

populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

KDHE did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples. While the Conservation Groups did adversely comment that the EPA should consider EJ, they did not provide any different steps or outcomes the EPA should take or arrive at. See our response to comments document in the docket for this action.

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 7, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 30, 2024.

Meghan A. McCollister,

Regional Administrator, Region 7.

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8360

[BLM_HQ_FRN_MO4500179077]

RIN 1004–AE89

Temporary Closure and Restriction Orders

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is revising its regulations to modernize and streamline how the agency notifies the public of temporary closure and restriction orders; clarify that such orders may be issued to avoid conflicts among public land users and ensure the privacy of Tribal activities for traditional or cultural use; require that all orders specify the date and time that a temporary closure or restriction becomes effective and terminates; and harmonize the penalties for violating temporary closure and restriction orders consistent with current statutory authority.

DATES: This final rule is effective on September 6, 2024.

FOR FURTHER INFORMATION CONTACT: Kevin Oliver, Division Chief, BLM Headquarters Division of Recreation and Visitor Services at (801) 450–3134 or via email at koliver@blm.gov. For questions relating to regulatory process issues, email Brittny D. Rodrigues at: brodrigues@blm.gov. Individuals in the United States who are deaf, blind, 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. For a summary of the final rule, please see the final rule summary document in docket No. BLM–2023–0007 on <https://www.regulations.gov>.

SUPPLEMENTARY INFORMATION:

I. Background

II. Response to Comments on the Proposed Rule

III. Discussion of the Final Rule

IV. Procedural Matters

I. Background

The Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1701–1787) establishes the BLM’s multiple use and sustained yield mandate. In managing the public lands in accordance with FLPMA, the BLM occasionally issues temporary closure and restriction orders under 43 CFR 8364.1 to protect persons, property, public lands, and resources. The need to temporarily close or restrict the use of public land arises in various situations, including in response to an emergency or unplanned event such as a flood, fire, hazardous material incident, discovery of unexploded ordnance, public health emergency, or change in public land use that creates a public safety hazard. For example, the BLM has issued temporary closure or restriction orders to protect the public from unsafe conditions in a community rock pit in Doña Ana County, New Mexico (88 FR 42984 (July 5, 2023)); close 9 acres of public land near Rowley, Utah, that were inundated with a hydrochloric acid spill (79 FR 26265 (May 7, 2014)); close approximately 31,000 acres of public land in California to protect the public from exposure to airborne asbestos (73 FR 24087 (May 1, 2008)); and close a recreation site near Challis, Idaho, to protect the public from dangerous flooding and ice jams (87 FR 25523 (April 29, 2022)).

The BLM also occasionally issues temporary closures or restrictions to protect resources or avoid conflicts among visitor use activities. In such situations, the BLM may restrict an area to certain types of travel to facilitate resource restoration or close an area to public access to facilitate special recreation events, such as the Burning Man Project (88 FR 39863 (June 20, 2023)); the King of the Hammers off-road race (87 FR 69300 (November 11, 2022)); the Reno Air Races (84 FR 31337 (July 1, 2019)); the Mint 400 off-road race in Las Vegas (88 FR 7994 (February 7, 2023)); and the Desert Classic racecourse (87 FR 20457 (April 7, 2022)).

As resource uses and demands for access to public lands have increased,

the need for the BLM to issue temporary closure and restriction orders under 43 CFR 8364.1 to protect persons, property, and public lands has also increased. However, some aspects of 43 CFR 8364.1—such as the requirement to publish temporary closure and restriction orders in the **Federal Register** and the absence of a provision authorizing the BLM to issue such orders with immediate full force and effect—can hinder the BLM’s ability to respond effectively to exigencies that arise on public lands.

Streamlining and modernizing how the BLM notifies the public about temporary closure and restriction orders, as well as providing managers with the ability to issue such orders with immediate effect, will enhance the BLM’s ability to perform its mission to responsibly manage public lands and protect public safety. Revising § 8364.1 will also make the BLM’s temporary closure and restriction authorities more consistent with those of the U. S. Forest Service (USFS), U.S. Fish and Wildlife Service (FWS), and the National Park Service (NPS) (agencies with which BLM-administered public lands often share a common boundary) and will allow the BLM to be a more effective cooperator with other Federal and local agencies when responding to multijurisdictional demands, including emergency incidents or unforeseen events.

Section 310 of FLPMA, which authorizes the Secretary to promulgate regulations to carry out the purposes of that Act and other laws with respect to public lands, authorizes this revision of the BLM’s regulatory authority for temporarily closing and restricting the use of public lands. Other statutes, such as the Archaeological Resources Protection Act (16 U.S.C. 470aa–470mm), also authorize the Secretary to promulgate regulations relating to closures and use restrictions in certain contexts.

II. Response to Comments on the Proposed Rule

The BLM published a proposed rule on November 21, 2023 (88 FR 81022), soliciting public comments for 60 days. The BLM received 79 submissions from members of the public, including individuals, State and local governments, regional law enforcement groups, livestock grazing organizations, recreation groups, and wilderness organizations. The BLM considered each comment in developing the final rule. Some comments fully or partially supported the proposed rule. Other comments were critical of the proposed rule and expressed concern regarding,

among other issues, its scope, how the BLM would notify the public about temporary closure and restriction orders, how such orders would comply with the National Environmental Policy Act (NEPA), the BLM’s ability to exempt certain persons from temporary closure and restriction orders, the lack of a mandatory public participation requirement, and the length of time that temporary closure and restriction orders could remain in place. Additional comments expressed a desire for the BLM’s temporary closure and restriction authority to align more closely with the temporary closure and restriction authorities of other Federal agencies.

Comments that are similar in nature have been categorized by subject and, in some instances, have been combined with related comments.

A. Scope of the Proposed Rule

Comment: Several commenters expressed concern about the language in the proposed rule providing that the BLM could issue temporary closure and restriction orders to “provide for implementation of management responsibilities.” Some commenters described this language as too vague, while others expressed concern that it impermissibly expanded the situations in which the agency could issue temporary closure and restriction orders.

Response: The BLM originally proposed to include the clause regarding the implementation of management responsibilities in § 8364.1 to make the BLM’s temporary closure and restriction authority align more closely with the NPS’s analogous regulation, which permits temporary closures and public use limits “based upon a determination that such action is necessary for . . . implementation of management responsibilities” (36 CFR 1.5(a)). The BLM also intended to clarify that the agency may currently close or restrict the use of public lands temporarily to facilitate construction, demolition, resource monitoring, invasive species control projects, and other typical management responsibilities in which the BLM regularly engages. However, while this clause would be consistent with the BLM’s authority to manage public lands under FLPMA, the BLM understands how it could be misinterpreted to broaden the scope of the agency’s temporary closure and restriction authority. Accordingly, the BLM has excluded the clause “provide for implementation of management responsibilities” from the text of the final rule. Excluding this clause from the text of the final rule should not

impair or otherwise affect the BLM’s ability to perform typical management responsibilities, as activities such as construction, demolition, resource monitoring, and invasive species control projects are already typically accompanied by a temporary closure or restriction order under the existing regulations where necessary to protect persons, property, public lands, or resources. As a result, the BLM expects to continue to be able to issue temporary closure and restriction orders to facilitate such activities under the final rule.

Comment: Several commenters expressed concern that the proposed rule would allow the BLM to implement large-scale conservation leasing without adequate public input. According to the commenters, this concern was driven, in part, by ambiguity concerning the language in the proposed rule providing for the issuance of temporary closure and restriction orders for the implementation of management responsibilities.

Response: This final rule does not establish a leasing program or authorize the BLM to permanently close public lands to recreational or other uses. Rather, it will allow the BLM to protect persons, property, public lands, or resources, avoid conflicts among public land users, and ensure the privacy of Tribal activities for traditional or cultural use in a more efficient and expeditious manner. The BLM has excluded the language concerning implementation of management responsibilities to help clarify the scope and intent of the final rule.

Comment: Several commenters stated that the BLM should not address temporary closure and restriction orders relating to emergencies and permitted events through a single regulatory provision. According to these commenters, closures and restriction orders intended to address emergency situations and permitted events differ significantly in their nature, and attempting to address them through a single regulation exacerbates those discrepancies.

Response: The BLM does not believe that separate regulatory provisions are necessary. The agency has long relied on a single regulatory provision to issue temporary closure and restriction orders for both emergencies and permitted events, and the revisions to 43 CFR 8364.1 effectuated through this rulemaking do not warrant a different approach. While the elimination of a **Federal Register** notice requirement will enhance the BLM’s ability to respond to emergency situations and other unforeseen events, the publication

of a **Federal Register** notice is not the most effective way for the public to learn of a temporary closure or restriction order, even in non-emergency situations. Under the final rule, the bureau retains discretion to publish a notice in the **Federal Register** or use other means, such as social media and other online communication systems, to inform the public of a temporary closure or restriction order. The BLM therefore does not believe that temporary closure and restriction orders related to emergencies and permitted events must be addressed in separate regulatory provisions.

Comment: Several commenters agreed that procedures should be available to the BLM to expedite temporary closure and restriction orders that address emergencies. But many of these same commenters contended that those same processes should not apply to non-emergency situations, such as temporary closures intended to facilitate planned events or avoid user conflicts, because the BLM is typically aware of these situations well before they occur. These commenters believe that adequate time exists to publish temporary closure and restriction orders associated with non-emergencies in the **Federal Register**.

