

DISCLAIMER: This document is intended as an aid to understanding the BLM Proposed Grazing Rule published in the FEDERAL REGISTER on December 8, 2003 (RIN: 1004-AD42, 68 FR 68452) . This document is not an official publication of the Bureau of Land Management. We believe it to be accurate, however, if there are differences between the changes shown on this document and the regulatory text published in the FEDERAL REGISTER (see 68 FR 68468) the FEDERAL REGISTER is correct.

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Authority: 43 U.S.C. 315, 315a-315r, 1181d, 1740.

Source: 43 FR 29067, July 5, 1978, unless otherwise noted.

Subpart 4100 -- Grazing Administration -- Exclusive of Alaska; General

§4100.0-1 Purpose.

The purpose is to provide uniform guidance for administration of grazing on the public lands exclusive of Alaska.

§4100.0-2 Objectives.

(a) The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish efficient and effective administration of grazing of public rangelands; and to provide for the sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands.

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(b) These objectives will ~~shall~~ be realized in a manner ~~that is~~ consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in ~~43 CFR part 1720, subpart 1725;~~ the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701~~40~~) and the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901(b)2).

§4100.0-3 Authority.

(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a through 315r);

(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);

(c) Executive orders that transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.

(d) Section 4 of the O&C Act of August 28, 1937 (43 U.S.C. 118~~1~~d);

(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and

(f) Public land orders, Executive orders, and agreements that authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§4100.0-5 Definitions.

Whenever used in this part, unless the context otherwise requires, the following definitions apply:

The Act means the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r).

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Active use ~~means the current authorized use, including livestock grazing and conservation use. Active use may constitute a portion, or all, of permitted use. Active use does not include temporary nonuse or suspended use of forage within all or a portion of an allotment.~~ means that portion of the grazing preference that is:

- (1) Available for livestock grazing use under a permit or lease based on rangeland carrying capacity and resource conditions in an allotment; and
- (2) Not in suspension.

Activity plan means a plan for managing a resource use or value to achieve specific objectives. For example, an allotment management plan is an activity plan for managing livestock grazing use to improve or maintain rangeland conditions.

Actual use means where, how many, what kind or class of livestock, and how long livestock graze on an allotment, or on a portion or pasture of an allotment.

Actual use report means a report of the actual livestock grazing use submitted by the permittee or lessee.

Affiliate means an entity or person that controls, is controlled by, or is under common control with, an applicant, permittee or lessee. The term "control" means having any relationship which gives an entity or person authority directly or indirectly to determine the manner in which an applicant, permittee or lessee conducts grazing operations.

Allotment means an area of land designated and managed for grazing of livestock.

Allotment management plan (AMP) means a documented program developed as an activity plan, consistent with the definition at 43 U.S.C. 1702(k), that focuses on, and contains the necessary instructions for, the management of livestock grazing on specified public lands to meet resource condition, sustained yield, multiple use, economic and other objectives.

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Animal unit month (AUM) means the amount of forage necessary for the sustenance of one cow or its equivalent for a period of 1 month.

Annual rangelands means those designated areas in which livestock forage production is primarily attributable to annual plants and varies greatly from year to year.

Authorized officer means any person authorized by the Secretary to administer regulations in this part.

Base property means: (1) Land that has the capability to produce crops or forage that can be used to support authorized livestock for a specified period of the year, or (2) water that is suitable for consumption by livestock and is available and accessible, to the authorized livestock when the public lands are used for livestock grazing.

Cancelled or cancellation means a permanent termination of a grazing permit or grazing lease and grazing preference, or free-use grazing permit or other grazing authorization, in whole or in part.

Class of livestock means ages and/or sex groups of a kind of livestock.

~~Conservation use means an activity, excluding livestock grazing, on all or a portion of an allotment for purposes of -- (1) Protecting the land and its resources from destruction or unnecessary injury; (2) Improving rangeland conditions; or (3) Enhancing resource values, uses, or functions.~~

Consultation, cooperation, and coordination means interaction for the purpose of obtaining advice, or exchanging opinions on issues, plans, or management actions.

Control means being responsible for and providing care and management of base property and/or livestock.

District means the specific area of public lands administered by a District Manager.

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Ephemeral rangelands means areas of the Hot Desert Biome (Region) that do not consistently produce enough forage to sustain a livestock operation but may briefly produce unusual volumes of forage to accommodate livestock grazing.

Grazing district means the specific area within which the public lands are administered under section 3 of the Act. Public lands outside grazing district boundaries are administered under section 15 of the Act.

Grazing fee year means the year, used for billing purposes, which begins on March 1, of a given year and ends on the last day of February of the following year.

Grazing lease means a document that authorizes grazing use of the public lands under section 15 of the Act. ~~outside an established grazing district. A grazing lease specifies grazing preference and the terms and conditions under which lessees make grazing use during the term of the lease. all authorized use including livestock grazing, suspended use, and conservation use. Leases specify the total number of AUMs apportioned, the area authorized for grazing use, or both.~~

Grazing permit means a document that authorizes grazing use of the public lands under Section 3 of the Act. ~~within an established grazing district. A grazing permit specifies grazing preference and the terms and conditions under which permittees make grazing use during the term of the permit. all authorized use including livestock grazing, suspended use, and conservation use. Permits specify the total number of AUMs apportioned, the area authorized for grazing use, or both.~~

Grazing preference or preference means the total number of animal unit months on public lands apportioned and attached to base property owned or controlled by a permittee, lessee or an applicant for a permit or lease. Grazing preference includes active use and use held in suspension. Grazing preference holders have a superior or priority position against others for the purpose of receiving a grazing permit or lease. ~~This priority is attached to base property owned or controlled by the permittee or lessee.~~

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Interested public means an individual, group or organization that has:

(1)(i) Submitted a written request to BLM the authorized officer to be provided an opportunity to be involved in the decisionmaking process leading to a BLM decision for the management of livestock grazing public lands, and

(ii) Followed up on that request by commenting on or otherwise participating in the decisionmaking process as to the management of a specific allotment if there has been an opportunity for such participation; or,
~~on specific grazing allotments or has submitted written comments to the authorized officer regarding the management of livestock grazing on a specific allotment.~~

(2) Submitted written comments to the authorized officer regarding the management of livestock grazing on a specific allotment, as part of the process leading to a BLM decision on the management of livestock grazing on the allotment.

