

UNITED STATES DEPARTMENT OF THE INTERIOR  
Bureau of Land Management  
Colorado State Office  
2850 Youngfield Street  
Lakewood, Colorado 80215-7093

October 13, 1998

In Reply Refer To:  
1790, 4130 (CO-932) P

Instruction Memorandum No. CO-99-001  
Expires 09/30/99

To: District and Area Managers

From: Deputy State Director, Resource Services

Subject: NEPA\LUP Compliance in Grazing Permits (Combs Wash Compliance)

The following is the Bureau of Land Management (BLM), Colorado's policy for reviewing grazing permits, leases, and authorizations to determine adequate National Environmental Policy Act (NEPA) compliance and land use plan conformance. This policy has been developed in part to address the Interior Board of Land Appeals (IBLA) ruling on Combs Wash (National Wildlife Federation, et. al., v. Bureau of Land Management, 140 IBLA 85) confirming BLM's responsibilities contained in IBLA 94-264. National policy is expected on this subject soon. If required, this policy will be modified to be consistent with national policy.

A. The **RENEWAL PROCESS** will begin as early as possible each year and will:

- Consider site specificity of existing NEPA documents that may document the required analysis or serve as a basis to tier the required analysis from
- Continue communications with, and provide necessary NEPA training as requested by field offices;
- Utilize an interdisciplinary team approach;
- Be blended with other work and priorities; e.g., implementation of standards for public land health;

- Utilize existing information and knowledge and not become an automatic requirement for additional resource data, when conducting NEPA analysis;
- Involve all interested and affected parties pursuant to 43 CFR 4100 consultation requirements.

**B. INVOLVING THE PUBLIC AND SCOPING** - Each Field Office (FO) will initiate an internal and external scoping process that will be used in determining issues, problems, controversy, and interest in the allotments up for renewal in any given year. Scoping will help determine the level of attention and NEPA analysis each allotment should have based upon the intensity/significance of the identified issues. From scoping, renewal priorities can be established for the immediate year and out years based upon estimated workloads and expiration dates. The scoping process will also assist FO managers with identifying priority landscapes for health assessment, NEPA analysis, permit renewal, and other resource management activities. For each FO minimum scoping requirements include:

- An annual public scoping notice as an attachment to the Colorado web page;
- Posting the notice in the local office;
- Sending out permittee notification letters, NOTE - FOs must assure that permittee notification occurs prior to all other public scoping efforts;
- Sending a cover letter with the notice to interested publics and local groups;
- Consultation with the State Land Board and the Division of Wildlife;
- Discussions with Resource Advisory Councils (RAC's) and Board of District Grazing Advisors.

Following scoping, FOs will use all comments and information available to prioritize land areas for health assessment, and rank permits for renewal for the coming year. This information will be published as a notice for rangeland management actions prior to the beginning of the calendar year. This notice should include:

- Where land health assessments will be completed for the next calendar year;
- Identify permit renewals that are rated low which will be issued for 10 years;
- Identify permits rated low which will be issued for less than 10 years with a multi-permit Environmental Assessment (EA), identify the term and the rationale for the shorter term; e.g., level future workloads, awaiting landscape health assessment;

- Identify permit renewals that are rated high in which the renewal will be addressed through individual EAs;
- Identify permit renewals rated high that have been consolidated and renewal will be addressed through a single EA.

Annually, the time frames for completion of scoping and publishing the notice of rangeland management actions are:

- Completion of FO minimum scoping, (see B above) By 9/30
- Allow for 30 day comment period to receive interest, problems, concerns, issues, and other information, etc. By 10/30
- FO finalizes plans on areas to be assessed for health, permits to be renewed, permits to be redistributed to out years listed by year, and publishes notice of rangeland management actions By 12/30

**C. PROCESS GRAZING PERMIT RENEWALS** - We will take steps to level the renewal workload and make it more uniform year to year; e.g., to remedy the situation where Little Snake Resource Area has 80 renewals in 1999 and only eight in the year 2000. The other immediate concern is that a majority of renewals in 1999 have a February 28, 1999, expiration date, which is less than five months away. To accomplish the leveling and provide relief on the permits having February 28, 1999, expirations, internal and external scoping information will be used to redistribute some of the 1999 renewals to out years. We will do this by issuing some permits for periods of less than ten years with a single multi-permit NEPA analysis, documenting any problems, issues, or concerns from the scoping process. For example, renewing permits for less than ten years may be appropriate to consolidate renewals within a land area, to consolidate multiple allotments for a single permittee, or to allow for completion of a land health assessment. Permit/lease renewals with major or substantial problems, conflicts, and concerns will not be redistributed, but renewed with an adequate NEPA document.

**D. CONSOLIDATING PERMITS AND USING A LANDSCAPE APPROACH** - Whenever possible, permit renewals will be consolidated by category, low or high priority, for a single NEPA analysis. This is especially applicable to low priority workload allotments/permits with few issues or problems and little or no public interest, but could apply to some high priority permits as well. For the long term, our strategy involves using a landscape approach to NEPA analysis, permit renewal, land health assessment, followed with coordinated planning and implementation. Using this approach, maximum capability can be directed to a different geographical landscape each year until the FO administrative area is completed. The landscape scale health assessment would be completed and permits/leases up for renewal would be renewed under a single NEPA document. The remaining permits, not up for renewal, could be renewed for ten year terms or held until their expiration date.

Grazing permit renewals which occur outside the landscape priority area for the year that have significant problems/issues, would be renewed with an adequate NEPA analysis. Renewals with few to no issues, concerns, or problems, could be renewed for a 10 year term with an appropriate NEPA analysis, or for a period of less than 10 years (the term coinciding with the year the landscape health assessment is scheduled), where a health assessment would provide additional information before renewing the permit for a 10 year term.