Response: Although non-emergency situations typically do not pose the same time constraints as emergencies, the BLM does not believe that temporary closure and restriction orders associated with non-emergencies must be published in the **Federal Register**. Some situations may not clearly constitute an emergency but may nevertheless warrant a quick response. In such situations, BLM managers should not delay taking action to protect persons, property, public land, or resources because they are concerned that a particular situation does not necessarily qualify as an “emergency” and, therefore, the agency’s response must follow a slower process. Instead, managers should have the discretion, but not the requirement, to publish certain temporary closure and restrictions in the **Federal Register** when appropriate, such as when the closure or restriction affects an area with limited local media outlets and the BLM believes that publication in the **Federal Register** is necessary to communicate area and use limitations to the public adequately. Moreover, eliminating the **Federal Register** notice requirement aligns 43 CFR 8364.1 more closely with the closure and restriction authorities of the USFS, FWS, and NPS, none of which require **Federal Register** publication for many non-emergency closures and restrictions.

Comment: Several commenters argued that the proposed rule should permit temporary closure and restriction orders only for emergencies. Some commenters suggested that allowing the BLM to issue temporary closure and restriction orders based on non-emergency conditions could be overly open-ended and would not be based on adequate public input.

Response: Since the original promulgation of 43 CFR 8364.1, the BLM has had authority to temporarily close or restrict the use of public lands to respond to emergencies and non-emergencies alike. The final rule retains this authority, which is an essential tool in managing the public lands for present and future generations.

Comment: Several commenters expressed concern that the proposed rule would allow the BLM to issue temporary closure and restriction orders based on climate emergencies or other impacts of climate change. Commenters suggested that such closures could be overly open-ended or could occur without appropriate NEPA review.

Response: Climate-related emergencies could necessitate a temporary closure or restriction order to protect persons, property, public lands, or resources. If temporary closure and restriction orders are necessary to address climate-related emergencies, the BLM would issue them in accordance with the same procedures used to issue other § 8364.1 orders. For example, the BLM would need to comply with NEPA and other applicable laws and specify in the order the date (and time) on which the closure or restriction would terminate.

Comment: Some commenters asserted that it is unnecessary to eliminate the **Federal Register** publication requirement to modernize and streamline how the BLM communicates temporary closure and restriction orders to the public. These commenters assert that it is legally feasible to notify the public about temporary closures and restrictions using both the **Federal Register** and other forms of communication.

Response: Retaining the requirement to publish notice of all temporary closure and restriction orders in the **Federal Register**, though legally feasible, would fail to achieve one of the other primary aims of this rulemaking: enhancing the BLM’s ability to address emergencies and unforeseen events in a timely manner. Nevertheless, under the final rule, the BLM retains the discretion to publish temporary closure and restriction orders in the **Federal Register** where appropriate, such as when time allows or when the agency

believes that other communication methods may not provide adequate notice to the public.

Comment: Several commenters suggested that the proposed rule expand opportunities for public participation by requiring the BLM to seek public input prior to issuing a temporary closure or restriction order.

Response: The BLM does not believe that it is necessary to seek public input prior to issuing a temporary closure or restriction order for several reasons. First, the agency has never been required to obtain public input before issuing a closure or restriction order under 43 CFR 8364.1, and the BLM does not think it is necessary to impose such a requirement now. As stated above, the BLM is revising the final rule, in part, to enhance its ability to respond to emergencies and other unforeseen events in a timely manner. Requiring public input prior to issuing a temporary closure or restriction order could undermine that purpose. The BLM took a similar position when promulgating 43 CFR 8341.2, a provision which allows for emergency closures to off-road vehicle use. In response to commenters who expressed concern about the absence of a provision for public participation in that regulation, the BLM explained that the rule is intended to provide the BLM with a “tool to take timely emergency action,” and “[a]dding a provision for public discussion would defeat th[at] purpose.” (44 FR 34834 (June 15, 1979)) Similar logic applies here.

Second, the BLM is also revising 43 CFR 8364.1 to make it more consistent with closure authorities of the USFS, FWS, and NPS, none of which are generally required to seek public input before issuing closure or restriction orders. Third, even though public participation is not required prior to the BLM issuing a closure or restriction order, the BLM provides for public participation in the form of being able to appeal such orders to the Department of the Interior’s Board of Land Appeals (IBLA) in accordance with the regulations contained in 43 CFR part 4. As a result, members of the public retain an ability to voice opposition to a closure or restriction order that they believe was issued improperly. Finally, the fact that this final rule does not require the BLM to seek public input does not mean that there will never be opportunities for public participation before the BLM issues temporary closure and restriction orders. Orders issued under this section must comply with NEPA, and that process will often provide opportunities for public participation. Moreover, depending on

the nature of the closure or restriction at issue, other statutory and regulatory provisions may require public participation prior to issuance of an order.

Comment: Several commenters expressed concerns with the proposed rule providing authority to issue temporary closure and restriction orders to avoid conflicts among public land users. These commenters were concerned that the BLM could use this authority to give preference to certain public land users over others.

Response: FLPMA obligates the BLM to manage the public lands for a broad array of uses. This statutory requirement can occasionally lead to conflicts among users. In response, the BLM must evaluate and choose an appropriate balance of uses, a task which frequently involves making tradeoffs between competing uses. Since it was originally promulgated, 43 CFR 8364.1 has provided for the BLM to issue temporary closure and restriction orders, where necessary, to manage the appropriate balance of resources through its authority to protect persons, public lands, and resources. At times, the BLM has utilized this authority to issue temporary closure and restriction orders to avoid user conflicts, such as when the agency has closed areas of the public lands to general access to facilitate a permitted off-road race. The final rule reinforces this existing authority by clarifying that the BLM's ability to issue temporary closure and restriction orders to protect persons extends to avoiding user conflicts.

Comment: One commenter sought clarification about whether the proposed rule applies to all BLM-managed lands, including national monuments and other special designations.

Response: The final rule applies to all BLM-managed lands. Temporary closure and restriction orders issued under 43 CFR 8364.1 can apply to national monuments and other public lands managed by the BLM under special designations. Moreover, the final rule is compatible with other legal and regulatory authorities that allow the BLM to close or restrict the use of public lands in specific contexts. For example, the final rule does not constrain the BLM's discretion to implement the closure provision at 43 CFR 8351.2, which authorizes the BLM to close or restrict the use of certain lands and waters within the boundary of a component of the National Wild and Scenic Rivers System, or the provision at 43 CFR 9212.2, which authorizes the BLM to issue fire prevention orders to

prevent wildfire or facilitate its suppression.

B. Coordination, Communication, and NEPA

Comment: Several commenters requested that the BLM clarify how this proposed rule interacts with requirements of the John. D. Dingell, Jr. Conservation, Management, and Recreation Act (Dingell Act). For example, one commenter requested that the final rule include language regarding the Dingell Act's requirements to coordinate with state agencies, to consider the impact of closures on hunting, fishing, and recreational shooting, and to close the smallest area for the least amount of time. Another commenter asked that the final rule specify that the public have an opportunity to comment in accordance with section 4103 of the Dingell Act if the agency is proposing to close public lands to hunting, fishing, or recreational shooting.

Response: The final rule does not change how the BLM complies with the Dingell Act. If a proposed closure to hunting, fishing, or recreational shooting falls within the purview of the Dingell Act, the BLM will publish a notice in the **Federal Register**, consult with state wildlife agencies, provide an opportunity for public comment, and satisfy the other procedural and substantive requirements of section 4103. It is therefore unnecessary to incorporate aspects of the Dingell Act into the text of the final rule.

Comment: One commenter suggested that the BLM explain in further detail where it would post notice of temporary closure and restriction orders and recommended that the BLM use all forms of communication available to inform the public.

Response: The BLM has not incorporated this suggestion into the final rule. The final rule, which requires that notice of temporary closure and restriction orders be posted in BLM offices with jurisdiction over the relevant public lands, at or near places where the order applies, in local media outlets, and on at least one BLM-controlled, publicly available online communication system, provides the BLM with discretion to ensure that the level of notice provided to the public is commensurate with the scale and location of the closure or restriction order at issue. In some instances, it may be necessary to post notice on numerous BLM web pages, including the national, state, district, and field office web pages. In other situations, more limited online notification may suffice. The final rule provides the flexibility

necessary to ensure that the level of notice is uniquely tailored to the closure or restriction order being issued.

Comment: One commenter asked the BLM to clarify what "BLM-controlled, publicly available online communication system" means.

Response: This phrase refers to a BLM-controlled system that is available to the public and facilitates the sharing of information or communication over a computer network or other digital means. Currently, many social media platforms and the BLM website would qualify as BLM-controlled, publicly available communication systems. However, because technology will change over time, the final rule purposely utilizes flexible language to allow it to adapt to new technologies.

Comment: One commenter contended that there are generational differences in how the public obtains information. This commenter suggested that certain generations could be adversely impacted by the proposed rule's reliance on online communication systems in place of the **Federal Register**.

Response: The final rule does not rely on the BLM's utilization of online communication systems to communicate all temporary closures and restrictions to the public. The BLM retains discretion to publish orders in the **Federal Register** or use other mechanisms to inform the public of temporary closure or restriction orders, where appropriate. Additionally, the final rule requires the BLM to post notices of temporary closure and restriction orders in the BLM offices with jurisdiction over the relevant public lands, at or near places where the order applies, and in local media outlets.

Comment: Several commenters requested that temporary closures and restrictions continue to be published in the **Federal Register** to facilitate communication in rural communities and retain public input and appeal opportunities.