Land use plan means a resource management plan, developed under the provisions of 43 CFR part 1600, or a management framework plan. These plans are developed through public participation in accordance with the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C 1701 et seq.) and establish management direction for resource uses of public lands.

Livestock or kind of livestock means species of domestic livestock -- cattle, sheep, horses, burros, and goats.

Livestock carrying capacity means the maximum stocking rate possible without inducing damage to vegetation or related resources. It may vary from year to year on the same area due to fluctuating forage production.

Monitoring means the periodic observation and orderly collection of data to evaluate: (1) Effects of management actions; and (2) Effectiveness of actions in meeting management objectives.

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Preference means grazing preference (see definition of "grazing preference").

~~Permitted use means the forage allocated by, or under the guidance of, an applicable land use plan for livestock grazing in an allotment under a permit or lease and is expressed in AUMs.~~

Public lands means any land and interest in land outside of Alaska owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management, except lands held for the benefit of Indians.

Range improvement means an authorized physical modification or treatment which is designed to improve production of forage; change vegetation composition; control patterns of use; provide water; stabilize soil and water conditions; restore, protect and improve the condition of rangeland ecosystems to benefit livestock, wild horses and burros, and fish and wildlife. The term includes, but is not limited to, structures, treatment projects, and use of mechanical devices or modifications achieved through mechanical means.

Rangeland studies means any study methods accepted by the authorized officer for collecting data on actual use, utilization, climatic conditions, other special events, and trend to determine if management objectives are being met.

Secretary means the Secretary of the Interior or his authorized officer.

Service area means the area that can be properly grazed by livestock watering at a certain water.

State Director means the State Director, Bureau of Land Management, or his or her authorized representative.

Supplemental feed means a feed which supplements the forage available from the public lands and is provided to improve livestock nutrition or rangeland management.

Suspension means the ~~temporary~~ withholding from active use, through a decision issued by the authorized officer or by

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agreement, of part or all of the ~~permitted use grazing~~
preference specified in a grazing permit or lease.

Temporary nonuse means ~~that portion of active use that the~~
~~authorized officer authorizes not to be not used~~
~~the authorized withholding, on an annual basis, of all or a~~
~~portion of permitted livestock use~~ in response to an
application made by request of the permittee or lessee.

Trend means the direction of change over time, either toward or away from desired management objectives.

Unauthorized leasing and subleasing means --

(1) The lease or sublease of a Federal grazing permit or lease, associated with the lease or sublease of base property, to another party without a required transfer approved by the authorized officer;

(2) The lease or sublease of a Federal grazing permit or lease to another party without the assignment of the associated base property;

(3) Allowing another party, other than sons and daughters of the grazing permittee or lessee meeting the requirements of §4130.7(f), to graze on public lands livestock that are not owned or controlled by the permittee or lessee; or

(4) Allowing another party, other than sons and daughters of the grazing permittee or lessee meeting the requirements of §4130.7(f), to graze livestock on public lands under a pasturing agreement without the approval of the authorized officer.

Utilization means the portion of forage that has been consumed by livestock, wild horses and burros, wildlife and insects during a specified period. The term is also used to refer to the pattern of such use.

§4100.0-7 Cross reference.

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The regulations at part 1600 of this chapter govern the development of land use plans; the regulations at part 1780, subpart 1784 of this chapter govern advisory committees; and the regulations at subparts B and E of part 4 of this title govern appeals and hearings.

§4100.0-8 Land use plans.

The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).

§4100.0-9 Information collection.

~~(a) The information collection requirements contained in Group 4100 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance numbers 1004-0005, 1004-0019, 1004-0020, 1004-0041, 1004-0047, 1004-0051, and 1004-0068. The information would be collected to permit enable the authorized officer to determine whether to approve an application to utilize public lands for grazing or other purposes. should be approved. Response is required to obtain a benefit.~~

~~(b) Public reporting burden for the information collections are as follows: Clearance number 1004-0005 is estimated to average 0.33 hours per response, clearance number 1004-0019 is estimated to average 0.33 hours per response, clearance number 1004-0020 is estimated to average 0.33 hours per response, clearance number 1004-0041 is estimated to average 0.25 hours per response, clearance number 1004-0047 is estimated to average 0.25 hours per response, clearance number 1004-0051 is estimated to average 0.3 hours per~~

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~~response, and clearance number 1004-0068 is estimated to average 0.17 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing the burden to the Information Collection Clearance Officer (873), Bureau of Land Management, Washington, DC 20240, and the Office of Management and Budget, Paperwork Reduction Project, 1004-0005, -0019, -0020, -0041, -0047, -0051, or -0068, Washington, DC 20503.~~

Subpart 4110 -- Qualifications and Preference

§4110.1 Mandatory qualifications.

(a) Except as provided under §§4110.1-1, 4130.5, and 4130.6-3, to qualify for grazing use on the public lands an applicant must own or control land or water base property, and must be:

(1) A citizen of the United States or have properly filed a valid declaration of intention to become a citizen or a valid petition for naturalization; or

(2) A group or association authorized to conduct business in the State in which the grazing use is sought, all members of which are qualified under paragraph (a) of this section; or

(3) A corporation authorized to conduct business in the State in which the grazing use is sought.

(b) Applicants for the renewal or issuance of new permits and leases and any affiliates must be determined by the authorized officer to have a satisfactory record of performance under §4130.1-1(b).

