

U.S. DEPARTMENT OF THE INTERIOR **BUREAU OF LAND MANAGEMENT**  
California

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**[Notices]**  
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DEPARTMENT OF THE INTERIOR  
Bureau of Land Management  
[CA-360-05-1220-DA]

**Notice of Interim Final Supplementary Rules for public lands within the Swasey Drive Planning Area, Redding Field Office, Redding, California.**

**SUMMARY:** The Bureau of Land Management (BLM) Redding Field Office is publishing interim final supplementary rules applicable to public lands within the Swasey Drive Planning Area, as identified in the Swasey Drive Area Implementation Plan. The interim final supplementary rules will govern activities such as target shooting, motor vehicle use, and camping on public lands managed by the Redding Field Office. These interim final supplementary rules are needed to protect recreation opportunities, public health and safety, and cultural and natural resources in accordance with the Swasey Drive Area Implementation Plan/Environmental Assessment and Decision Record (DR) of September 2004.

**DATES:** The interim final supplementary rules are effective April 21, 2006. We invite comments until June 20, 2006.

**ADDRESSES:** Mail or hand deliver all comments concerning the interim final supplementary rules to the Bureau of Land Management, Redding Field Office, 355 Hemsted Drive, Redding, CA 96002; or you may access the Federal eRulemaking Portal: <http://www.regulations.gov>.

Copies of the Swasey Drive Area Implementation Plan and Decision Record can be obtained at the BLM Redding Field Office, 355 Hemsted Drive, Redding, CA 96002, (530) 224-2100.

**FOR FURTHER INFORMATION CONTACT:** William Kuntz, Outdoor Recreation Planner, Bureau of Land Management, Redding Field Office, 355 Hemsted Drive, Redding, CA 96002, phone (530) 224-2100 or by e-mail at [wkuntz@ca.blm.gov](mailto:wkuntz@ca.blm.gov). Internet access to the Swasey Drive Area Implementation Plan and Decision Record is available at: <http://www.ca.blm.gov/redding>. BLM will also announce the interim final supplementary rules through local media outlets and post this notice with a map of the affected areas at key locations that provide access to the area.

SUPPLEMENTARY INFORMATION:

- I. Public Comment Procedures
- II. Background
- III. Procedural Matters
- IV. Interim Final Supplementary Rules

- I. Public Comment Procedures

Written comments on these interim final supplementary rules should be specific, confined to issues pertinent to the interim final supplementary rules, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the rule that the comment is addressing. BLM need not consider or include in the Administrative Record for the final rule: (a) Comments that BLM receives after the close of the comment period (see DATES), unless they are postmarked or electronically dated before the deadline, or (b) comments delivered to an address other than those listed above (See ADDRESSES).

You may also access and comment on the interim final supplementary rules at the Federal eRulemaking Portal by following the instructions at that site (see ADDRESSES).

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at the Redding Field Office, 355 Hemsted Drive, Redding, CA 96002, during regular business hours (7:45 a.m. to 3:45 p.m.), Monday through Friday, except Federal holidays. Individual respondents may request confidentiality. If you wish to request that BLM consider withholding your name, street address, and other contact information (such as Internet address, FAX, or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. BLM will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

## II. Background

In the Redding Resource Management Plan and Record of Decision of June 1993, the area known as Swasey Drive was designated an Area of Critical Environmental Concern (ACEC). Because of this decision, BLM identified these lands for retention and decided to write a subsequent management plan for the area.

The Swasey Drive ACEC and surrounding planning area includes approximately 1,250 acres. It is used by researchers, hikers, mountain bikers, equestrians, campers, off-road vehicle users, and target shooters. Trails within this area are linked to the National Park Service's Whiskeytown National Recreation Area. Because of the intensive use of the area by the public, BLM implemented some restrictions in 1998 to limit off-road vehicle use and target shooting. These restrictions were designed to protect public health and safety and to protect sensitive cultural resources within the ACEC and the surrounding areas until BLM could complete a detailed management plan.