Response: The final rule does not prohibit the BLM from publishing a notice in the **Federal Register** if the agency determines that doing so is appropriate. Thus, where the BLM determines that other forms of notice may prove insufficient, it may still elect to publish a notice in the **Federal Register**. The final rule, however, does not require the BLM to publish such a notice in all instances, even for temporary closures and restrictions in rural areas, in part because what constitutes "rural" can be relative, and demographics are not necessarily determinative of whether other notification methods are adequate. The

final rule does not alter the regulations with regard to public input or appeals.

Comment: Some commenters requested that, in addition to posting notice of temporary closure and restriction orders through an online communication system and notifying local media outlets, the final rule require the BLM to directly notify grazing permittees and other people affected by a temporary closure or restriction order through certified mail or some other means. These commenters feel that online communications systems and local media outlets are not sufficient effective means of communication in certain rural areas.

Response: The BLM has not incorporated this suggestion into the final rule. In most situations, online communication systems and local media outlets will be an effective means of communicating temporary closures and restrictions, even in rural areas. In those situations where online communication systems and local media outlets may not be effective means of communication, the final rule provides the BLM with sufficient flexibility to communicate the closures through other means of communication, such as directly notifying a permittee or other person affected by a temporary closure or restriction order. Generally, and as emergency conditions may dictate, the BLM will communicate with an affected permittee prior to implementing a closure. Furthermore, temporary closures implemented under the final rule will not necessarily impede a permittee's ability to manage livestock within a closure area, as § 8364.1(a)(4) permits the authorized officer to identify persons or groups who are exempt from the closure or restrictions.

Comment: Some commenters expressed concern that the proposed rule may cause changes to resource management plans (RMPs) without public input. The commenters emphasized that temporary closures should comply with applicable RMPs.

Response: The final rule does not substitute for land use planning, a separate process governed by BLM regulations at 43 CFR part 1600. Temporary closure and restriction orders under 43 CFR 8364.1 do not amend or revise land use plans and are issued independent of the planning process (*Utah Shared Access Alliance v. Carpenter*, 463 F.3d 1125, 1135–36 (10th Cir. 2006) (citing *Humboldt County v. United States*, 684 F.2d 1276 (9th Cir. 1982))). Implementation of the final rule will not change the content of RMPs. Under the final rule, all

temporary closures and restrictions must conform to approved RMPs.

Comment: Some commenters expressed the view that the proposed rule should require consultation or coordination with various stakeholders, including, but not limited to, local sheriffs, emergency services providers, State wildlife agencies, Tribes, and others.

Response: Consultation and coordination with stakeholders is an important aspect of managing public lands, and, where possible, the BLM always encourages coordination with local sheriffs, State law enforcement, government officials, State wildlife agencies, rights-of-way holders, permittees, and other interested stakeholders before temporarily closing or restricting the use of public lands. But consultation and coordination with external groups is not always feasible before implementing a closure or restriction order. For example, the BLM may not have time to engage in the suggested type of coordination when addressing an emergency. Additionally, which stakeholders are appropriate for the BLM to coordinate with will depend on the circumstances of the specific closure or restriction at issue. The BLM, therefore, has not incorporated a requirement to consult or coordinate with specific stakeholders prior to implementing a temporary closure or restriction order. Instead, the BLM has adopted a more individualized approach and intends to coordinate with appropriate stakeholders, the identity of which will depend on the circumstances giving rise to the need for the temporary closure or restriction order.

Comment: One commenter implied that under section 202(c)(9) of FLPMA, the BLM must incorporate a requirement to coordinate with State and local governments prior to implementing a temporary closure or restriction order.

Response: Consultation and coordination with State and local governments is an important aspect of managing public lands, and the BLM encourages land managers to do so in advance of issuing temporary closure and restriction orders where appropriate. However, section 202(c)(9) of FLPMA requires the BLM to coordinate with State and local governments only when engaging in land use planning in accordance with 43 CFR part 1600. As noted above, temporary closure and restriction orders under 43 CFR 8364.1 do not amend or revise land use plans and are issued independent of the planning process. Accordingly, section 202(c)(9) does not

require coordination with State and local governments prior to implementing a temporary closure or restriction order. Although not required, the BLM will continue to engage in such coordination where appropriate.

Comment: One commenter stated that the proposed rule, which does not require coordination with stakeholders before the issuance of a temporary closure or restriction order, conflicts with the community engagement strategy laid out in the BLM's Blueprint for 21st Century Outdoor Recreation.

Response: The final rule does not conflict with the Blueprint for 21st Century Outdoor Recreation (Blueprint), which presents the BLM's strategy for diversifying recreation investments and considering current and future recreation demands and program needs. While the Blueprint identifies increasing and improving collaboration with community service providers as a general goal, it does not suggest that collaboration with community stakeholders must occur before the BLM takes specific actions, such as issuing temporary closure or restriction orders. The BLM will continue to coordinate as appropriate with stakeholders through implementation of the Blueprint and other activities.

Comment: Two commenters requested that the BLM revise the proposed rule text to provide that the agency will issue a temporary closure or restriction order *only* after other management strategies and alternatives have been explored including, but not limited to, increased law enforcement, cooperative efforts with local governments, engineering, education, and outreach.

Response: While the BLM typically considers other management strategies before closing or restricting the use of public lands, it has not incorporated this suggestion into the final rule. There may not be sufficient time in all situations to coordinate fully or document those efforts before a closure or restriction must be implemented to protect people or resources.

Comment: Some commenters expressed concern that the proposed rule would not provide adequate opportunities for review or appeal of temporary closure or restriction orders.

Response: The final rule does not affect the appealability of temporary closure and restriction orders, nor does it affect the public's ability to immediately challenge a temporary closure or restriction order in Federal court. Such orders will continue to be administratively appealable in accordance with the regulations contained in 43 CFR part 4. Under the final rule, however, temporary closure

and restriction orders may become effective upon issuance, similar to several other types of decisions issued by the agency, such as rights-of-way, certain grazing and forestry decisions, and wild horse and burro removal decisions.

Comment: One commenter questioned the need to provide that temporary closure and restriction orders are issued with immediate full force and effect, asserting that such orders tend not to be appealed.

Response: Providing that temporary closure and restriction orders can have immediate full force and effect will not, nor is it intended to, limit the public's ability to appeal temporary closure and restriction orders. Providing that temporary closure and restriction orders may have immediate full force and effect is intended to enhance the BLM's ability to address emergencies and unforeseen events in a timely fashion. Previously, temporary closure and restriction orders were generally not effective until 30 days after their issuance, which hindered the agency's ability to protect public health, safety, property, and resources in a timely manner.

Comment: One commenter stated that existing regulations, including 43 CFR 4.21, 43 CFR 9212.2, and regulations allowing for alternative arrangements to comply with NEPA, provide adequate authority for the BLM to respond to emergency situations. This commenter therefore contended that the rule is not needed.

Response: The BLM disagrees that the regulations cited by the commenter provide the agency with adequate authority to respond effectively to all emergencies and other unforeseen events in a timely fashion. Under 43 CFR part 4, the IBLA may provide that a decision has immediate full force and effect when the public interest requires. But that regulation does not provide the BLM with similar authority, and in many situations, having to make a request of the IBLA would prevent the BLM from acting with sufficient speed. The provisions at 43 CFR 9212.2 are limited to fire prevention and suppression purposes, and the BLM must be able to close and restrict the use of public lands quickly in a broader set of circumstances. Finally, the BLM agrees that regulations promulgated by the Council on Environmental Quality and the Department of the Interior concerning the procedural requirements of NEPA would allow the BLM to make alternative arrangements for NEPA compliance when responding to an emergency. Those regulations, however, do not affect whether a temporary

closure or restriction order needs to be published in the **Federal Register** or whether it will be effective immediately. As a result, reliance on those NEPA regulations alone is insufficient to allow the BLM to respond to emergency situations and other unforeseen events in a sufficiently timely manner.

Comment: One commenter asserted that the proposed rule should not be used as a substitute for NEPA compliance for permits or planning.

Response: The final rule does not affect how the BLM complies with NEPA. Temporary closure and restriction orders issued under 43 CFR 8364.1 must comply with applicable law. Moreover, the final rule is not a substitute for land use planning. While the BLM has authority to temporarily close or restrict the use of public lands for a variety of reasons, the agency will continue to establish overarching goals, objectives, and management direction through the land use planning process in accordance with 43 CFR part 1600.

Comment: Several commenters were concerned that removing the requirement for publishing temporary closure and restriction orders in the **Federal Register** would circumvent public participation and other requirements of NEPA.

Response: The final rule does not change how the BLM complies with NEPA when issuing temporary closure and restriction orders. Before issuing a temporary closure or restriction order, the BLM must ensure that it is supported by an adequate environmental analysis, relies on a relevant categorical exclusion, or, in the case of emergencies, relies on alternative arrangements for NEPA compliance. The final rule does not change these requirements.

Comment: One commenter suggested that the proposed rule should be analyzed through an environmental impact statement under NEPA.

Response: Preparation of an environmental impact statement is unnecessary, as the rule is categorically excluded from further NEPA analysis under 43 CFR 46.210(i). The final rule is administrative and procedural in nature and, therefore, satisfies the first prong of § 46.210(i). The final rule is not self-executing in that its promulgation does not authorize or effectuate any specific closures or restrictions. The final rule merely clarifies the situations in which the agency may issue temporary closure and restriction orders, streamlines the process that the BLM uses to issue such orders, and updates the penalty provision to align with current statutory authority. Moreover, the final rule does not modify

the public's ability to participate in the BLM's decision-making process. When considering whether to issue a temporary closure or restriction order, the BLM must still comply with NEPA and other laws providing for public participation.