~~(1) Renewal of permit or lease. (i) The applicant for renewal of a grazing permit or lease, and any affiliate, shall be deemed to have a satisfactory record of~~

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~~performance if the authorized officer determines the applicant and affiliates to be in substantial compliance with the terms and conditions of the existing Federal grazing permit or lease for which renewal is sought, and with the rules and regulations applicable to the permit or lease.~~

~~(ii) The authorized officer may take into consideration circumstances beyond the control of the applicant or affiliate in determining whether the applicant and affiliates are in substantial compliance with permit or lease terms and conditions and applicable rules and regulations.~~

~~(2) New permit or lease. Applicants for new permits or leases, and any affiliates, shall be deemed not to have a record of satisfactory performance when —~~

~~(i) The applicant or affiliate has had any Federal grazing permit or lease cancelled for violation of the permit or lease within the 36 calendar months immediately preceding the date of application; or~~

~~(ii) The applicant or affiliate has had any State grazing permit or lease, for lands within the grazing allotment for which a Federal permit or lease is sought, cancelled for violation of the permit or lease within the 36 calendar months immediately preceding the date of application; or~~

~~(iii) The applicant or affiliate is barred from holding a Federal grazing permit or lease by order of a court of competent jurisdiction.~~

~~(d)c) Applicants shall submit an application and any other relevant information requested by the authorized officer in order to determine that all qualifications have been met.~~

§4110.1-1 Acquired lands.

Where lands have been acquired by the Bureau of Land Management through purchase, exchange, Act of Congress or Executive Order, and an agreement or the terms of the act or Executive Order provide that the Bureau of Land

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Management shall honor existing grazing permits or leases, such permits or leases are governed by the terms and conditions in effect at the time of acquisition by the Bureau of Land Management, and are not subject to the requirements of §4110.1.

§4110.2 Grazing preference.

§4110.2-1 Base property.

(a) The authorized officer shall find land or water owned or controlled by an applicant to be base property (see §4100.0-5) if:

(1) It is capable of serving as a base of operation for livestock use of public lands within a grazing district; or

(2) It is contiguous land, or, when no applicant owns or controls contiguous land, noncontiguous land that is capable of being used in conjunction with a livestock operation which would utilize public lands outside a grazing district.

(b) After appropriate consultation, cooperation, and coordination, the authorized officer shall specify the length of time for which land base property shall be capable of supporting authorized livestock during the year, relative to the multiple use management objective of the public lands.

(c) An applicant shall provide a legal description, or plat, of the base property and shall certify to the authorized officer that this base property meets the requirements under paragraphs (a) and (b) of this section.

(d) A permittee's or lessee's interest in water previously recognized as base property on public land shall be deemed sufficient in meeting the requirement that the applicant control base property. Where such waters become unusable and are replaced by newly constructed or reconstructed water developments that are the subject of a range

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improvement permit or cooperative range improvement agreement, the permittee's or lessee's interest in the replacement water shall be deemed sufficient in meeting the requirement that the applicant control base property.

(~~e~~) If a permittee or lessee loses ownership or control of all or part of his/her base property, the permit or lease, to the extent it was based upon such lost property, shall terminate immediately without further notice from the authorized officer. However, if, prior to losing ownership or control of the base property, the permittee or lessee requests, in writing, that the permit or lease be extended to the end of the grazing season or grazing year, the termination date may be extended as determined by the authorized officer after consultation with the new owner. When a permit or lease terminates because of a loss of ownership or control of a base property, the grazing preference shall remain with the base property and be available through application and transfer procedures at 43 CFR 4110.2-3, to the new owner or person in control of that base property.

(f) Applicants who own or control base property contiguous to or cornering upon public land outside a grazing district where such public land consists of an isolated or disconnected tract embracing 760 acres or less shall, for a period of 90 days after the tract has been offered for lease, have a preference right to lease the whole tract.

§4110.2-2 Specifying ~~permitted use~~ grazing preference.

(a) ~~Permitted use is granted to holders of grazing preference and shall be specified in all grazing permits and leases. All grazing permits and leases will specify~~ Grazing preference, shall will be specified in all grazing permits or and grazing leases except for permits and leases for designated ephemeral rangelands, where BLM authorizes livestock use is authorized based upon forage availability, or designated annual rangelands. Permitted use Preference shall includes active use and encompass all authorized use including livestock use, any suspended use, and conservation use, except for permits and leases for designated ephemeral rangelands where livestock use is

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~~authorized based upon forage availability, or designated annual rangelands, Permitted livestock~~Active use ~~shall be~~ is based upon the amount of forage available for livestock grazing as established in the land use plan, activity plan, or decision of the authorized officer under §4110.3-3, except, in the case of designated ephemeral or annual rangelands, a land use plan or activity plan may alternatively prescribe vegetation standards to be met in the use of such rangelands.

(b) The ~~permitted use grazing preference~~ specified ~~shall~~ is attached to the base property supporting the grazing permit or grazing lease.

(c) The animal unit months of ~~permitted use grazing preference~~ are attached to:

(1) The acreage of land base property on a pro rata basis, or

(2) Water base property on the basis of livestock forage production within the service area of the water.

§4110.2-3 Transfer of grazing preference.

(a) Transfers of grazing preference in whole or in part are subject to the following requirements:

(1) The transferee shall meet all qualifications and requirements of §§4110.1, 4110.2-1, and 4110.2-2.

(2) The transfer applications under paragraphs (b) and (c) of this section shall evidence assignment of interest and obligation in range improvements authorized on public lands under §4120.3 and maintained in conjunction with the transferred preference (see §4120.3-5). The terms and conditions of the cooperative range improvement agreements and range improvement permits are binding on the transferee.

(3) The transferee shall accept the terms and conditions of the terminating grazing permit or lease (see §4130.2) with such modifications as he may request which

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are approved by the authorized officer or with such modifications as may be required by the authorized officer.

(4) The transferee shall file an application for a grazing permit or lease to the extent of the transferred preference simultaneously with filing a transfer application under paragraph (b) or (c) of this section.

(b) If base property is sold or leased, the transferee shall within 90 days of the date of sale or lease file with ~~the authorized officer~~ BLM a properly executed transfer application showing the base property and the grazing preference amount of permitted use being transferred in animal unit months.