As a result of a growing population, the development of residential housing on private lands around the Swasey Drive area, and the increasing popularity of the area for non-motorized recreation activities, the human use of the area has increased. Target shooting in the area has also increased, as has illegal trash dumping and underage drinking. The combination of increased recreational use as well as increased levels of target shooting, trash dumping, and underage drinking has created a condition that places the public at risk.

In May 2001, BLM held an initial public scoping meeting for the development of the Swasey Drive Implementation Plan. The meeting was attended by a broad range of individuals, groups, tribes, and agencies. In 2004, the BLM completed the Swasey Drive Area Implementation Plan. As a result of the plan, the specific restrictions in the decision record are implemented in these interim final supplementary rules.

The purpose of the interim final supplementary rules is to protect the historic and prehistoric cultural resources and public health and safety. Also, the rules will help maintain the natural resources and recreation opportunities within the Swasey Drive ACEC and associated public lands. Restrictions on camping and nighttime use will curtail illegal trash dumping and underage drinking, which have been ongoing concerns for many years.

BLM provided for substantial public participation and coordination during the development of the Swasey Drive Implementation Plan and Environmental Assessment. Public participation included one public scoping meeting attended by 65 individuals. BLM received 29 formal responses (letters and e-mails) as a result of the scoping solicitation. The timing of this action is important due to the danger that long rifle target shooting poses for local residents and other users of the area. Numerous reports from local area residents have stated that bullets have been found lodged in the walls of their homes or in the area around their homes. As recreational use increases with a parallel increase in target shooting, the likelihood of an accident occurring rises dramatically. In 2001, BLM used a risk management process to determine the low, medium, high, and extremely high risk management levels of target shooting in this area. We determined that the risk of death caused by this activity could not be mitigated sufficiently over the long term with BLM's limited personnel and current regulations. In short, if these interim final rules are not issued, there is an increasing risk that a recreational visitor or local resident in the adjacent subdivision will be seriously injured or killed by a poorly aimed or skipping/ricocheting bullet. These issues were fully discussed in the scoping meeting. Therefore, due to the increased and increasing safety concerns, and the previous opportunities for public participation, BLM finds that promulgating these supplementary rules as proposed rules would be impracticable, unnecessary, and contrary to the public interest. As such, there is good cause to publish these supplementary rules in interim final form. Similar considerations of good cause support an immediate effective date, i.e. the date of publication for these rules. We will publish final

supplementary rules that respond to any public comments, or confirm the supplementary rules as final if we receive no compelling arguments to amend the interim final supplementary rules.

The authorities for these interim final supplementary rules are 43 CFR 8360.0-7, 8364.1 and 8365.1-6.

### III. Procedural Matters

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

These interim final supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. These interim final supplementary rules will not have an annual effect of \$100 million or more on the economy. They will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or Tribal governments or communities. These interim final supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These interim final supplementary rules do not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients, nor do they raise novel legal or policy issues. They merely impose rules of conduct and other limitations on certain recreational activities at a limited planning area to protect natural and cultural resources and human health and safety.

#### Clarity of the Interim Final Supplementary rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these interim final supplementary rules easier to understand, including answers to questions such as the following: (1) Are the requirements in the interim final supplementary rules clearly stated? (2) Do the interim final supplementary rules contain technical language or jargon that interferes with their clarity? (3) Does the format of the interim final supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? (4) Would the interim final supplementary rules be easier to understand if they were divided into more (but shorter) sections? (5) Is the discussion of the interim final supplementary rules in the SUPPLEMENTARY INFORMATION section of this preamble helpful to your understanding of these supplementary rules? How could this material be more helpful in making the interim final supplementary rules easier to understand?

Please send any comments you have on the clarity of the interim final supplementary rules to the address specified in the ADDRESSES section.