The final rule also satisfies the second prong of § 46.210(i). The details of specific closures or restrictions that the BLM may impose in accordance with the final rule are uncertain. As a result, the environmental effects of such future closures or restrictions are currently too speculative and conjectural to lend themselves to meaningful analysis. The environmental effects of future closure or restriction orders issued under the final rule will later be subject to the NEPA process when the agency can account for the site specificity that will make such analysis meaningful. Finally, reliance on the categorical exclusion at 43 CFR 46.210(i) is appropriate because none of the extraordinary circumstances described in 43 CFR 26.215 apply to the final rule.

Comment: Some commenters argued that the Burning Man Project, which was cited in the proposed rule as an example of a reason for issuing a non-emergency temporary closure, is a poor example because Burning Man is associated with a special recreation permit that is subject to NEPA and its attendant public participation requirements, whereas other temporary closures are not.

Response: The final rule does not change or affect the BLM's obligation to comply with NEPA when issuing temporary closure and restriction orders, regardless of whether those orders are associated with emergencies or easily foreseen events. Some temporary closure orders are associated with large-scale public events authorized through a special recreation permit, such as the Burning Man Project and the Reno Air Races. These events can be complex in nature and may require the BLM to temporarily close or restrict the use of public lands to provide for public safety. In such situations, the BLM will typically evaluate the environmental impacts associated with any necessary temporary closures or restrictions in the NEPA document supporting authorization of the underlying special recreation permit. However, even in situations when a temporary closure or restriction order is unrelated to a special recreation permit or other authorization that must comply with NEPA, the temporary closure or restriction order constitutes a Federal action for which NEPA compliance is necessary. The circumstances surrounding specific

temporary closure and restriction orders will determine how the BLM complies with NEPA when issuing such orders.

C. Closure Parameters—Timeframe and Size

Comment: Several commenters expressed concern about the statement in the proposed rule that “a temporary closure or restriction order would generally remain in effect until the situation it is addressing has ended or abated, it expires by its own terms, or the BLM issues a superseding decision, which can include incorporating the terms of a closure or restriction order into a resource management plan in accordance with the regulations at 43 CFR part 1600.” Some commenters asserted that such an order would not be “temporary,” while others contended that the statement in the proposed rule is in tension with the requirement that a temporary closure or restriction order specify the time and date on which it begins and ends.

Response: Temporary closure and restriction orders are generally intended to address emergencies or unforeseen events or facilitate time-limited uses that require specific restrictions. In many situations, such as when the BLM temporarily closes or restricts the use of public lands to protect persons during an off-road vehicle race, the BLM will know the specific duration that a closure or restriction must be in effect. In other situations, the necessary duration of a closure or restriction order is unknown, such as when the BLM closes an area to protect resources after an area has been burned in a fire. In both cases, the closure or restriction order issued by the BLM is temporary, in that the agency issues it outside of the land use planning process that the BLM uses to establish long-term management strategies. Additionally, in both cases, under the final rule, the BLM would specify in the temporary closure or restriction order the times and dates on which it takes effect and terminates. However, when the necessary duration of the order is unknown, the BLM may have to issue subsequent temporary closure or restriction orders that restrict public access or use until the situation posing a concern has abated, or to rescind an existing temporary closure or restriction order and issue a new order with a revised date or other changes to better reflect the purpose and intent of the order. By comparison, non-temporary closures and restrictions are those that the BLM issues through the land use planning process. Such closures and restrictions are part of the agency’s long-term strategy for managing areas of

public lands and are typically in place for longer durations. As a result, the agency issues such closures in accordance with 43 CFR part 1600, which provides multiple opportunities for public participation.

Comment: Several commenters requested that the BLM define the term “temporary” for purposes of this rule, while others suggested that the temporary closure and restriction orders issued under 43 CFR 8364.1 be limited to a specific duration, such as 6 months or 45 days.

Response: The BLM does not believe that it is necessary to define the term “temporary” for the purposes of the rule, nor does the BLM believe that temporary closure and restriction orders issued under 43 CFR 8364.1 should be limited to a specific duration. As noted above, the BLM issues temporary closure and restriction orders to address a wide variety of circumstances. While some of those circumstances involve specific durations that are known in advance (e.g., race closures), others do not (e.g., wildfire recovery). Attempting to define the term “temporary” or limit the duration of orders issued under 43 CFR 8364.1 would hinder the BLM’s ability to perform its multiple-use mission and protect persons, property, public lands, and resources.

Comment: One commenter requested that closures longer than 90 days be published in the **Federal Register**.

Response: Requiring that all temporary closure and restriction orders that last longer than 90 days be published in the **Federal Register** would neither enhance the BLM’s ability to respond to emergencies in a timely fashion nor communicate closures and restrictions to the public in the most efficient manner. Temporary closures and restrictions that last longer than 90 days may need to be put into effect immediately, which could be hampered by a **Federal Register** publication requirement. Moreover, more direct forms of communication may prove more effective at notifying the public of such closures and restrictions.

Comment: Many commenters stated that temporary closure end dates should be defined and expressed concern that the proposed rule would permit closures to last until land use plans are updated.

Response: The final rule requires the BLM to specify the date and time that a temporary closure or restriction order will terminate. However, if the situation that a temporary closure or restriction order addresses continues beyond the order’s end date, the BLM may issue a new order to extend the closure or restriction.

Comment: Two commenters recommended that closures be limited to the smallest size possible.

Response: The final rule requires that each closure be accompanied by a rationale for the closure or restriction, which can include a rationale for the geographic parameters of the closure. In general, the BLM strives to close or restrict the use of the smallest area of public lands possible.

D. Exemptions

Comment: One commenter expressed concern that the proposed rule would permit the BLM to restrict third parties from monitoring events such as offroad races.

Response: Under the final rule, each temporary closure or restriction order will specify the uses that are restricted, as well as any exemptions from the order. In the example given, the BLM would have discretion to exempt third-party race monitors from a restricted area. Notably, this rule does not change the requirement for the BLM to specify who is exempt from a temporary closure or restriction order.

Comment: Two commenters requested that the proposed rule provide that temporary closure and restriction orders not apply to valid existing rights or travel routes under litigation.

Response: Actions the BLM takes pursuant to FLPMA, including issuing temporary closure and restriction orders under 43 CFR 8364.1, are subject to valid existing rights. Additionally, under the final rule, the BLM will determine which individuals are exempt from temporary closure and restriction orders on a case-by-case basis. Where necessary and appropriate, the BLM will provide that certain individuals or groups are exempt from the limitations posed by a temporary closure or restriction order.

Comment: Many commenters discussed the provision permitting closures and restrictions for the purpose of ensuring privacy for certain Tribal uses. In general, commenters asked the BLM to clarify the meaning of that provision and explain why the proposed rule specifically mentions Tribal uses. Some commenters suggested that the proposed rule should not refer to Tribal activities specifically, but instead should use general language applying to all public land users.

Response: While FLPMA directs the BLM to manage public lands for a wide variety of uses and users, not all parcels of public lands must be made available to all uses (or users) at any one time. In certain places, and at certain times, the BLM may decide to facilitate specific uses, such as certain Tribal uses, over

others. The provision in the final rule authorizing the BLM to issue temporary closure and restriction orders to ensure privacy for certain Tribal uses stems from the United States' unique trust responsibility to Tribal Nations in the stewardship of public lands. Both Congress and the Executive Branch have declared it to be the policy of the United States to accommodate Tribal access to the public lands in certain circumstances. For example, the American Indian Religious Freedom Act provides that "it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to *access to sites*, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites." (42 U.S.C. 1996, emphasis added) Similarly, Executive Order (E.O.) 13007 directs Federal agencies to accommodate access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners. It also directs Federal agencies, where appropriate, to maintain the confidentiality of such sites. Additionally, Secretarial Order 3403 (Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters) directs Bureaus and Offices to "manage Federal lands and waters in a manner that seeks to protect the treaty, religious, subsistence, and cultural interests of federally recognized Indian Tribes."

While the provisions of 43 CFR 8364.1 authorizing the BLM to issue temporary closure and restriction orders to protect persons and avoid user conflicts would seemingly also cover closure to ensure privacy for Tribal uses, the BLM thinks it is worth clarifying the agency's authority to temporarily close or restrict the use of public lands to ensure privacy for Tribal activities for traditional or cultural use consistent with the direction in the above-discussed authorities. Expressly providing that the BLM may temporarily close or restrict the use of public lands to ensure privacy for certain Tribal activities will also allow the BLM to implement aspects of the Best Practices Guide for Federal Agencies Regarding Tribal and Native Hawaiian Sacred Sites that was developed to operationalize the direction in E.O. 13007, as well as facilitate commitments the BLM may make to specific Tribes as part of co-stewardship agreements governing

certain portions of the public lands. Moreover, because many Tribal traditional and cultural uses take place in the vicinity of cultural resources whose nature and location the BLM is required to keep confidential, this provision will help the BLM comply with related statutory obligations.

Comment: A few commenters recommended that emergency services and law enforcement personnel be exempt from temporary closures and restrictions, and one commenter asked that the BLM clarify the process for exempting some groups such as local entities with jurisdictional authority (State wildlife agencies, for example) from temporary closure and restriction orders.