(c) If a grazing preference is being transferred from one base property to another base property, the transferor shall own or control the base property from which the grazing preference is being transferred and file with the authorized officer a properly completed transfer application for approval. If the applicant leases the base property, no transfer will be allowed without the written consent of the owner(s), and any person or entity holding an encumbrance of the base property from which the transfer is to be made. Such consent will not be required where the applicant for such transfer is a lessee without whose livestock operations the grazing preference would not have been established.

(d) At the date of approval of a transfer, the existing grazing permit or lease shall terminate automatically and without notice to the extent of the transfer.

(e) If an unqualified transferee acquires rights in base property through operation of law or testamentary disposition, such transfer will not affect the grazing preference or any outstanding grazing permit or lease, or preclude the issuance or renewal of a grazing permit or lease based on such property for a period of 2 years after the transfer. However, such a transferee shall qualify under paragraph (a) of this section within the 2-year period or the grazing preference shall be subject to cancellation. The authorized officer may grant extensions

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of the 2-year period where there are delays solely attributable to probate proceedings.

(f) Transfers shall be for a period of not less than 3 years unless a shorter term is determined by the authorized officer to be consistent with management and resource condition objectives.

(g) Failure of either the transferee or the transferor to comply with the regulations of this section may result in rejection of the transfer application or cancellation of grazing preference.

§4110.2-4 Allotments.

After consultation, cooperation, and coordination with the affected grazing permittees or lessees, ~~and the~~ State having lands or responsibility for managing resources within the area, ~~and the interested public,~~ the authorized officer may designate and adjust grazing allotment boundaries. The authorized officer may combine or divide allotments, through an agreement or by decision, when necessary for the proper and efficient management of public rangelands.

§4110.3 Changes in ~~permitted use~~ grazing preference status.

(a) The authorized officer ~~shall~~ will periodically review the ~~permitted use~~ grazing preference specified in a grazing permit or lease and ~~shall~~ make changes in the grazing preference status ~~permitted use~~ as needed to:

(1) ~~m~~Manage, maintain or improve rangeland productivity;

~~to~~

(2) ~~a~~Assist in restoring ecosystems to properly functioning conditions;

~~to~~ (3) ~~e~~Conform with land use plans or activity plans; ~~or~~

~~to~~

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~~(4) e~~Comply with the provisions of subpart 4180. ~~of this part.~~

~~(b) The authorized officer will support T~~these changes by monitoring, ~~documented~~ field observations, ecological site inventory, or other data acceptable to the authorized officer.

~~(c) Before changing grazing preference status, the authorized officer will document compliance with NEPA. Before changing grazing preference, the authorized officer will undertake the appropriate analysis review the grazing preference~~as required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 ~~et seq.~~). ~~The authorized officer will analyze and, if appropriate, documentation will the include consideration of any impacts of the proposed change on relevant social, economic, and cultural effects of the proposed action.factors.~~

§4110.3-1 Increasing ~~permitted~~ active use.

~~BLM~~~~Additional forage~~ may ~~be~~ apportion additional forage to qualified applicants for livestock grazing use consistent with multiple-use management objectives specified in the applicable land use plan.

(a) Additional forage temporarily available. When the authorized officer determines that additional livestock forage is temporarily available, he may authorize its use on a for livestock grazing use may be apportioned on a nonrenewable basis in the following ordermanner:

(1) To permittees or lessees who have preference for grazing use in the allotment where the forage is available, in proportion to the amount of their active use; and

(2) To other qualified applicants under § 4130.1-2.

~~(b) Additional forage available on a sustained yield basis. When the authorized officer determines that additional for livestock forage is available on a sustained yield basis, he will apportion it in the following manner: grazing use shall first be apportioned in satisfaction of suspended~~

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~~permitted use to the permittee(s) or lessee(s) authorized to graze in the allotment in which the forage is available~~

(1) First, to remove all or a part of the suspension of preference of permittees or lessees with permits or leases in the allotment where the forage is available; and

(e2) Second, if additional forage remains after ending all suspensions, the authorized officer will After consultation, cooperat~~e~~ion, and coordinat~~e~~ion with the affected permittees or lessees~~7~~, ~~and~~ the Sstate having lands or responsibility for managing resources within the area, 7, ~~and~~ the interested public, ~~additional forage on a sustained yield basis available for livestock grazing use in an allotment may be apportioned to permittees or lessees or other applicants, provided the permittee, lessee, or other applicant is found to be qualified under subpart 4110 of this part. Additional forage shall be~~ and apportioned it in the following priority order:

(1i) Permittees or lessees in proportion to their contribution ~~or to~~ stewardship efforts which result in increased forage production;

(2ii) Permittee(s) or lessee(s) in proportion to the amount of their ~~permitted use~~ grazing preference; and

(3iii) Other qualified applicants under §4130.1-2 ~~of this title.~~

§4110.3-2 Decreasing ~~permitted~~active use.

(a) ~~Permitted~~The authorized officer may suspend Active use ~~may be suspended~~ in whole or in part on a temporary basis due (1) To drought, fire, or other natural causes~~reasons~~ specified in § 4110.3-3(b)(1), or to facilitate installation, maintenance, or modification of range improvements.

(b) When monitoring or documented field observations show grazing use or patterns of use are not consistent with the provisions of subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization, or when use exceeds the livestock carrying capacity as

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determined through monitoring, ecological site inventory or other acceptable methods, the authorized officer ~~shall will~~ reduce ~~permitted grazing active~~ use, ~~or~~ otherwise modify management practices, or both. To implement reductions under this paragraph, BLM will suspend active use.

§4110.3-3 Implementing ~~reductions changes~~ in ~~permitted active~~ use.

(a) (1) After consultation, cooperation, and coordination with the affected permittee or lessee, ~~and~~ the State having lands or managing resources within the area, ~~and the interested public, reductions of permitted~~ the authorized officer will implement changes in active use ~~shall will be implemented~~ through a documented agreement or by decision ~~of the authorized officer. The authorized officer will implement c~~changes in active use in excess of 10 percent shall be implemented over a 5-year period unless:

(i) After consultation with the affected permittees or lessees, an agreement is reached to implement the increase or decrease in less than 5 years; ~~or~~

Unless ~~T~~he changes must be made before 5 years have passed in order to comply with applicable law.