#### National Environmental Policy Act

BLM has prepared an Environmental Assessment (EA) and a Decision Record for the Swasey Drive Implementation Plan. Within the Plan/EA and subsequent DR, analysis was provided as a basis for the interim final supplementary rules. The Swasey Drive Implementation Plan/EA provided management alternatives, public participation, law enforcement logs, soil analyses, and projected firearm ammunition distances. The Plan and EA called for the restriction of firearms target shooting to the use of shotguns within the existing Swasey Drive target shooting area, and for this use to be phased out over four years, while reserving to the Redding Field Office Manager the authority to allow exceptions to this restriction during the phase-out period by issuing special recreation permits. The Plan, supported by the EA, also requires the use of biodegradable materials for targets. The Plan called for a prohibition of night use of motor vehicles within the area beyond the main developed trailhead parking area near Swasey Drive, and a requirement that campers have a special recreation permit. These interim final supplementary rules expressly implement these Plan elements, as included in the Decision Record on the Plan and fully considered in the EA supporting the Plan. The supplementary rules are designed to mitigate potential user-related issues discussed in the environmental assessment. Also, the Plan/EA informed the public that rules for use of the area would be developed to reduce user conflicts and protect important cultural and natural resources and values.

The interim final supplementary rules are designed to mitigate the specific issues addressed in the Plan/EA. BLM has found, therefore, that the interim final supplementary rules would not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of the Environmental Protection Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). The Plan/EA and DR are available for

review in the BLM Administrative Record at the address specified in the ADDRESSES section.

#### Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601-612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These interim final supplementary rules should have little economic effect on business, organizational, or governmental entities of whatever size. They merely would impose reasonable restrictions on certain recreational activities in the Swasey Drive Planning Area to protect cultural and natural resources and the environment, and human health and safety. Therefore, BLM has determined under the RFA that these interim final supplementary rules would not have a significant economic impact on a substantial number of small entities.

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

These interim final supplementary rules are not a "major rule" as defined at 5 U.S.C. 804(2). They would not result in an annual effect on the economy of \$100 million or more, in a major increase in costs or prices, or in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. They would merely impose reasonable restrictions on certain recreational activities in the Swasey Drive Planning Area to protect natural resources and the environment, and human health and safety.

#### Unfunded Mandates Reform Act

These interim final supplementary rules do not impose an unfunded mandate on state, local, or Tribal governments, in the aggregate, or the private sector, of \$100 million or more in any one year, nor do they have a significant or unique effect on small governments. They would merely impose reasonable restrictions on certain recreational activities in the Swasey Drive Planning Area to protect natural and cultural resources and the environment, and human health and safety. Tribal groups and Shasta County were involved in the development of the Swasey Drive Implementation Plan. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act at 2 U.S.C. 1532.

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

These interim final supplementary rules are not a government action capable of interfering with constitutionally protected property rights. The interim final supplementary rules would have no effect on private lands or property. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require preparation of a takings assessment under this Executive Order.

#### Executive Order 13132, Federalism

These interim final supplementary rules would not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The interim final supplementary rules would have no effect on state or local government, and specifically exempt state and local government law enforcement and emergency personnel and activities from the effect of the interim final supplementary rules. Shasta County was involved in the development of the underlying Swasey Drive Implementation Plan, which the interim final supplementary rules help implement. Therefore, in accordance with Executive Order 13132, BLM has determined that these interim final supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism assessment.

#### Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Office of the Solicitor determined that these interim final supplementary

rules would not unduly burden the judicial system and that they meet the requirements of sections 3(a) and 3(b)(2) of the Order.

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

In accordance with Executive Order 13175 we have found that these interim final supplementary rules do not include policies that have tribal implications. Policies that have tribal implications refer to regulations that have substantial direct effects on one or more Indian tribes, or the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Over one-half of the planning area is identified as an ACEC because of the presence of fragile historic and prehistoric resources of National Register of Historic Places level. Thus, a paramount consideration in the planning effort was archaeological site protection, conservation, research, and interpretation. We recognize that many of the cultural resources of the planning area are considered significant to local Wintu people, based on numerous interactions between them and BLM staff members. Several Wintu serve as local site stewards. The presence of burials at certain locations in the planning area correlates with spiritual locations significant in Wintu religion.