Response: The existing regulation requires the BLM to identify any persons or groups who are exempt from a temporary closure or restriction order. Generally, the BLM exempts Federal, State, and local officers and employees, as well as members of organized rescue or firefighting forces, in the performance of their official duties from a temporary closure or restriction order. The agency may specify that additional persons or groups are exempt on a case-by-case basis.

Comment: One commenter expressed concern that there were insufficient "checks and balances" and that the proposed rule could permit the BLM to improperly exempt "preferred individuals" from closure or restriction orders.

Response: Prior to this rulemaking, 43 CFR 8364.1 required the BLM to identify the persons who are exempt from a temporary closure or restriction order. The final rule does not change that requirement. While the BLM's multiple-use mission inherently requires the agency to balance competing uses and users of the public lands, the agency does not intend to implement the final rule in a manner that gives preference to select members of the public. Additionally, all temporary closure and restriction orders must comply with NEPA and other applicable statutes. They are also subject to administrative appeal in accordance with 43 CFR part 4. Accordingly, the public has ample opportunity to express concerns with a temporary closure or restriction order, including concerns with individuals or groups exempted from its limitations.

E. Consistency With Other Legal Requirements

Comment: Two commenters asserted that the proposed rule is not consistent with the NPS's closure authority at 36 CFR 1.5. These commenters pointed out

that, except in the case of emergencies, **Federal Register** publication is required where an NPS closure or restriction is of a nature, magnitude, or duration that will result in a significant alteration in the public use pattern of the park area, adversely affect the park's natural, aesthetic, scenic or cultural values, requires a long-term or significant modification in the resource management objectives of the unit, or is of a highly controversial nature.

The commenters suggested that the BLM adopt a similar framework for this rulemaking.

Response: The final rule is not identical to 36 CFR 1.5. This rulemaking will nevertheless result in the BLM's temporary closure and restriction authority aligning more closely with the NPS regulation. For example, neither rule requires **Federal Register** publication of temporary closure and restriction orders that address emergency situations. Additionally, the final rule pertains only to temporary closure and restriction orders and not to land use planning, which is governed by 43 CFR part 1600, including requirements to publish certain land use planning-related notices in the **Federal Register**. The final rule also aligns with the NPS public notification processes set out in 36 CFR 1.7, which directs the NPS to use one or more different communication methods, including electronic media, when invoking certain authorities to, for example, "restrict or control a public use or activity" or "designate all or a portion of a park area as open or closed." Finally, while not addressed by the commenters, the final rule is similar to the USFS's and FWS's closure and restriction authority at 36 CFR 261.50 and 50 CFR 25.31, respectively, which do not require **Federal Register** publication for any closure or restriction orders.

Comment: One commenter pointed out that the Alaska National Interest Lands Conservation Act (ANILCA), Alaska Native Claims Settlement Act (ANCSA), and other statutes impose Alaska-specific legal obligations on the BLM. The commenter requested that the BLM make clear that the final rule does not apply to Alaska and instead prepare an Alaska-specific regulation. Alternatively, the commenter asked the BLM to acknowledge in the final rule that Alaska-specific statutes, such as ANILCA, apply where temporary closure or restriction orders impact access for traditional activities on conservation system units, access for subsistence activities on public land, or temporary access in the National Petroleum Reserve-Alaska.

Response: The BLM believes it is unnecessary to exempt Alaska from operation of the final rule or prepare an Alaska-specific temporary closure and restriction regulation. The final rule does not change or impact the requirements of ANILCA, ANCSA, or other statutes. It also does not revise, amend, or obviate any regulatory requirements not included in 43 CFR 8364.1, such as those implementing section 1110(a) of ANILCA at 43 CFR 36.11. The BLM has long recognized that those Alaska-specific legal requirements can work in tandem with the temporary closure and restriction authority provided in 43 CFR 8364.1 (51 FR 31619 (September 4, 1986)). Accordingly, when implementing a temporary closure or restriction in Alaska, it may be necessary for the BLM to comply with both the final rule and certain Alaska-specific statutory and regulatory requirements. Ultimately, the legal requirements that apply to a temporary closure or restriction order impacting BLM-managed public lands in Alaska will depend on the facts and circumstances of the particular temporary closure or restriction.

Comment: Several commenters were concerned that the proposed rule may conflict with the BLM's multiple-use mandate.

Response: The final rule is consistent with FLPMA's mandate to manage public lands "under the principles of multiple use and sustained yield." 43 U.S.C. 1732(a). When enacting FLPMA and establishing the BLM's multiple-use mandate, Congress declared it the policy of the United States that public lands "be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values," and "where appropriate, will preserve and protect certain public lands in their natural condition." 43 U.S.C. 1701(a)(8). This policy is effectuated in the definition of "multiple use," which means, in part, "the use of some land for less than all of the resources" and "making the most judicious use of the land for some or all . . . resources." 43 U.S.C. 1702(c). Courts have affirmed that complying with FLPMA's multiple-use mandate requires the BLM to "make judgments about incompatible uses" and does not "preclude the agency from taking a cautious approach to assure preservation of natural and cultural resources." (*Nat'l Mining Ass'n v. Zinke*, 877 F.3d 845, 872 (9th Cir. 2017) (citing *New Mexico ex rel. Richardson v. Bureau of Land Mgmt.*, 565 F.3d 683, 710 (10th Cir. 2009)). Indeed, when performing the "enormously

complicated task of striking a balance among the many competing uses to which land can be put," (*Norton v. S. Utah Wilderness Alliance*, 542 U.S. 55, 58 (2004)), the BLM may decide that "a particular parcel [of public land] need not be put to all feasible uses or to any particular use." (*Nat'l Mining Ass'n*, 877 F.3d at 872). Moreover, in exercising its multiple-use mandate, FLPMA requires the BLM to "take any action necessary to prevent unnecessary or undue degradation of the [public] lands," 43 U.S.C. 1732(b), and courts have explained that closing or restricting the use of public land under 43 CFR 8364.1 to prevent such degradation "is a lawful discharge of the BLM's duty" under FLPMA. (*Utah Shared Access Alliance v. Carpenter*, 463 F.3d 1125, 1136 (10th Cir. 2006)). Accordingly, the final rule, which will help the BLM address competing uses of the public lands and enhance the agency's ability to protect persons, public lands, and resources, particularly in response to emergencies and unforeseen events, is consistent with both the text of FLPMA and courts' understanding of the BLM's multiple-use mission.

Comment: One commenter suggested that the proposed rule discuss its implications on the Secretary's authority to hire and compensate personnel in certain emergency situations.

Response: The issue raised is outside the scope of this rulemaking effort and is addressed separately by other statutes and regulations.

F. Need for the Proposed Rule

Comment: Multiple commenters asserted that the BLM already has sufficient authorities to close or restrict the use of public lands in response to emergencies and unforeseen events and, therefore, this rulemaking is unnecessary.

Response: The BLM disagrees. Protecting persons, public lands, and resources in an adequate fashion often requires a quick response and, as discussed above, the requirement to publish orders in the **Federal Register** and the general inability of the BLM to issue such orders with immediate full force and effect frequently hinders the BLM's ability to temporarily close or restrict the public lands to address emergencies and other unforeseen events in a timely manner. The USFS, FWS, and NPS have the requisite authority to close or restrict the use of Federal lands under their jurisdiction with little to no delay. Under the prior regulations, the BLM lacked that authority. This final rule will address that shortcoming and help align the

BLM's procedures with those of other land management agencies.

Comment: One commenter requested that the BLM identify the costs of implementing the final rule.

Response: The BLM expects the final rule to decrease costs. Preparing **Federal Register** notices associated with temporary closure and restriction orders takes considerable time and effort, and publishing notices requires payment to the Office of the Federal Register. Instead, the agency will be able to focus its time, money, and effort on using more direct and expedient methods of communication to inform the public about how the agency is managing public lands.

III. Discussion of the Final Rule

A. Overview

The existing regulation at 43 CFR 8364.1 sets out the BLM's authority and procedures for issuing temporary closure and restriction orders. Among other things, the existing regulation requires the BLM to publish temporary closure and restriction orders in the **Federal Register** and does not authorize the agency to make those orders effective immediately. Those restrictions, as well as other aspects of the existing rule, frequently impede the BLM's response to emergencies and other unforeseen events. Delays caused by the existing regulation have, in some cases, hindered the BLM's ability to reduce risks to public health, safety, property, and resources during such situations.

The final rule revises 43 CFR 8364.1 to improve the BLM's ability to respond quickly to changing conditions on public lands and facilitate more modern and direct methods of communicating its actions to the public by eliminating the requirement to publish temporary closure and restriction orders issued under this rule in the **Federal Register**. In place of that notice requirement, the final rule directs the BLM to inform the public about temporary closure and restriction orders by notifying local media outlets and posting information about the closure or restriction on at least one BLM-controlled, publicly available online communication system. By no longer requiring the BLM to publish temporary closure and restriction orders in the **Federal Register**, the final rule better positions the agency to serve the public and manage the public lands. The final rule continues to require the BLM to post temporary closure and restriction orders at appropriate BLM offices and at or near the closed or restricted area.

The final rule authorizes the BLM to make temporary closure and restriction orders effective immediately, which will improve the BLM's capacity to respond quickly to emergencies and other unforeseen events affecting public lands. This change will help the BLM more effectively fulfill its multiple-use mission without preventing those who are adversely affected from appealing the issuance of an order to the IBLA.