(2) Decisions implementing §4110.3-2 ~~will shall~~ be issued as proposed decisions pursuant to §4160.1, except as provided in paragraph (b) of this section.

~~(b) (b)-(1) When the authorized officer determines that the soil, vegetation, or other resources on the public lands require immediate protection because of conditions such as drought, fire, flood, insect infestation, or when continued grazing use poses an imminent likelihood of significant resource damage,~~ After consultation with, or a reasonable attempt to consult with, affected permittees or lessees, ~~the interested public,~~ and the State having lands or responsibility ~~le~~ for managing resources within the area, the authorized officer shall close allotments or portions of allotments to grazing by any kind of livestock or modify authorized grazing use notwithstanding the provisions of

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paragraph (a) of this section when the authorized officer determines and documents that-

(i) The soil, vegetation, or other resources on the public lands require immediate protection because of conditions such as drought, fire, flood, insect infestation; or

(ii) Continued grazing use poses an imminent likelihood of significant resource damage.

(2) —Notices of closure and decisions requiring modification of authorized grazing use may be issued as final decisions effective upon issuance or on the date specified in the decision. Such decisions shall remain in effect pending the decision on appeal unless the Office of Hearings and Appeals grants a stay ~~is granted by the Office of Hearings and Appeals~~ in accordance with § 43 CFR 4.21 of this title.

§4110.4 Changes in public land acreage.

§4110.4-1 Additional land acreage.

When lands outside designated allotments become available for livestock grazing under the administration of the Bureau of Land Management, the forage available for livestock shall be made available to qualified applicants at the discretion of the authorized officer. Grazing use shall be apportioned under §4130.1-2 of this title.

§4110.4-2 Decrease in land acreage.

(a) Where there is a decrease in public land acreage available for livestock grazing within an allotment:

(1) Grazing permits or leases may be cancelled or modified as appropriate to reflect the changed area of use.

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(2) ~~Permitted use~~ Grazing preference may be cancelled in whole or in part. Cancellations determined by the authorized officer to be necessary to protect the public lands will be apportioned by the authorized officer based upon the level of available forage and the magnitude of the change in public land acreage available, or as agreed to among the authorized users and the authorized officer.

(b) When public lands are disposed of or devoted to a public purpose which precludes livestock grazing, the permittees and lessees shall be given 2 years' prior notification except in cases of emergency (national defense requirements in time of war, natural disasters, national emergency needs, etc.) before their grazing permit or grazing lease and grazing preference may be canceled. A permittee or lessee may unconditionally waive the 2-year prior notification. Such a waiver shall not prejudice the permittee's or lessee's right to reasonable compensation for, but not to exceed the fair market value of his or her interest in authorized permanent range improvements located on these public lands (see §4120.3-6).

§4110.5 Interest of Member of Congress.

Title 18 U.S.C. 431 through 433 (1970) generally prohibits a Member of or Delegate to Congress from entering into any contract or agreement with the United States. Title 41 U.S.C. 22 (1970) generally provides that in every contract or agreement to be made or entered into, or accepted by or on behalf of the United States, there shall be inserted an express condition that no Member of or Delegate to Congress shall be admitted to any share or part of such contract or agreement, or to any benefit to arise thereupon. The provisions of these laws are incorporated herein by reference and apply to all permits, leases, and agreements issued under these regulations.

Subpart 4120 -- Grazing Management

§4120.1 [Reserved]

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§4120.2 Allotment management plans and resource activity plans.

Allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans may be developed by permittees or lessees, other Federal or State resource management agencies, interested citizens, and the Bureau of Land Management. When such plans affecting the administration of grazing allotments are developed, the following provisions apply:

(a) An allotment management plan or other activity plans intended to serve as the functional equivalent of allotment management plans shall be prepared in careful and considered consultation, cooperation, and coordination with affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by such a plan, and the interested public. The plan shall become effective upon approval by the authorized officer. The plans shall --

(1) Include terms and conditions under §§4130.3, 4130.3-1, 4130.3-2 4130.3-3, and subpart 4180 of this part;

(2) Prescribe the livestock grazing practices necessary to meet specific resource objectives;

(3) Specify the limits of flexibility, to be determined and granted on the basis of the operator's demonstrated stewardship, within which the permittee(s) or lessee(s) may adjust operations without prior approval of the authorized officer; and

(4) Provide for monitoring to evaluate the effectiveness of management actions in achieving the specific resource objectives of the plan.

(b) Private and State lands may be included in allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans dealing with rangeland management with the consent or at the request of the parties who own or control those lands.

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(c) The authorized officer shall provide opportunity for public participation in the planning and environmental analysis of proposed plans affecting the administration of grazing and shall give public notice concerning the availability of environmental documents prepared as a part of the development of such plans, prior to implementing the plans. The decision document following the environmental analysis shall be issued in accordance with ~~considered the proposed decision for the purposes of subpart § 4160.1. of this part.~~

(d) A requirement to conform with completed allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans shall be incorporated into the terms and conditions of the grazing permit or lease for the allotment.

(e) Allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans may be revised or terminated by the authorized officer after consultation, cooperation, and coordination with the affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by the plan, and the interested public.

§4120.3 Range improvements.

§4120.3-1 Conditions for range improvements.

(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management.

(b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative range improvement agreement with the Bureau of Land Management or must have an approved range improvement permit.

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(c) The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under §4130.3-2 of this title.

(d) The authorized officer may require a permittee or lessee to install range improvements on the public lands in an allotment with two or more permittees or lessees and/or to meet the terms and conditions of agreement.

(e) A range improvement permit or cooperative range improvement agreement does not convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States.

(f) The authorized officer will review proposed range improvement projects as required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). ~~Proposed range improvement projects shall be reviewed in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 et seq.).~~ The decision document following the environmental analysis shall be issued in accordance with ~~considered the proposed decision under subpart § 4160.1. of this part.~~

§4120.3-2 Cooperative range improvement agreements.

