CANM contains the highest known density of archaeological sites in the United States, with an average of one site eligible for listing on the National Register of Historic Places every 6 acres, or an estimated 30,000 sites on this landscape. The BLM is responsible for protecting the objects for which the Monument was designated and for avoiding or minimizing impacts to them.

The reasoning for each provision is discussed below:

Final supplementary rule numbers 1 through 4 address collecting resources on CANM. The Monument proclamation prohibits appropriating, injuring, destroying, or removing Monument features and withdraws the lands and interests in lands within the Monument from entry, location, and disposition under the public land laws; location, entry, and patent under the mining laws; and from disposition under all laws relating to mineral leasing, except for certain oil and gas development activities. The CANM RMP more specifically prohibits the recreational

collection of paleontological or geological resources, the scientific collection of paleontological or geological resources without a permit, and the cutting or gathering of firewood. The CANM RMP restricts pinyon pine nut harvesting to 22.5 pounds for personal or traditional use and prohibits commercial harvesting.

Final supplementary rule number 5 addresses recreational target shooting within CANM. The RMP prohibits recreational shooting within CANM due to the potential for damage to archaeological sites, particularly rock art. In the past, shooters have used native vegetation, as well as skeet litter and discarded appliances, for target practice. This final supplementary rule will prohibit recreational shooting. Because the Proclamation does not enlarge or diminish the State’s jurisdiction over wildlife management, hunting with a valid Colorado hunting license is allowed within the Monument, to the extent permissible under State law.

Final supplementary rule number 6 addresses geocaching within CANM. The CANM RMP prohibits geocaching due to the potential for irrevocable harm to the Monument’s archaeological objects. A common problem is geocachers using the Monument’s archaeological sites to conceal items, or caches, as part of a quasi-treasure hunt. Geocachers often camouflage their caches by moving rocks or organic material from their original site, which can damage the site’s archaeological values. The large number of potential cache sites within the Monument makes this a serious concern.

Final supplementary rule number 7 addresses rock climbing within CANM. The rule prohibits rock climbing, rappelling, and bouldering within the Monument except for areas designated as open to climbing within the Mockingbird Mesa Recreation Area Management Zone. Climbing and bouldering have the potential to adversely affect archaeological sites and nesting raptors in certain locations. Climbing to cliff dwellings on unstable slopes can be dangerous and undermine archaeological features. Scrambling up cliffs also can be a safety issue due to unstable geological formations. Natural oils from hands, climbing chalk, and permanent fixed hardware on climbing routes can cause irreversible impacts to archaeological sites. Furthermore, climbing activities are likely to disturb or displace raptor populations, especially nesting pairs, that reside in the Monument in high densities. Currently, one area within the Mockingbird Mesa Recreation Area

Management Zone is designated as open to climbing. The BLM may, consistent with the CANM RMP, consider establishing additional climbing areas within this zone in the future.

Final supplementary rule numbers 8 through 14 address camping and campfires within CANM to provide a more enjoyable experience for visitors and to limit impacts from higher visitation in specific management zones and developed recreation sites.

The CANM RMP prohibits camping in or near sensitive resources and areas that experience the highest visitor use in the Monument. This prohibition is necessary to minimize impacts camping could cause to those resources, including the potential for the illegal collecting or moving of artifacts, the compromising of scientific research, and the contamination of the archaeological record.

Final supplementary rule number 10 requires campsites to be located at least 300 feet away from riparian areas and the Monument’s limited water sources to reduce stress on the wildlife that rely on them.

Final supplementary rule numbers 12 and 13 prohibit campfires in and near sensitive resources and the Monument’s high visitor use areas.

In areas where campfires are allowed, *final supplementary rule number 14* requires that fires be built only in firepans, or, if available, BLM-provided fire rings.

Final supplementary rule numbers 15 through 20 address travel management and access within CANM, consistent with the CANM RMP and TMP. Access restrictions and trail designations in the Monument help preserve key scenic, cultural, and wildlife habitat resources that attract visitors to these public lands and minimize conflicts among the different types of users. *Final supplementary rule number 15* restricts mechanized travel to designated travel routes.