The final rule clarifies the broad range of situations in which the BLM may issue temporary closure and restriction orders. Under both the prior regulation and this final rule, the BLM may issue temporary closure and restriction orders to protect persons, property, and public lands and resources. The final rule also reinforces that the BLM may issue temporary closure and restriction orders to avoid conflicts among public land users and to ensure the privacy of Tribal activities for traditional or cultural use.

The final rule requires all temporary closure and restriction orders issued under 43 CFR 8364.1 to state the date and time that a closure or restriction will become effective and the date and time it will terminate. The final rule also clarifies that the BLM may exempt groups, such as law enforcement, emergency response, and Tribes, from temporary closures and restrictions as appropriate. By comparison, the prior regulation only expressly required the BLM to identify persons who are exempt from temporary closure and restriction orders.

Finally, the final rule harmonizes the penalty provision in 43 CFR 8364.1 with current statutory authorities and makes several other changes that improve the final rule's organization and readability.

The final rule does not itself close or restrict the use of any specific public land, nor will it require the BLM to issue any new or additional temporary closures or restrictions of public lands. Instead, the final rule makes administrative changes intended to modernize and streamline the procedures governing how the BLM issues temporary closure and restriction orders and, thereby, provides the public with better clarity about the scope of these orders and when they are effective. Under the final rule, the BLM will continue to consider other management strategies alongside or instead of temporary closures and restrictions including, but not limited to, increased law enforcement, cooperative efforts with local governments, engineering, education, and outreach.

The final rule does not change any public participation requirements or opportunities. While the prior

regulation required the BLM to publish temporary closure and restriction orders in the **Federal Register**, 43 CFR 8364.1 has never required the agency to solicit public feedback before temporarily closing or restricting the use of public lands. Under the final rule, public participation opportunities concerning temporary closure and restriction orders will continue to be governed by other laws including, but not limited to, NEPA, the Dingell Act, and the regulations implementing ANILCA. The final rule does not change or limit those opportunities or modify those authorities. For example, even though the final rule eliminates the **Federal Register** publication requirement in 43 CFR 8364.1, the BLM may still need to publish a **Federal Register** notice and provide the public with an opportunity to comment in accordance with section 4103 of the Dingell Act (16 U.S.C. 7913) if proposing to close public lands to hunting, fishing, or recreational shooting. The final rule does not, however, impose a requirement for the BLM to seek public feedback when not already required to do so by other legal authorities.

Relatedly, the final rule does not diminish or eliminate the public's opportunity to challenge temporary closure or restriction orders, which will remain subject to appeal to the IBLA in accordance with 43 CFR part 4 or to judicial review in Federal court. The final rule, however, enhances the BLM's ability to protect persons, property, public lands, or resources in a timely fashion by making temporary closure and restriction orders effective immediately, pending a decision on appeal or judicial review or the issuance of an administrative or judicial stay.

Each section of the final rule is discussed in further detail below.

B. Detailed Discussion

Paragraph (a)

The final rule reorganizes paragraph (a) for readability, adds the word "temporarily" to clarify the nature of the closure and restriction orders that the BLM issues under 43 CFR 8364.1, and enumerates the situations in which the BLM may temporarily close or restrict the use of public lands; namely, to protect persons, property, public lands, or resources, to avoid conflict among public land users, and to ensure the privacy of Tribal activities for traditional or cultural use.

The addition of the word "temporarily" is intended to differentiate temporary closures and restrictions issued under 43 CFR 8364.1 from closures and restrictions that are

established through the land use planning process. Closures and restrictions issued through the land use planning process are intended to be part of the BLM's long-term management strategy for an area and remain in place until the BLM either revises or amends the applicable land use plan in accordance with 43 CFR part 1600. Temporary closure and restriction orders issued under the final rule, which are generally intended to address emergencies or unforeseen events or facilitate time-limited uses that require specific restrictions, serve a different and generally more limited purpose. For example, the BLM typically issues temporary closure and restriction orders under 43 CFR 8364.1 to facilitate time-limited uses that require specific restrictions to avoid user conflicts or ensure public safety, privacy, or resource protection; to address emergencies that require timely responses; or to respond to events and circumstances that the BLM did not foresee when it was previously engaged in the land use planning process. Under the final rule, such orders are considered "temporary" in that they are implemented outside the land use planning process that typically guides how the BLM makes more long-term decisions. While the final rule requires the BLM to specify the time and date the closure or restriction imposed by such orders begins and ends, it does not impose any specific limitation on the duration that a temporary closure or restriction order may remain in place, nor does it prevent the BLM from issuing a new order that extends the time a temporary closure or restriction order is in effect, if necessary. Because not all situations requiring temporary closure or restriction orders will end within a preconceived timeframe, it may be necessary to issue a revised closure or restriction order to ensure the underlying situation has abated or the BLM has had an opportunity to address the situation in a longer-term fashion through the land use planning process.

The final rule adds the phrase "including roads, trails, and waterways" for internal consistency with paragraph (b) and to clarify that public roads, trails, and waterways under the BLM's jurisdiction are components of public lands. This change is intended to be clarifying only and is not intended to expand the scope of the BLM's authority or alter its obligations under this regulation.

The final rule revises paragraph (a) to provide that the BLM may issue temporary closure and restriction orders to avoid user conflicts on public lands. Although this authority was implicitly

contained in the existing provision authorizing the agency to issue temporary closure and restriction orders to protect persons, the final rule clarifies that such authority extends to issuing temporary closure and restriction orders to avoid user conflicts. As part of its multiple-use mission, the BLM is required to balance competing uses of the public lands. That task inherently requires the BLM to make judgments about incompatible uses and, at times, permit certain uses while prohibiting other, potentially conflicting, uses. For example, to avoid user conflicts during a permitted off-road race, the BLM might need to prohibit non-race uses of the course. The final rule clarifies that the BLM has authority to issue temporary closure and restriction orders to avoid such conflicts, thereby allowing the BLM to manage temporary user conflicts effectively and efficiently.

The final rule revises paragraph (a) to provide that the BLM may issue temporary closure and restriction orders to ensure the privacy of Tribal activities for traditional or cultural use. Similar to the provision concerning the avoidance of user conflicts, the authority to temporarily close or restrict the use of public lands to ensure the privacy of Tribal activities for traditional or cultural use was implicitly contained in the existing provision authorizing the agency to issue temporary closure and restriction orders to protect persons. However, the BLM believes that authority should be made explicit given the Federal Government's unique trust responsibility to Tribal Nations in the stewardship of public lands and the direction in Secretarial Order 3403, which directs Department of the Interior bureaus and offices to "manage Federal lands and waters in a manner that seeks to protect the treaty, religious, subsistence, and cultural interests of federally recognized Indian Tribes." Many Tribal Nations continue to use BLM-managed lands for traditional and cultural purposes, and in some cases those uses can be disrupted by simultaneous use by other members of the public. The final rule will help the BLM facilitate Tribal activities for traditional or cultural use on public lands without such disruptions.

The proposed rule would have authorized the BLM to issue temporary closures and restrictions to "provide for implementation of management responsibilities." The intent behind that proposal was to more closely align the BLM's temporary closure and restriction authority with the NPS's analogous regulation, which permits temporary closures and public use limits "based upon a determination that such action is

necessary for . . . implementation of management responsibilities." 36 CFR 1.5(a). Moreover, the BLM intended inclusion of the phrase to more explicitly allow the BLM to temporarily close or restrict the use of public lands to facilitate construction, demolition, resource monitoring, invasive species control projects, and other typical management responsibilities in which the agency regularly engages. However, several commenters expressed concerns that the phrase "implementation of management responsibilities" was vague and essentially removed all limits on the BLM's ability to close or restrict the use of public lands. The BLM agrees that the phrase, while commensurate with the BLM's authority to manage public lands under FLPMA, is potentially open to misinterpretation. Accordingly, the BLM has not included "provide for implementation of management responsibilities" as a reason for issuing a temporary closure or restriction order in the final rule. The deletion of the phrase from the final rule does not affect the BLM's ability to perform typical management responsibilities. Activities such as construction, demolition, resource monitoring, and invasive species control projects are already typically accompanied by a temporary closure or restriction order where necessary to protect persons, property, public lands, or resources. As a result, the BLM would still be able to issue such closures and restrictions under the authority that is included in the final rule.

Paragraph (b)

Paragraph (b) of the final rule outlines the contents of temporary closure and restriction orders.

The final rule revises paragraph (b)(1) to clarify that public roads, trails, or waterways are aspects of the public lands and, therefore, are subject to temporary closures or restrictions where appropriate. The prior text could arguably be interpreted to suggest that roads, trails, and waterways under the BLM's jurisdiction are not public lands, which is incorrect.

The final rule revises paragraph (b)(3) to improve readability and clarify that each temporary closure and restriction order must state the date and time when it will become effective and the date and time when it will terminate. Including both of those dates and times will help clearly communicate to the public how long the BLM expects a temporary closure or restriction order to last. As noted above, however, temporary closure and restriction orders are occasionally issued to address situations

that do not end or abate on a certain date. As a result, the final rule should not be understood to limit the BLM's authority to renew, extend, or modify temporary closures or restrictions. Where necessary, the BLM may renew, extend, or modify a temporary closure or restriction order by issuing a new order that contains different parameters following the same procedures that the agency uses to issue an order in the first instance.