(a) The Bureau of Land Management may enter into a cooperative range improvement agreement with a person, organization, or other government entity for the installation, use, maintenance, and/or modification of permanent range improvements or rangeland developments to achieve management or resource condition objectives. The cooperative range improvement agreement shall specify how the costs or labor, or both, shall be divided between the United States and cooperator(s).

(b) Subject to valid existing rights, cooperators and the United States share title to permanent structural range improvements such as fences, wells, and pipelines where authorization is granted after [Insert date 60 days after publication in the FEDERAL REGISTER] ~~August 21, 1995 shall be in the name of the United States in proportion to their~~

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contribution to on-the-ground project development and construction costs. The authorization for all new permanent water developments such as spring developments, wells, reservoirs, stock tanks, and pipelines shall be through cooperative range improvement agreements. The authorized officer ~~BLM will document~~ Aa permittee's or lessee's interest in contributed funds, labor, and materials to ensure proper credit for the purposes of §§4120.3-5 and 4120.3-6(c).

(c) The United States shall have title to nonstructural range improvements such as seeding, spraying, and chaining.

(d) Range improvement work performed by a cooperator or permittee on the public lands or lands administered by the Bureau of Land Management does not confer the exclusive right to use the improvement or the land affected by the range improvement work.

§4120.3-3 Range improvement permits.

(a) Any permittee or lessee may apply for a range improvement permit to install, use, maintain, and/or modify removable range improvements that are needed to achieve management objectives for the allotment in which the permit or lease is held. The permittee or lessee shall agree to provide full funding for construction, installation, modification, or maintenance. Such range improvement permits are issued at the discretion of the authorized officer.

(b) The permittee or lessee may hold the title to authorized removable range improvements used as livestock handling facilities such as corrals, creep feeders, and loading chutes, and to temporary structural improvements such as troughs for hauled water.

(c) Where a permittee or lessee cannot make use of the forage available for livestock and an application for temporary nonuse ~~or conservation use~~ has been denied or the opportunity to make use of the available forage is requested by the authorized officer, the permittee or lessee shall cooperate with the temporary authorized use of

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forage by another operator, when it is authorized by the authorized officer following consultation with the preference permittee(s) or lessee(s).

(1) A permittee or lessee shall be reasonably compensated for the use and maintenance of improvements and facilities by the operator who has authorization for temporary grazing use.

(2) The authorized officer may mediate disputes about reasonable compensation and, following consultation with the interested parties, make a determination regarding the fair and reasonable share of operation and maintenance expenses and compensation for use of authorized range improvements and facilities.

(3) Where a settlement cannot be reached, the authorized officer shall issue a temporary grazing authorization including appropriate terms and conditions and the requirement to compensate the preference permittee or lessee for the fair share of operation and maintenance as determined by the authorized officer under subpart 4160 of this part.

§4120.3-4 Standards, design and stipulations.

Range improvement permits and cooperative range improvement agreements shall specify the standards, design, construction and maintenance criteria for the range improvements and other additional conditions and stipulations or modifications deemed necessary by the authorized officer.

§4120.3-5 Assignment of range improvements.

The authorized officer shall not approve the transfer of a grazing preference under §4110.2-3 of this title or approve use by the transferee of existing range improvements, unless the transferee has agreed to compensate the transferor for his/her interest in the authorized improvements within the allotment as of the date of the transfer.

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§4120.3-6 Removal and compensation for loss of range improvements.

(a) Range improvements shall not be removed from the public lands without authorization.

(b) The authorized officer may require permittees or lessees to remove range improvements which they own on the public lands if these improvements are no longer helping to achieve land use plan or allotment goals and objectives or if they fail to meet the criteria under §4120.3-4 of this title.

(c) Whenever a grazing permit or lease is cancelled in order to devote the public lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States reasonable compensation for the adjusted value of their interest in authorized permanent improvements placed or constructed by the permittee or lessee on the public lands covered by the cancelled permit or lease. The adjusted value is to be determined by the authorized officer. Compensation shall not exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein. Where a range improvement is authorized by a range improvement permit, the livestock operator may elect to salvage materials and perform rehabilitation measures rather than be compensated for the adjusted value.

(d) Permittees or lessees shall be allowed 180 days from the date of cancellation of a range improvement permit or cooperative range improvement agreement to salvage material owned by them and perform rehabilitation measures necessitated by the removal.

§4120.3-7 Contributions.

The authorized officer may accept contributions of labor, material, equipment, or money for administration, protection, and improvement of the public lands necessary to achieve the objectives of this part.

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§4120.3-8 Range improvement fund.

(a) In addition to range developments accomplished through other resource management funds, authorized range improvements may be secured through the use of the appropriated range improvement fund. One-half of the available funds shall be expended in the State and district from which they were derived. The remaining one-half of the fund shall be allocated, on a priority basis, by the Secretary for on-the-ground rehabilitation, protection and improvement of public rangeland ecosystems.

(b) Funds appropriated for range improvements are to be used for investment in all forms of improvements that benefit rangeland resources including riparian area rehabilitation, improvement and protection, fish and wildlife habitat improvement or protection, soil and water resource improvement, wild horse and burro habitat management facilities, vegetation improvement and management, and livestock grazing management. The funds may be used for activities associated with on-the-ground improvements including the planning, design, layout, contracting, modification, maintenance for which the Bureau of Land Management is responsible, and monitoring and evaluating the effectiveness of specific range improvement projects.

(c) During the planning of the range development or range improvement programs, the authorized officer shall consult the resource advisory council, affected permittees, lessees, and members of the interested public.

§4120.3-9 Water rights for the purpose of livestock grazing on public lands.

Any right ~~acquired by the United States acquires on or after August 21, 1995~~ to use water on public land ~~will~~ shall be acquired, perfected, maintained, and administered under the substantive and procedural laws of the ~~S~~state within which such land is located. ~~To the extent allowed by the law of~~

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~~the State within which the land is located, any such water right shall be acquired, perfected, maintained, and administered in the name of the United States.~~

§4120.4 Special rules.