Using the landscape approach requires all resource specialists working together on land health assessments, NEPA analysis, problem identification and solution, grazing permit renewal, and coordinated planning and implementation. Over the long term, all performance measures will ultimately be accomplished on all landscape areas in a much more efficient manner.

**E. TRANSFERS** - Grazing permits/leases issued as a result of grazing preference transfer will be accomplished using a categorical exclusion only when the following situations apply: a) for the remaining term of the existing permit; b) where no significant issues, problems, or concerns, have been raised or identified; and c) no changes (class/kind of livestock, season of use, amount of use, etc.) were applied for by the applicant, or required by the Bureau as a result of law, regulations, policy, or other authorized direction. In situations where changes (class/kind of livestock, season of use, etc.) are applied for by the applicant or are necessary from a BLM standpoint, an appropriate NEPA analysis is necessary for renewal. Similarly, where significant issues, problems, or other concerns are identified through information, scoping, etc., an appropriate NEPA analysis is necessary for renewal. In addition to the \$10 service charge for each transfer, where the applicant requests a new ten year permit or applies for changes to the existing terms and conditions, the applicant will be required to furnish the FO manager with an acceptable adequate NEPA analysis before the transfer can be approved. Where changes are necessitated by BLM requirements (law, regulations, policy, or other authorized direction), or problems, concerns, etc., on the allotment(s) exist, the BLM will prepare an adequate NEPA analysis prior to transfer approval. Pending approval of the transfer, grazing activities that are consistent with current permit terms and conditions can be authorized if necessary.

**F. CONTINGENCY** - If, after doing all we can through scoping, setting priorities, redistributing, grouping for efficiencies, etc., we cannot accomplish the workload of renewing permits by the expiration date, or end of calendar year, Colorado's contingency plan is:

- Unaccomplished renewals will carryover as top priority for completion along with the new renewal workload.
- For permit renewals that cannot be completed timely; i.e., before grazing commences, a process will be used that requires the issuance of two notices to the permittee and any interested publics of record, an early notice and a final notice. The early notice will let the operator know that grazing is protected and will be allowed to continue in the absence of a new permit. This notice will include a Grazing Authorization and Billing System generated application which the

operator will use to apply for grazing use. The final notice will transmit a grazing authorization, and method of required payment (prior to use being made, or after the fact billing). Also, the final notice will contain protest and appeal provisions. The Washington Office has indicated that forms for these notices will be developed and issued to FOs.

**G. OUTREACH APPROACH** - Includes meetings with Congressional offices, commodity groups, permittee and lessees, environmental and conservation groups, affected communities, RAC's, and others as the opportunity arises to explain our proposed work schedules, share information and understanding, and seek support. An outreach communication plan will be finalized and issued under separate cover.

If you have any questions, please contact Johnny Riel at (303) 239-3717.

Signed by  
Dave Strunk  
Acting, Deputy State Director,  
Resource Services

Authenticated by  
Sharon Deuter  
EMS Operator

Attachment: Notice of Public Scoping (2 pages)

### **Notice of Public Scoping**

Comment Period: Open until (date)

Contact:

BUREAU OF LAND MANAGEMENT

Resource Area:

Address:

Phone:

E-MAIL:

The Resource Area (RA) is soliciting public comments on the following two topics: First, we would like assistance in prioritizing land areas for the assessment of public land health standards for Colorado. Secondly, grazing permit\leases will expire during (year). We need to determine the level of public interest, concern, and resource conditions on each of the allotments up for renewal.

The assessment of public land health will be done on a land area basis. There are identified land areas in the RA. It is anticipated that it may take over years to complete the assessment on all lands within the RA. With this notice, our target is to identify and prioritize the top three areas for assessing land health standards.

Once the RA receives the public comments, the staff will meet as an interdisciplinary team.

Using the comments and all other available information, the team will establish the priority list of the land areas that will be assessed for compliance with the health standards during the (year) field season.

Following are the land areas and acreage identified in the RA:

<b>Name</b>	<b>Federal Acreage</b>
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The RA will be also be completing the National Environmental Policy Act (NEPA) analysis and making decisions on the renewal of certain grazing permit\leases. Since the level of NEPA analysis is in part driven by the level of public interest and concern, your comments are requested relative to conditions you have observed on these allotments, and/or specific environmental concerns about the lands and/or resources found within the specific allotment. The more specific and factual your information is, the more helpful and useful it will be.

Attachment 1-1

An interdisciplinary team will rank the expiring permits into high and low priority categories based on public comments and all other information available. The ranking will help determine the amount of consideration necessary and the appropriate level of NEPA documentation for reaching a decision on each grazing permit renewal. The ranking will also help to allocate resources to address concerns on a priority basis.

Permits\leases are scheduled for renewal in (year) on the following allotments:

<b>Allotment Name</b>	<b>Federal Acres</b>	<b>Permittee/Lessee</b>	<b>Land Area</b>
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Two lists, the land area(s) identified for assessment, and the ranking of permits/leases to be renewed, will be published in a subsequent notice no later than (month, year). Thereafter, a public scoping notice will be published annually, soliciting comment on reprioritizing land areas for health assessment and ranking grazing permit\leases up for renewal for the following year.

If you have any information or concerns, wish to be considered as an interested party on a permit or allotment, or wish to be involved in a health of the land assessment, please contact the individual at the address above to be put on a mailing list. If you do have not specific comments at this time but have questions about the land areas or allotments listed in this notice, contact the individual at the address above.

Attachment 1-2