The final rule revises paragraph (b)(4) to clarify that the BLM can exempt groups or persons from a closure or restriction as circumstances warrant. For example, the BLM generally exempts Federal, State, and local officers and employees, as well as members of organized rescue or firefighting forces, from temporary closures and restrictions when necessary for them to perform their official duties. The BLM may also exempt Tribal members who may need to access an otherwise closed area for traditional or cultural uses. The final rule clarifies the BLM's authority to exempt such groups.

The final rule moves former paragraphs (b)(5) and (6) to paragraph (c) to consolidate the notification requirements in one paragraph. Further revisions to those paragraphs are discussed below.

The final rule renumbers and revises former paragraph (b)(7) to improve readability and for consistency with other provisions of the regulation. That revision is not intended to affect the BLM's duties under this regulation.

Paragraph (c)

The final rule revises paragraph (c) by removing the requirement to publish temporary closure and restriction orders in the **Federal Register** and, instead, requires the BLM to alert the public by notifying local media outlets and posting information on at least one BLM-controlled publicly available online communication system. The final rule retains the requirements to post temporary closure and restriction orders at relevant BLM offices and at or near the closed or restricted area. This revision will allow the BLM to notify the public about temporary closure and restriction orders in a timelier fashion, which will enhance the agency's ability to effectively respond to emergencies and other unforeseen events. This change will provide the BLM with greater flexibility to ensure that the level of notice provided to the public is commensurate with the scale, location, and potential expediency of the closure or restriction.

Although the **Federal Register** may have been an effective way to notify the public of access and use limitations when 43 CFR 8364.1 was promulgated in 1983, that is less true today, when tools to communicate with stakeholders and the public have become more numerous and direct. Government agencies have been increasingly using online systems, and new online systems are already evolving that may soon supersede or supplant those used today as the most effective means for informing public land users about government actions. The final rule is intended to describe the communication systems in common use today, while at the same time using sufficiently flexible language to account for new systems and rapidly emerging best practices in communications and public affairs. By intentionally incorporating flexibility into the wording of the final rule, the BLM hopes to avoid the need to update the rule again as communication methods and platforms continue to evolve.

Under the final rule, the BLM may post notices on multiple BLM web pages, including national, state, district, and field office web pages. In other situations, more limited online notification may be appropriate. The final rule permits the BLM to use the best methods available to reach the public depending on the circumstances of the closure or restriction, which can vary widely. Members of the public will still have reliable ways to learn about temporary closures and restrictions, including through posts at the relevant BLM offices and closed or restricted areas, the BLM's online communication systems, such as web pages, and local media.

The final rule's notification procedures will apply to all orders issued under 43 CFR 8364.1, including those unrelated to emergencies. Many commenters expressed that the agency should retain the **Federal Register** publication requirement for non-emergency temporary closure and restriction orders because they do not need to be issued urgently and, therefore, are not hindered by the time it takes to publish a notice in the **Federal Register**. While the BLM agrees that non-emergency situations may not always pose the same time constraints as emergency situations, it does not believe that imposing different notification procedures is necessary or prudent. Some situations may not clearly constitute an emergency but may nevertheless warrant a quick response. For example, if a dignitary unexpectedly visits public lands, it may be necessary for security reasons to issue a temporary

closure or restriction order quickly. Similarly, maintenance needs at campgrounds and other facilities may arise that cannot be foreseen in advance but nevertheless warrant timely action by the BLM. In such situations, BLM managers should not delay taking action to protect persons, property, public land, or resources because they are concerned that the instant situation may not fall within a specific definition of "emergency" and, therefore, a related temporary closure or restriction order must be published in the **Federal Register**.

The final rule is designed to avoid such situations by not requiring **Federal Register** publication in any circumstance and instead providing managers the discretion to publish certain temporary closure and restrictions in the **Federal Register** as circumstances warrant, such as when the closure or restriction affects an area with limited local media outlets and the BLM believes that **Federal Register** publication is necessary to adequately communicate the order's attendant limitations to the public. Additionally, in some circumstances, other authorities aside from this rule may require the BLM to publish temporary closure and restriction orders in the **Federal Register**. For example, section 4103 of the Dingell Act may require the BLM to publish a **Federal Register** notice and provide the public with an opportunity to comment if proposing to close public lands to hunting, fishing, or recreational shooting. This final rule does not affect how the BLM complies with the Dingell Act or other authorities requiring **Federal Register** notices.

Paragraph (c) of the final rule also incorporates the posting requirements that were previously included in paragraph (b) of 43 CFR 8364.1. The internal reorganization is intended to consolidate the final rule's notification requirements in a single paragraph, which will make it easier for the public to understand how to learn about potential temporary closures and restrictions on public lands.

Elimination of the requirement to publish temporary closure and restriction orders in the **Federal Register** will more closely align the BLM's regulatory authority to that of other land management agencies. The USFS's closure authority at 36 CFR 261.50 does not require **Federal Register** publication. Instead, it requires closure and restriction orders to be placed in the offices of the responsible Forest Supervisor and District Ranger and displayed in such locations and manner as to reasonably bring the prohibitions to the attention of the public. The NPS

similarly does not need to publish closure and restriction orders in the **Federal Register** in a wide variety of situations, such as in emergencies or for closures or restrictions that will not result in a significant alteration in the public use pattern of a park area and will not adversely affect a park's natural, aesthetic, scenic, or cultural values. And 50 CFR 25.31 provides the FWS with discretion to determine the best way to notify the public where access and use has been temporarily curtailed. Eliminating the **Federal Register** publication requirement in 43 CFR 8364.1 will enhance the BLM's ability to coordinate with other Federal land management agencies (as well as Tribal, State, and local government agencies), especially in situations where the agencies manage adjacent or nearby lands.

Paragraph (d)

The final rule adds a new paragraph (d), which authorizes the BLM to make temporary closure or restriction orders effective immediately. Prior to the final rule becoming effective, temporary closure and restriction orders issued under 43 CFR 8364.1 would typically not take effect during the 30-day period in which the order is appealable to the IBLA. However, emergencies and changing circumstances on public lands often require a quicker response, and the delay in a closure or restriction order taking effect has, in some cases, compromised the BLM's ability to carry out its mission and protect the public. To adequately meet the public's expectation for the BLM to protect health, safety, property, and resources, the agency needs the ability to issue temporary closure or restriction orders that are effective immediately when necessary. Under paragraph (d), temporary closure and restriction orders issued under 43 CFR 8364.1 will be effective upon issuance or a date and time established in the order. This change will enhance the BLM's ability to respond to emergencies and other unforeseen conditions while preserving the public's ability to appeal an order to the IBLA in accordance with 43 CFR part 4.

Like the elimination of the **Federal Register** notice requirement discussed above, allowing the BLM to issue temporary closure and restriction orders with immediate full force and effect will make 43 CFR 8364.1 more consistent with the closure and restriction authorities of the USFS, FWS, and NPS, all of which can issue temporary closure and restriction orders with immediate full force and effect. Aligning its authority with that of other land

management agencies will allow the BLM to be an effective partner and take more concerted action with those agencies.

Paragraph (e)

Former paragraph (d) addressed the penalties for violating temporary closure and restriction orders. The final rule rennumbers that paragraph and updates it to be consistent with current legal authorities. The Sentencing Reform Act of 1984, 18 U.S.C. 3571, which passed the year after 43 CFR 8364.1 was promulgated, authorizes fines that supersede those set out in FLPMA at 43 U.S.C. 1743. Under the final rule, the penalty provision will refer directly to 18 U.S.C. 3571, which will make it less likely that the BLM will need to revise the rule if Congress updates 18 U.S.C. 3571 in the future. The final rule also revises the penalty provision to refer to 43 U.S.C. 1733, which sets out the BLM's enforcement authority under FLPMA. Notably, neither of these revisions effect a substantive change, as 43 CFR 8364.1 has always been subject to these overarching statutory authorities. The change in the final rule is only intended to make the regulation reflect these statutory realities.

IV. Procedural Matters

Regulatory Planning and Review (Executive Orders 12866, 14094, and 13563)

E.O. 12866, as amended by E.O. 14094, provides that the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that the rule does not meet the criteria for significance under section 3(f) of E.O. 12866, as amended by E.O. 14094.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The BLM has developed this final rule in a manner consistent with these requirements.

The BLM reviewed the requirements of the final rule and determined that it will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities. For more detailed information, see the Economic and Threshold analysis prepared for the final rule. This analysis has been posted in the docket for the final rule on the Federal eRulemaking Portal: <https://www.regulations.gov>. In the searchbox, enter "RIN 1004-AE89", click the "Search" button, open the Docket Folder, and look under Supporting Documents.

Federal Actions To Address Environmental Justice in Minority or Low-Income Populations (E.O. 12898)

E.O. 12898 requires that, to the extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. E.O. 12898 provides that each Federal agency conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or national origin.

This final rule revises the process the BLM uses to issue temporary closure and restriction orders. The final rule is not self-executing, in that it does not, in and of itself, temporarily close or restrict the use of any public lands, and it is not expected to affect any particular population. Therefore, this final rule is not expected to negatively impact any community or cause any disproportionately high or adverse impacts to minority or low-income communities.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that Federal agencies prepare a regulatory flexibility analysis for rules subject to the notice-and-comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 500 *et seq.*), if the rule will have a significant economic impact, whether detrimental or beneficial, on a substantial number of small entities. See 5 U.S.C. 601–612. Congress enacted the RFA to ensure that government regulations do not unnecessarily or

disproportionately burden small entities. Small entities include small businesses, small governmental jurisdictions, and small not-for-profit enterprises. The final rule will not have a significant impact on a substantial number of small entities. This certification is based on information contained in the economic and threshold analysis prepared for this rule. Therefore, neither a final regulatory flexibility analysis nor a small entity compliance guide is required.