Tribal groups were invited to participate in the development of the Swasey Drive Implementation Plan. We contacted the Bureau of Indian Affairs and the following Tribal entities: Redding Rancheria; Wintu Cultural and Educational Council; and the Wintu Tribe and Toyon-Wintu Center. None of these entities commented on the plan. The interim final supplementary rules are intended to help protect these cultural, historic, and prehistoric resources. Accordingly, under Executive Order 13175, we have found that these interim final supplementary rules for the planning area do not include policies that have tribal implications.

#### Paperwork Reduction Act

These interim final supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq.

Author-The principal author of these interim final supplementary rules is William Kuntz, Supervisory Outdoor Recreation Planner, Redding Field Office, Bureau of Land Management.

#### IV. Interim Final Supplementary Rules

The State Director, California State Office, Bureau of Land Management, issues the following supplementary rules for the Swasey Drive Planning Area on an interim final basis.

#### Supplementary Rules for the Swasey Drive Planning Area

##### Section 1. Definitions

- a. "Firearm" means any device from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion, including but not limited to shotguns, rifles, pistols, starting pistols, flintlock rifles and muskets, and revolvers.
- b. "Motorized vehicle" means any self-propelled device in, upon, or by which any person or property is or may be propelled, moved, or drawn, including but not limited to, cars, trucks, vans, motorcycles, motor-driven cycles, motorized scooters, motorized skateboards, and snowmobiles. "Motorized vehicle" does not include a self-propelled wheelchair, invalid tricycle, or motorized quadricycle when operated by a person who, by reason of physical disability, is otherwise unable to move about as a pedestrian.
- c. "Public entity" means any county, city, public district, public agency, public authority, or public or municipal corporation; the Federal Government or any Federal department or agency; a state, or any state department or agency.
- d. "Camping" means the act of occupying ground on which temporary shelters are erected.

## Section 2. Supplementary Rules

a. Firearms target shooting is restricted to the use of shotguns within the existing Swasey Drive target shooting area (boundary is marked by signs). This type of target shooting with shotguns will be phased out over a four-year period beginning April 21, 2006. BLM signs will accurately depict the extent of the target area. During the phase-out period, the Redding Field Office Manager or his representative may authorize an exception to the restriction on target shooting with shotguns by issuing a special recreation permit

b. It is unlawful for any person, other than an employee of a public entity acting within the scope of that employment, e.g., a law enforcement officer, or pursuant to the authority of the BLM, to use a motorized vehicle within the area posted and described below from sunset to sunrise beyond the main developed trailhead parking area near Swasey Drive.

c. Camping is allowed by BLM special recreation permit issued only by the Redding Field Office Manager or his representative.

## Section 3. Affected Lands

These supplementary rules apply to all public lands within the Swasey Drive Planning Area, as identified in the Swasey Drive Area Implementation Plan and Decision Record and described as follows:

### Mount Diablo Meridian

T. 31 N., R. 5 W,

Sec. 6, lots 29, and 30;

Sec. 7, lots 7 to 10, inclusive, lots 14 to 28, inclusive, and lots 32, 33, and 36.

T. 31 N., R. 6 W.,

Sec. 12.

Totaling approximately 1,250 acres.

## Section 4. Exceptions to the Supplementary Rules

These supplementary rules do not apply to the following activities: access by authorized emergency rescue vehicles, BLM operation and maintenance vehicles, and fire and law enforcement vehicles, appropriate access to mining claims by the claimant and to private property by the property owners, as authorized by laws or by the BLM Field Manager or the acting Field Manager; activities consistent with the Redding Resource Management Plan Record of Decision and authorized by a special use permit from the BLM Field Manager or the acting Field Manager; and resource management activities conducted by BLM. These supplementary rules are not intended to affect legal hunting consistent with California Department of Fish and Game regulations.

## Section 5. Penalties

Under Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and 43 CFR 8360.0-7, if you violate these supplementary rules on public lands within the boundaries established, you may be tried before a United States Magistrate and fined no more than \$1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Mike Pool, State Director, California BLM State Office.  
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