(a) When a State Director determines that local conditions require a special rule to achieve improved administration consistent with the objectives of this part, the Director may approve such rules. The rules shall be subject to public review and comment, as appropriate, and upon approval, shall become effective when published in the FEDERAL REGISTER as final rules. Special rules shall be published in a local newspaper.

(b) Where the Bureau of Land Management administers the grazing use of other Federal Agency lands, the terms of an appropriate Memorandum of Understanding or Cooperative Agreement shall apply.

§4120.5 Cooperation.

§4120.5-1 Cooperation in management.

The authorized officer shall, to the extent appropriate, cooperate with Federal, State, Indian tribal and local governmental entities, institutions, organizations, corporations, associations, and individuals to achieve the objectives of this part.

§4120.5-2 Cooperation with State, county, and Federal agencies.

Insofar as the programs and responsibilities of other agencies and units of government involve grazing upon the public lands and other lands administered by the Bureau of Land Management, or the livestock which graze thereon, the Bureau of Land Management will cooperate, to the extent consistent with applicable laws of the United States, with the involved agencies and government entities. The

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authorized officer shall cooperate with State, county, and Federal agencies in the administration of laws and regulations relating to livestock, livestock diseases, sanitation, and noxious weeds including --

(a) State cattle and sheep sanitary or brand boards in control of stray and unbranded livestock, to the extent such cooperation does not conflict with the Wild Free-Roaming Horse and Burro Act of 1971 (16 U.S.C. 1331 et seq.); ~~and~~

(b) County or other local weed control districts in analyzing noxious weed problems and developing control programs for areas of the public lands and other lands administered by the Bureau of Land Management; ~~and-~~

(c) State, local, or county--established grazing boards in reviewing range improvements and allotment management plans on public lands.

Subpart 4130 -- Authorizing Grazing Use

§4130.1 Applications.

§4130.1-1 Filing applications.

(a) Applications for grazing permits or leases (active use and nonuse), free-use grazing permits and other grazing authorizations shall be filed with the authorized officer at the local Bureau of Land Management office having jurisdiction over the public lands involved.

(b) The authorized officer will determine whether applicants for the renewal or issuance of new permits and leases and any affiliates must be determined by the authorized officer to have a satisfactory record of performance. The authorized officer will not approve such renewal or issuance unless the applicant and all affiliates have a satisfactory record of performance.

(1)

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~~(1)~~ Renewal of permit or lease.

(i) The authorized officer will deem ~~the~~ applicant for renewal of a grazing permit or lease, and any affiliate, ~~shall be deemed~~ to have a satisfactory record of performance if the authorized officer determines the applicant and affiliates to be in substantial compliance with the terms and conditions of the existing Federal grazing permit or lease for which renewal is sought, and with the rules and regulations applicable to the permit or lease.

(ii) The authorized officer may take into consideration circumstances beyond the control of the applicant or affiliate in determining whether the applicant and affiliates are in substantial compliance with permit or lease terms and conditions and applicable rules and regulations.

(2) New permit or lease. The authorized officer will deem applicants for new permits or leases, and any affiliates, to have a record of satisfactory performance when --

(i) The applicant or affiliate has not had any Federal grazing permit or lease cancelled, in whole or in part, for violation of the permit or lease within the 36 calendar months immediately preceding the date of application; and~~e~~r

(ii) The applicant or affiliate has not had any sState grazing permit or lease, for lands within the grazing allotment for which a Federal permit or lease is sought, cancelled, in whole or in part, for violation of the permit or lease within the 36 calendar months immediately preceding the date of application; and~~e~~r

(iii) ~~The applicant or affiliate is not barred from holding a Federal grazing permit or lease by order of aA court of competent jurisdiction does not bar the applicant or affiliate from holding a Federal grazing permit or lease.~~

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(c) In determining whether affiliation exists, the authorized officer will~~shall~~ consider all appropriate factors, including, but not limited to, common ownership, common management, identity of interests among family members, and contractual relationships.

§4130.1-2 Conflicting applications.

When more than one qualified applicant applies for livestock grazing use of the same public lands and/or where additional forage for livestock or additional acreage becomes available, the authorized officer may authorize grazing use of such land or forage on the basis of §4110.3-1 of this title or on the basis of any of the following factors:

- (a) Historical use of the public lands (see §4130.2(e));
- (b) Proper use of rangeland resources;
- (c) General needs of the applicant's livestock operations;
- (d) Public ingress or egress across privately owned or controlled land to public lands;
- (e) Topography;
- (f) Other land use requirements unique to the situation.
- (g) Demonstrated stewardship by the applicant to improve or maintain and protect the rangeland ecosystem; and
- (h) The applicant's and affiliate's history of compliance with the terms and conditions of grazing permits and leases of the Bureau of Land Management and any other Federal or State agency, including any record of suspensions or cancellations of grazing use for violations of terms and conditions of agency grazing rules.

§4130.2 Grazing permits ~~or~~ and leases.

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(a) Grazing permits or leases ~~shall be issued to qualified applicants to~~ authorize use on the public lands and other ~~BLM-administered lands under the administration of the Bureau of Land Management~~ that are designated in land use plans as available for livestock grazing ~~through land use plans~~. Permits ~~or~~ and leases ~~shall~~will specify the grazing preference, including livestock grazing, active and suspended use ~~, and conservation use~~. These grazing permits and leases ~~shall~~will also specify terms and conditions pursuant to §§4130.3, 4130.3-1, and 4130.3-2.

(b) The authorized officer ~~shall~~will consult, cooperate, and coordinate with affected permittees or lessees, and the ~~State~~ having lands or responsibility ~~for managing resources within the area, and the interested public prior to the before~~ issuing ~~and~~ or renewing ~~al~~ of grazing permits and leases.

(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.

(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years unless --

(1) The land is being considered for disposal;

(2) The land will be devoted to a public purpose which precludes grazing prior to the end of 10 years;

(3) The term of the base property lease is less than 10 years, in which case the term of the Federal permit or lease shall coincide with the term of the base property lease; or

(4) The authorized officer determines that a permit or lease for less than 10 years is in the best interest of sound land management.