Congressional Review Act

Based upon the BLM's economic and threshold analysis, this final rule does not meet the criteria under 5 U.S.C. 804(2), the Congressional Review Act. This rule will not:

- (a) Have an annual effect on the economy of \$100 million or more;
- (b) Cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and
- (c) Have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

Under the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531 *et seq.*), agencies must prepare a written statement about benefits and costs prior to issuing a proposed or final rule that may result in aggregate expenditure by State, local, and Tribal governments, or by the private sector, of \$100 million or more in any one year.

This final rule is not subject to the requirements under the UMRA. The final rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or to the private sector in any one year. The final rule will not significantly or uniquely affect small governments. A statement containing the information required by the UMRA is not required.

Takings (E.O. 12630)

This final rule will not affect a taking of private property or otherwise have taking implications under E.O. 12630. The final rule will only affect the management of public lands. Accordingly, a takings implication assessment is not required.

Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this final rule does not have

sufficient federalism implications to warrant the preparation of a federalism summary impact statement. The final rule will not have substantial direct effects 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 BLM will coordinate with State and local governments, as appropriate, when deciding whether to temporarily close or restrict the use of public lands under this final rule. A federalism summary impact statement is not required.

Civil Justice Reform (E.O. 12988)

This final rule complies with the requirements of E.O. 12988. Specifically, this final rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (E.O. 13175 and Departmental Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty.

In accordance with E.O. 13175, the BLM has evaluated this final rule and determined that it will not have substantial direct effects on federally recognized Indian Tribes. Nevertheless, the BLM consulted on a government-to-government basis with Tribal governments that wished to discuss the rule.

On March 22, 2023, the BLM sent a letter to federally-recognized Indian Tribes and Alaska Native Corporations notifying them about the BLM's intent to pursue this proposed rulemaking. In that letter, the BLM invited the Tribes and Corporations to engage in government-to-government consultation. Two Tribes requested additional information and engaged in consultation about aspects of the proposed rulemaking: one Tribe was concerned about the proposed rule and how it might affect management of lands for which the Tribe manages all surface rights; another Tribe shared that the proposed rule could play an important role in protecting Tribal cultural resources and facilitating cultural practices. In both cases, the consultation concluded with no

objections, no requests to modify the proposed rule, and no requests for follow-up consultation.

Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

This final rule does not contain information collection requirements, and a submission to the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is not required.

National Environmental Policy Act

The BLM has determined that the final rule is not a major Federal action significantly affecting the quality of the human environment. A detailed statement under NEPA is not required because the final rule is categorically excluded from further analysis or documentation in accordance with 43 CFR 46.210(i). That categorical exclusion covers policies, directives, regulations, and guidelines that are of an administrative, financial, legal, technical, or procedural nature or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case. The BLM has documented the applicability of the categorical exclusion concurrently with development of the final rule.

The final rule is procedural and administrative in nature and, therefore, satisfies the first prong of § 46.210(i). The final rule will not result in access being prohibited or use being restricted on any specific public lands. The final rule also will not limit or reduce any current public participation opportunities. The final rule clarifies the situations in which the agency may issue temporary closure and restriction orders, streamlines the administrative process through which the BLM issues and publicizes temporary closure and restriction orders, and updates the penalty provision in § 8364.1 to align with current statutory authority. When the BLM considers using the final rule to issue a temporary closure or restriction order, the agency will need to comply with NEPA and other applicable laws, including those requiring public participation.

The final rule also satisfies the second prong of 43 CFR 46.210(i). As noted above, the final rule does not prohibit access or restrict use of any specific public lands, and the potential environmental effects of future orders issued under the final rule that do prohibit access or restrict the use of public land are too speculative and conjectural to lend themselves to meaningful analysis at this time.

However, the effects of such orders will be individually subject to NEPA prior to being authorized.

The BLM has determined that the final rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that require further analysis under NEPA.

Effects on the Energy Supply (E.O. 13211)

Federal agencies must prepare and submit to OMB a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that: (1) Is a significant regulatory action under E.O. 12866, or any successor order; (2) Is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) Is designated by the Administrator of OIRA as a significant energy action. The final rule is not a significant action within the meaning of E.O. 12866 or any successor order. The final rule does not affect energy supply or distribution. Accordingly, a statement of energy effects is not required.

Authors

The principal authors of this final rule are: David Jeppesen, Cory Roegner, Kevin Oliver, and Greg Wolfgang, Recreation and Visitor Services; Nicole Hanna, Tribal Relations; Russell Scofield and Sandra McGinnis, National Experienced Workforce Solutions; Brittney Rodrigues, Regulatory Affairs; Rebecca Moore and Jeff Childers, Decision Support, Planning and NEPA; Heather Feeney, Public Affairs; Stephanie Rice and Pat Johnston, Wildlife, Aquatics and Environmental Protection; Stacy Silvester and Carmen Drieling, Forest, Rangeland and Vegetation Resources; Ernesto Felix, Law Enforcement and Security; assisted by the Office of the Solicitor.

Signing Authority

This action by the Principal Deputy Assistant Secretary is taken pursuant to an existing delegation of authority.

Steven H. Feldgus,

Principal Deputy Assistant Secretary, Land and Minerals Management.

List of Subjects in 43 CFR Part 8360

Penalties, Public lands, Recreation and recreation areas.

For the reasons set out in the preamble, the Bureau of Land Management amends 43 CFR part 8360 as follows:

PART 8360—VISITOR SERVICES

■ 1. The authority citation for part 8360 continues to read as follows:

Authority: 16 U.S.C. 470aaa, *et seq.*; 670, *et seq.*; 877, *et seq.*; 1241, *et seq.*; and 1281c; and 43 U.S.C. 315a and 1701 *et seq.*

■ 2. Revise § 8364.1 to read as follows:

§ 8364.1 Temporary closure and restriction orders.

(a) The authorized officer may issue an order to temporarily close or restrict the use of designated public lands, including roads, trails, and waterways, to protect persons, property, public lands, or resources; avoid conflict among public land users; or ensure the privacy of Tribal activities for traditional or cultural use.

(b) Each order shall:

(1) Identify the public lands, including roads, trails, or waterways, that are closed to entry or restricted as to use;

(2) Specify the uses that are restricted;

(3) Specify the date and period of time that the closure or restriction order will become effective and the date and time that the order will terminate;

(4) Identify any persons or groups who are exempt from the closure or restriction; and

(5) Identify the reasons for the closure or restriction.

(c) When issuing closure or restriction orders pursuant to this section, the authorized officer shall provide public notice by:

(1) Posting the order in a Bureau of Land Management (BLM) Office having jurisdiction over the public lands, including roads, trails, or waterways, to which the order applies;

(2) Posting the order at places near or within the area to which the closure or restriction applies, in such manner and location as is reasonable to bring prohibitions to the attention of users;

(3) Notifying local media outlets; and

(4) Posting information on at least one BLM-controlled, publicly available online communication system.

(d) Notwithstanding any contrary provisions in part 4 of this title, the authorized officer will provide that orders issued pursuant to this section will be effective upon issuance or at a date and time established in the order.

If appealed, such orders shall remain in effect pending the decision on appeal unless a stay is granted.

(e) Any person who violates a temporary closure or restriction order 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 § 8360.0–7, or both.

[FR Doc. 2024–17065 Filed 8–6–24; 8:45 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 140501394–5279–02; RTID 0648–XE157]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Commercial Closure for Blueline Tilefish in the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure for blueline tilefish in the exclusive economic zone (EEZ) of the South Atlantic. NMFS estimates that commercial landings of blueline tilefish will soon reach the commercial annual catch limit (ACL) for the 2024 fishing year. Accordingly, NMFS closes the commercial sector for the harvest of blueline tilefish in the South Atlantic EEZ to protect the blueline tilefish resource from overfishing.

DATES: This temporary rule is effective from August 8, 2024, through December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: mary.vara@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes blueline tilefish and is managed under the Fishery

Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The South Atlantic Fishery Management Council and NMFS prepared the FMP, and the FMP is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights in this temporary rule are given in round weight.

Regulations at 50 CFR 622.193(z)(1)(i) specify the commercial ACL and accountability measure for blueline tilefish in the South Atlantic. The commercial ACL is 117,148 pounds (lb) or 53,137 kilograms (kg). NMFS is required to close the commercial harvest of blueline tilefish when NMFS projects its landings will reach or have reached the commercial ACL. NMFS estimates that for the 2024 fishing year, commercial landings of blueline tilefish will reach the commercial ACL by August 8, 2024. Accordingly, the commercial sector for South Atlantic blueline tilefish is closed from August 8, 2024, through December 31, 2024.

During the commercial closure, all sale or purchase of blueline tilefish is prohibited. Because the harvest of blueline tilefish by the recreational sector is also closed for the rest of 2024 (89 FR 19290, March 18, 2024), during this commercial closure all harvest and possession of blueline tilefish in or from the South Atlantic EEZ is also prohibited through the end of 2024. The bag and possession limits of zero blueline tilefish during the remainder of 2024 apply in state or Federal waters of the South Atlantic on a vessel for which NMFS has issued a valid commercial or charter vessel/headboat permit for South Atlantic snapper-grouper [50 CFR 622.193(z)(1)(i)].

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.193(z)(1)(i), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.