BLM policy directs WSAs be managed to prevent the impairment of wilderness characteristics, and the CANM RMP and TMP designates no routes for motorized or mechanized travel in WSAs.

Final supplementary rule number 16 prohibits motorized or mechanized vehicles in WSAs.

Final supplementary rule numbers 17 and 18 prohibit parking in riparian areas, more than 20 feet from the edge of a designated travel route, or in a manner that would damage Monument resources.

To protect cultural resources in the Sand Canyon-Rock Creek SRMA, which is the most highly visited recreation area in the Monument, the CANM RMP

restricts hiking and horseback riding or packing to designated travel routes approved for their use.

Final supplementary rule numbers 19 and 20 will facilitate enforcement of these restrictions. Horses, pack animals, and hikers will be allowed both on and off designated travel routes on the remaining 169,000 acres of the Monument outside of the SRMA.

The April 6, 2023, Notice of Proposed Supplementary Rule included the name Anasazi Heritage Center SRMA, which was changed by RMP Plan Maintenance to the Visitor Center and Museum SRMA. The correction has been made in this final supplementary rule.

IV. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

This final 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 as amended by Executive Order 14094. This final supplementary rule will not have an annual effect of \$200 million or more on the economy. It is not intended to affect commercial activity, but rather to impose rules of conduct for public use on a limited area of public lands. It will not adversely affect, in a material way, the economy, productivity, competition, jobs, environment, public health or safety, State, local, or Tribal governments, or communities. This final supplementary rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

The rule will not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor will it raise novel legal or policy issues. It merely strives to protect public safety and the environment.

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. Statistics indicate that CANM helps nearby communities diversify economically while increasing quality of life and recreational opportunities that make communities more attractive for new residents, businesses, and investment. Recreation has the potential

to result in small, localized impacts to the area's economy. According to Headwaters Economics, in 2023 recreation and tourism-related industries accounted for 20 percent of combined total employment in Dolores and Montezuma counties, compared with 16 percent statewide in Colorado. Furthermore, recreation and tourism generates tax income through sales and lodging taxes. However, relative to the overall economy, the BLM expects impacts from this final supplementary rule to affect a small number of outfitters and have only a minor socioeconomic impact relative to the area's overall economy. This rule merely establishes rules of conduct for public use of a limited area of public lands. Therefore, the BLM has determined that under the RFA this final supplementary rule will not have a significant economic impact on a substantial number of small entities.

Congressional Review Act

This final supplementary rule does not constitute a "major rule" as defined at 5 U.S.C. 804(2). It will not have an annual effect on the economy of \$100 million or more. This final supplementary rule merely establishes rules of conduct for public use of a limited area of public lands.

Unfunded Mandates Reform Act

This final supplementary rule will 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 will it have a significant or unique effect on small governments. This final supplementary rule will merely impose reasonable rules of conduct on public lands in Colorado to protect natural resources and public 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. 1531 *et seq.*

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

This final supplementary rule is not a government action capable of interfering with constitutionally protected property rights. This final supplementary rule does not address property rights in any form and will not cause the impairment of constitutionally protected property rights. Therefore, the BLM has determined this final supplementary rule will not cause a "taking" of private property or require further discussion of takings implications under this Executive order.

Executive Order 13132, Federalism

This final supplementary rule 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. This final supplementary rule will not conflict with any State law or regulation. Therefore, in accordance with Executive Order 13132, the BLM has determined this final 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 this final supplementary rule will not unduly burden the judicial system and the requirements of sections 3(a) and 3(b)(2) of this order are met.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has determined that the regulations this final supplementary rule establishes will have minimal Tribal implications and no bearing on trust lands or on lands for which title is held in fee status by American Indian Tribes or U.S. Government-owned lands managed by the Bureau of Indian Affairs. Since this supplementary rule does not involve Indian reservation lands or resources, the BLM has determined government-to-government relationships remain unaffected. Traditional Tribal use in CANM will continue to be authorized by the CANM Manager. This final supplementary rule will merely establish rules of conduct for public use of a limited area of public lands.

Paperwork Reduction Act

This final supplementary rule does not contain information collection requirements the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

National Environmental Policy Act

The BLM published its CANM Draft RMP/Draft Environmental Impact Statement (EIS) in October 2007, which incorporated analysis and input provided by the public; local, State, and other Federal agencies and organizations; Native American Tribes; cooperating agencies; and BLM staff. After considering public comments and additional input, analysis, and review,

the BLM published its CANM Proposed RMP/Final EIS in the **Federal Register** on July 31, 2009 (74 FR 38218). The BLM signed the CANM RMP and ROD in June 2010, after full consideration of alternatives and analysis of public input. The CANM RMP seeks to provide an optimal balance between authorized resource uses and the protection and long-term sustainability of sensitive cultural and natural resource values within the planning area, consistent with Proclamation 7317. This final supplementary rule will facilitate the implementation and enforcement of the management decisions approved in the CANM RMP to protect public health and safety and public lands within CANM. This final supplementary rule will not change the decisions set forth in the CANM RMP.

On November 18, 2020, the BLM completed a Determination of NEPA Adequacy for the proposed CANM supplementary rule. The BLM confirmed the NEPA analysis contained in the Final EIS for the CANM RMP was sufficient to inform its consideration of the proposed supplementary rule.

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

This final supplementary rule does not comprise a significant energy action. This final supplementary rule will not have an adverse effect on energy supply, production, or consumption and have no connection with energy policy.

Information Quality Act

In developing this final supplementary rule, 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).

Author

The principal author of this final supplementary rule is Tyler Fouss, Field Staff Ranger, Tres Rios Field Office, Colorado.

V. Final Supplementary Rule

For the reasons stated in the preamble, and under the authority for supplementary rules at 43 U.S.C. 1733, 43 U.S.C. 1740, and 43 CFR 8365.1–6, the BLM Colorado State Director establishes the following supplementary rule for public lands managed by the BLM in Canyons of the Ancients National Monument, to read as follows:

Supplementary Rule for the Canyons of the Ancients National Monument (CANM)

Definitions

Archaeological site is a physical context and location containing material remains that evince past human activity and allow for its interpretation. Within CANM, these material remains may include, but are not limited to, historic and prehistoric structures, features, rock art, shrines, burials, quarries, artifact concentrations, and occupied rock alcoves.

Bouldering means any style of rock climbing undertaken without a rope.

Campfire has the same meaning as it does at 43 CFR 8360.0–5(b).

Camping means the erecting of a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, parking of a motor vehicle, motor home or trailer, or mooring of a vessel, for the apparent purpose of overnight occupancy.

Commercial use means use of the public lands and related waters for business or financial gain.

Designated travel route means roads, primitive roads, and trails open to specified modes of travel and identified on a map of designated roads, primitive roads, and trails that is maintained and available for public inspection at the BLM. Designated roads, primitive roads, and trails are open to public use in accordance with such limits and restrictions as are, or may be, specified in the CANM resource management plan (RMP) or travel management plan (TMP), or in future decisions implementing the RMP. This definition excludes any road or trail with BLM-authorized restrictions that prevent use of the road or trail. Restrictions may include signs or physical barriers such as gates, fences, posts, branches, or rocks.

Geocaching means an outdoor recreational activity in which the participants use a Global Positioning System receiver or other navigational techniques to hide and seek containers called “geocaches” or “caches.”

Mechanized vehicle means any device propelled solely by human power, upon which a person, or persons, may ride on land, having any wheels, with the exception of a wheelchair.

Motorized vehicle means any vehicle propelled by a motor or engine, capable of, or designed for, travel on or immediately over land, water, or other natural terrain, such as a car, truck, off-highway vehicle, motorcycle, or snowmobile.

Public lands has the same meaning as it does at 43 U.S.C. 1702(e).

Riparian area means an area of transition between permanently saturated wetlands and upland areas. Riparian areas exhibit vegetation or physical characteristics that reflect the influence of permanent surface water. Typical riparian areas include lands along, adjacent to, or contiguous with perennially and intermittently flowing rivers and streams, lands adjacent to seeps and springs, and/or lands along the shores of lakes and reservoirs with stable water levels.

Special Recreation Management Area (SRMA) means those areas defined as SRMAs in the CANM RMP and any amendments or revisions thereto.

Target shooting means discharging a weapon for recreational purposes when game animals are not being legally hunted.

Weapon means any firearm, cross bow, bow and arrow, paint gun, fireworks, or explosive device capable of propelling a projectile either by means of an explosion, compressed gas, or by string or spring.

Wilderness Study Area (WSA) means an area that has been identified as a Wilderness Study Area in the CANM RMP.

Prohibited Acts

Unless otherwise authorized, the following acts are prohibited on all public lands, roads, trails, and waterways administered by the BLM within CANM:

Collection of Resources

1. You must not collect fossils of any kind, including vertebrate, invertebrate, plant, or trace fossils, unless authorized by permit.

2. Unless otherwise permitted under applicable law, you must not collect or remove any rock, mineral specimen, semiprecious gemstone, or petrified wood.

3. You must not cut or collect live, dead, or downed wood.

4. You must not harvest more than 22.5 pounds of pinyon pine nuts for personal use. You must not harvest pinyon pine nuts for commercial use.

Target Shooting

5. You must not discharge any weapon within the Monument, except in accordance with State law when hunting with a valid Colorado hunting license.

Geocaching

6. You must not engage in any cache-type activities (including geocaching and earth caching).

Climbing and Bouldering

7. You must not participate in climbing, including rock climbing, rappelling, or bouldering, outside of designated climbing areas.

Camping and Campfires

8. You must not camp in the Pueblo Sites SRMA (Painted Hand Pueblo, Lowry Pueblo, and Sand Canyon Pueblo), in the Sand Canyon-Rock Creek SRMA, or in the Visitor Center and Museum SRMA.

9. You must not camp within 300 feet of a developed recreation site or area.

10. You must not camp within 300 feet of riparian areas, including riparian areas along perennial or intermittent streams and near seeps and springs.

11. You must not camp in archaeological sites, rock shelters, or alcoves.

12. You must not ignite or maintain a campfire in the Pueblo Sites SRMA (Painted Hand Pueblo, Lowry Pueblo, and Sand Canyon Pueblo), Sand Canyon-Rock Creek SRMA, or Visitor Center and Museum SRMA.

13. You must not ignite or maintain a campfire in archaeological sites, rock shelters, or alcoves.

14. You must use a fire pan for campfires or charcoal fires when a metal fire ring is not provided unless using a mechanical stove or other appliance

fueled by gas and equipped with a valve that allows the operator to control the flame.

Travel Management

15. You must not operate or possess a mechanized vehicle on any route, trail, or area that is not designated as open to such use by a BLM sign, map, or the appropriate travel management plan, unless you have specific authorization from the BLM.

16. You must not operate or possess a motorized or mechanized vehicle in any WSA.

17. You must not park more than 20 feet from the edge of a designated travel route or in a manner that causes resource damage.

18. You must not park in riparian areas.

19. Within the Sand Canyon-Rock Creek SRMA, you must not ride or be in possession of horses or other pack animals on any route, trail, or area not designated as open to such use by a BLM sign, map, or the appropriate travel management plan. Horses and pack animals are allowed both on and off designated travel routes throughout the remainder of the Monument.

20. Within the Sand Canyon-Rock Creek SRMA, you must not hike on any route, trail, or area not designated as open to such use by a BLM sign, map, or the appropriate travel management

plan. Hiking is allowed both on and off designated travel routes throughout the remainder of the Monument.

Exemptions

The following persons are exempt from this supplementary rule: Federal, State, or local officers or employees acting within the scope of their duties; members of any organized law enforcement, military, rescue, or fire-fighting force in performance of an official duty; and any person whose activities are authorized in writing by the Canyons of the Ancients National Monument Manager.

Enforcement

Any person who violates any part of 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 Colorado or local law.

(Authority: 43 U.S.C. 1733, 43 U.S.C. 1740; 43 CFR 8365.1–6)

Douglas J. Vilsack,

BLM Colorado State Director.

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