(e) Permittees or lessees holding expiring grazing permits or leases shall be given first priority for new permits or leases if:

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(1) The lands for which the permit or lease is issued remain available for domestic livestock grazing;

(2) The permittee or lessee is in compliance with the rules and regulations and the terms and conditions in the permit or lease; and

(3) The permittee or lessee accepts the terms and conditions to be included by the authorized officer in the new permit or lease.

~~(f) A permit or lease is not valid unless both the BLM and the permittee or and lessee and BLM has signed it. The authorized officer will not offer, grant or renew grazing permits or leases when the applicants, including permittees or lessees seeking renewal, refuse to accept the proposed terms and conditions of a permit or lease.~~

~~(g) Temporary nonuse and conservation use may be approved by the authorized officer if such use is determined to be in conformance with the applicable land use plans, allotment management plan or other activity plans and the provisions of subpart 4180 of this part.~~

~~(1) Conservation use may be approved for periods of up to 10 years when, in the determination of the authorized officer, the proposed use will promote rangeland resource protection or enhancement of resource values or uses, including more rapid progress toward resource condition objectives; or~~

~~(2) Temporary nonuse for reasons including but not limited to financial conditions or annual fluctuations of livestock, may be approved on an annual basis for no more than 3 consecutive years. Permittees or lessees applying for temporary nonuse shall state the reasons supporting nonuse.~~

~~(h) Application for nonrenewable grazing permits and leases under §§4110.3-1 and 4130.6-2 for areas for which conservation use has been authorized will not be approved.~~

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~~Forage made available as a result of temporary nonuse may be made available to qualified applicants under §4130.6-2.~~

(~~g~~) Permits or leases may incorporate the percentage of public land livestock use (see §4130.3-2(g)) or may include private land offered under exchange-of-use grazing agreements (see §4130.6-1).

(~~h~~) Provisions explaining how grazing permits or authorizations may be granted for grazing use on state, county or private land leased by the Bureau of Land Management under "The Pierce Act" and located within grazing districts are explained in 43 CFR part 4600.

§4130.3 Terms and conditions.

(a) Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.

~~(b) Upon a BLM offer of a permit or lease, the permit or lease terms and conditions may be protested and appealed under part 4 and subpart 4160 unless:~~

~~(1) The terms and conditions of the permit or lease, such as terms and conditions mandated by a biological opinion prepared under the Endangered Species Act, are not subject to review by the Office of Hearings and Appeals; or~~

~~(2) The offer of permit or lease responds to an application for a permit or lease for grazing use on additional land acreage (see § 4110.4-1).~~

~~(c) If any of the terms and conditions of a BLM-offered permit or lease are stayed pending appeal, BLM will authorize grazing use as provided in § 4160.4.~~

§4130.3-1 Mandatory terms and conditions.

(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s)

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to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity of the allotment.

(b) All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease.

(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.

§4130.3-2 Other terms and conditions.

The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

(a) The class of livestock that will graze on an allotment;

(b) The breed of livestock in allotments within which two or more permittees or lessees are authorized to graze;

(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands;

(d) A requirement that permittees or lessees operating under a grazing permit or lease submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the actual use made;

(e) The kinds of indigenous animals authorized to graze under specific terms and conditions;

(f) Provision for livestock grazing temporarily to be delayed, discontinued or modified to allow for the reproduction, establishment, or restoration of vigor of

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plants, provide for the improvement of riparian areas to achieve proper functioning condition or for the protection of other rangeland resources and values consistent with objectives of applicable land use plans, or to prevent compaction of wet soils, such as where delay of spring turnout is required because of weather conditions or lack of plant growth; and

(g) The percentage of public land use determined by the proportion of livestock forage available on public lands within the allotment compared to the total amount available from both public lands and those owned or controlled by the permittee or lessee; ~~and.~~

~~(h) A statement disclosing the requirement that permittees or lessees shall provide reasonable administrative access across private and leased lands to the Bureau of Land Management for the orderly management and protection of the public lands.~~

§4130.3-3 Modification of permits or leases.

(a) Following consultation, cooperation, and coordination with the affected lessees or permittees, and the ~~State~~ having lands or responsibility~~le~~ for managing resources within the area, ~~and the interested public,~~ the authorized officer may modify terms and conditions of the permit or lease when the active use or related management practices:

(1) Do not are not meeting management objectives specified in:

(i) ~~The~~ The land use plan;

(ii) The pertinent ~~aa~~Allotment management plan or other activity plan; or, ~~or management objectives~~

(iii) An applicable decision issued under § 4160.3; ~~or~~

(2) ~~is~~Do not ~~in~~conformance ~~with~~to the provisions of subpart 4180. ~~of this part.~~

(b) To the extent practical, during the preparation of biological assessments or biological evaluations prepared

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under the Endangered Species Act, and other reports that evaluate monitoring and other data, that the authorized officer uses as a basis for making decisions to increase or decrease grazing use, or to change the terms and conditions of a permit or lease, the authorized officer will~~shall~~ provide review opportunity and opportunity to provide input to:

(1) affected permittees or lessees;

(2) States having lands or responsibility for managing resources within the affected area; and,

(3) The interested public. ~~an opportunity to review, comment and give input during the preparation of reports that evaluate monitoring and other data that are used as a basis for making decisions to increase or decrease grazing use, or to change the terms and conditions of a permit or lease.~~

§4130.4 ~~Approval~~ Authorization of temporary changes in grazing use within the terms and conditions of permits and leases.

(a) (1) The authorized officer may authorize temporary changes in grazing use within the terms and conditions of the permit or lease to:

(i) Respond to annual fluctuations in timing and amount of forage production; or

(ii) Meet locally established range readiness criteria.

(2) The authorized officer will consult, cooperate and coordinate with the permittees or lessees regarding their applications for changes within the terms and conditions of their permit or lease.

(b) For the purposes of this subpart, "within the terms and conditions of the permit or lease" means temporary changes to livestock number, period of use, or both, that would result in grazing use that:

