

Executive Summary

Introduction

The BLM proposes to revise its regulations concerning the administration of livestock grazing on public lands. During the nine years since implementation of the 1995 grazing reforms, a number of discrete concerns have been raised regarding the administration of grazing management. The purpose of this proposed action is to address a variety of these discrete issues related to the current regulatory scheme without altering the fundamental structure of the grazing regulations. In other words, we are adjusting rather than conducting a major overhaul of the grazing regulations. Fundamental changes such as modifications to the grazing fee provisions, the addition of fundamentally new regulatory topics, or the removal of substantial sections of the regulations do not meet this limited purpose.

More than 160 million acres of public lands in the western United States have been determined to be suitable for livestock grazing and are subject to these regulations. The BLM administers its grazing program—excluding Alaska—under 43 CFR 4100 of the Code of Federal Regulations. These regulations implement the laws that govern public land grazing, including the Taylor Grazing Act of 1934 (TGA), the Federal Land Policy and Management Act of 1976 (FLPMA), and the Public Rangelands Improvement Act of 1978 (PRIA). The last major change to these regulations occurred in 1995. These proposed revisions leave intact many of the revisions from 1995—most notably the establishment of Resource Advisory Councils and Rangeland Health Standards and Guidelines.

This Final Environmental Impact Statement (FEIS) is a national-level,

programmatic EIS that documents the ecological, cultural, social, and economic effects that would result from implementing the proposed regulatory changes. When new regulations are under consideration, an EIS may be prepared even if the environmental effects of the rule are not expected to be significant. 40 CFR Section 1502.4(b). This rulemaking is designed to provide limited refinements to the larger grazing reforms made in 1995. The BLM does not anticipate that the proposed changes would have significant environmental effects, but it recognizes that even small changes in the management of public lands can generate a high level of public interest. Given this interest, the BLM decided to prepare an EIS to fully analyze potential effects, consider alternatives, and provide a means for public discussion.

The BLM published an Advance Notice of Proposed Rulemaking (ANPR) and Notice of Intent (NOI) to prepare an EIS in the *Federal Register* on March 3, 2003. The BLM held four public scoping meetings in March, 2003. More than 8,300 comments were received during the scoping period. On the basis of scoping comments and internal reviews, a Proposed Rule was developed and published in the *Federal Register* on December 8, 2003. A notice of availability of the Draft EIS was published in the *Federal Register* on January 2, 2004. Six public meetings were held in late January and early February to take comments on the Proposed Rule and Draft EIS. The comment period for both the Proposed Rule and Draft EIS closed on March 2, 2004. More than 18,000 comments were received. These comments were analyzed and considered in preparing this Final EIS.

Proposed Action and Alternatives

The BLM considers three alternatives in this analysis: a “No Action Alternative,” the “Proposed Action Alternative,” and a “Modified Action Alternative.”

This rulemaking is an attempt to address several distinct issues that have been identified since the 1995 grazing reforms. Each proposed regulatory change is largely independent and may have been triggered by concerns that do not directly apply to the others. The collection of proposed changes has been grouped together into a single Proposed Action Alternative. The Modified Action Alternative is a collection of other possibilities that were worthy of extended analysis. Although the changes have been grouped into broader alternatives, the BLM will continue to maintain a focus on the individual proposals during the decision-making process. It is thus quite possible that the final action may include pieces from all three of the broader alternatives.

No Action Alternative—The No Action Alternative analyzes the effects of continuing to administer the public lands grazing program under the present regulations.

Proposed Action Alternative—Under the Proposed Action Alternative, the BLM proposes to revise regulations to address issues that have surfaced during administration of the grazing program or that were raised during public scoping. The proposed regulatory revisions are organized under three categories.

Improving Working Relations with Grazing Permittees and Lessees—Under this category, the proposed rule would:

- Require BLM to follow a consistent approach in analyzing and documenting the relevant social, economic and cultural

effects of proposed changes in grazing preference and incorporate such analyses into appropriate NEPA documents.

- Require phase-in of changes in grazing use of more than 10 percent over a 5-year period, consistent with relevant law.
- Provide prospectively for joint ownership of range improvements—changes would allow the BLM and a grazing permittee, or other cooperator, to share title to certain permanent structural range improvements, such as fences, wells, or pipelines, which are constructed under a Cooperative Range Improvement Agreement.
- Require BLM to cooperate with Tribal, state, county, and local government-established grazing boards in reviewing range improvements and allotment management plans on public lands.

Protecting the Health of Rangelands—Under this category, the proposed rule would:

- Remove the 3-consecutive-year limit on temporary nonuse of a grazing permit but continue to require the BLM to review nonuse annually to make sure it is still necessary, whether for resource conservation, enhancement, or protection, or for personal or business purposes.
- Require standards assessments and monitoring of resource conditions to support BLM determinations of whether existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve standards and conform with guidelines.
- After a determination that grazing practices or levels of use are significant

factors in failing to achieve standards and conform to guidelines, provide additional time for BLM to formulate, propose and analyze actions; to comply with all applicable laws; and to complete all consultation, cooperation, and coordination requirements before reaching a final decision on appropriate actions.

Increasing Administrative Efficiency and Effectiveness—Under this category, the proposed rule would:

- Eliminate the “conservation use” permit regulatory provisions to comply with the 10th Circuit Court of Appeals decision in *Public Lands Council v. Babbitt*, 167 F.3d 1287 (10th Cir. 1999).
 - Expand the definition of “grazing preference” to include an amount of forage on public lands attached to a rancher’s private base property, which can be land or water. This expanded definition, similar to one that existed from 1978 to 1995, makes clear that grazing preference has a quantitative meaning (forage amounts, measured in Animal Unit Months) as well as a qualitative one (priority of position “in line” for grazing privileges).
 - Modify the definition of “interested public” to ensure that only those individuals and organizations that actually participate in the process are maintained on the list of interested publics. The regulations with respect to the interested public are also revised to improve efficiency in the BLM’s management of public lands grazing by reducing the occasions on which the Bureau is required to involve the interested public. Under the regulatory changes, the BLM could involve the public in such matters as day-to-day grazing administration but would no longer be required to do so. The BLM would continue to require consultation, cooperation, and coordination with the interested public in grazing planning activities such as allotment management planning or range improvement project planning.
- Provide flexibility to the Federal government in decisions relating to livestock water rights by removing the requirement that the BLM acquire, perfect, maintain, and administer water rights in the name of the United States to the extent allowed by state law.
 - Clarify that an applicant for a new permit or lease will be deemed to have a record of satisfactory performance when the applicant has not had any Federal or state grazing permit or lease canceled, in whole or in part, for violation of the permit or lease within the 36 calendar months immediately preceding the date of application, and a court of competent jurisdiction has not barred the applicant or an affiliate from holding a Federal grazing permit or lease.
 - Clarify what is meant by “temporary changes in grazing use within the terms and conditions of the permit or lease.” Under the 1995 regulations, BLM can approve temporary changes in grazing use within the terms and conditions of a permit or lease. The final rule clarifies that “temporary changes in grazing use within the terms and conditions” means temporary changes to livestock number, period of use, or both, that would result in nonuse or in grazing use where forage removal does not exceed the amount

of active use specified in the permit or lease, and such grazing use occurs not earlier than 14 days before the begin date specified on the permit or lease and not later than 14 days after the end date specified on the permit or lease.

- Increase certain service charges to reflect more accurately the cost of grazing administration.
- Clarify that if a grazing permittee or lessee is convicted of violating a Federal, state, or other law, and if the violation occurs while he is engaged in grazing-related activities, the BLM may take action against his grazing permit or lease only if the violation occurred on the BLM-managed allotment where the permittee or lessee is authorized to graze.
- Provide the authority for the BLM to issue an immediately effective decision on nonrenewable grazing permits or leases or on applications for grazing use on designated ephemeral or annual rangelands. Also, clarify how the BLM's grazing decision is affected if a decision on nonrenewable permits or leases or a decision on applications for grazing use on ephemeral or annual rangelands is "stayed" pending administrative appeal. Under the final rule, if a stay on an appeal of such a decision is granted, the decision would be inoperative and, if appropriate considering the specific stay, the livestock may have to be removed from the allotment.
- Clarify how BLM will authorize grazing when OHA stays all or part of a BLM grazing decision affecting a permit or lease. Such decisions may cancel, suspend or change terms and conditions of a permit or lease during its current

term; renew a permit or lease; or grant or deny a permit or lease to a preference transferee. Under the final rule, if OHA stays all or part of such a decision, then the BLM will, with respect to any stayed portions of the decision, authorize grazing use on the allotment(s) or portions of the allotment(s) in question pursuant to terms or conditions that are the same as the permit or lease that immediately preceded BLM's decision, subject to any other provisions of the stay order.

- Clarify that a biological assessment or biological evaluation, prepared in compliance with the Endangered Species Act, is not a decision and therefore is not subject to protest or appeal.

The proposed regulations also include additional regulatory text clarifications and minor modifications.

Modified Action Alternative— The Modified Alternative contains revisions similar to those of the Proposed Action, with the following exceptions:

- Makes the provision that requires phase-in of grazing decreases (and increases) of more than 10 percent over a 5-year period discretionary rather than mandatory.
- Extends the present 3-consecutive-year limit on temporary nonuse of a grazing permit to a 5-consecutive-year limit rather than unlimited consecutive years as proposed.
- Allows for discretion by the BLM manager in deciding what data are necessary to support evaluations of whether an allotment is meeting standards and conforming to guidelines and to make a determination as to whether existing grazing management practices or levels of

grazing use on public lands are significant factors in failure to achieve standards and conform with guidelines.

- Eliminates several Federal or state laws and regulations from the list of prohibited acts identified in the existing regulations including laws and regulations regarding placement of poisonous bait or hazardous devices; application or storage of pesticides, herbicides, or other hazardous materials; alteration or destruction of natural stream courses; pollution of water sources; illegal take, destruction or harassment of wildlife; and illegal removal or destruction of archaeological or cultural resources. The consequence would be that a permittee or lessee who is convicted and penalized for violating these state or Federal laws would not be subject to having his permit or lease withheld from issuance, suspended, or cancelled.
- Adds as a prohibited act, failure to use certified weed seed-free forage, grain, straw, or mulch when required by the authorized officer.

The alternatives are compared and described in Table ES-1 “Comparison of Alternatives.”

Effects of the Proposed Alternative

There are no irreversible or irretrievable commitments of resources directly resulting from the proposed regulation changes nor are there any projected discernable effects from short-term uses on long-term productivity of resources arising from this rulemaking.

Most of the proposed regulatory changes have little or no adverse effects on the human environment. Some short-term adverse effects may not be avoided because of increases in timeframes associated with several components of this proposed rulemaking, including the requirement for a 5-year phase-in of changes in use of over 10 percent, the requirement for monitoring before making a determination that livestock grazing is the causal factor for failure to meet standards and conform to guidelines, and the extension of time allowed before a decision must be made after a determination that livestock grazing is the causal factor for failure to meet standards and conform to guidelines for grazing administration. However, better and more sustainable decisions would be developed by using monitoring data in analyzing achievement of standards; carefully formulating, proposing, and analyzing the appropriate action and ensuring that all legal and consultation requirements are satisfied. In the long-term, it is expected that the effects of these provisions would be beneficial to rangeland health.

To minimize the potential for short-term adverse effects, the BLM could exercise authority under Section 43 CFR 4110.3-3(b) to curtail grazing if resources on the public lands require immediate protection or if continued grazing use poses an imminent likelihood of significant resource damage.

Mitigation measures would be appropriately developed when site-specific NEPA documents are prepared to implement the regulatory provisions.

The effects of each alternative are summarized and compared across alternatives in Table ES-2 “Comparison of Impacts Across the Alternatives.”

Consultation and Coordination

Coordination With Federally Recognized Tribes

The BLM contacted Tribal government representatives for input into the Grazing Rulemaking and Draft EIS. It began with the initiation of the public scoping process. Issues raised by Tribal governments, Tribal entities and Native American individuals during meetings and received in letters were considered in the development of the Draft EIS and Proposed Rulemaking. Once the Draft Environmental Impact Statement and Proposed Rulemaking was ready for release and public review, including review by Tribal governments, more than 300 Tribes west of the Mississippi River, excluding Alaska, were sent a letter soliciting their comments to the Draft EIS and Proposed Rulemaking. Enclosed was a copy of the Draft EIS and Proposed Rulemaking on a compact disk and Web site information for finding the document on the Internet.

Consultation With Fish and Wildlife Service and NOAA, Fisheries

A determination was made that the regulatory changes would have no adverse effects to candidate, proposed, threatened or endangered species, or designated or proposed critical habitat from the proposed regulation changes.

Before grazing permits are issued, the appropriate BLM Office would review the adequacy of existing environmental

analyses and consider if candidate, proposed, threatened or endangered species, or designated or proposed critical habitat within the proposed permit or lease area may be affected. If adverse effects are expected, a formal Section 7 consultation would be performed.

Consultation With the Advisory Council on Historic Preservation

Section 106 of the National Historic Preservation Act requires Federal Agencies to take into account the effects of their undertakings on historic properties. The agency has sent a letter to the Advisory Council on Historic Preservation notifying them of the proposed regulation changes. The letter provides a brief synopsis of the goals and objectives of the regulations changes and information on where to find the current regulations for their review.

Public Participation and Final Rulemaking–EIS Process

After careful consideration of all comments on the Draft EIS and Proposed Rule, the BLM prepared this Final EIS. The Notice of Availability (NOA) for the Final EIS has been published in the *Federal Register*. Thirty days after publication of the Final EIS, the BLM may issue a Final Rule that sets forth the BLM's final decision including all requirements for a Record of Decision under NEPA. The Final Rule will become effective 60 days after its publication in the *Federal Register*. The regulations will then become part of the Code of Federal Regulations.

Table ES-1. Proposed revisions to grazing regulations for the public lands: comparison of alternatives.

<i>Improving Working Relations with Permittees and Lessees</i>			
Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Social, Economic, and Cultural Considerations in the Decision-Making Process	* No provisions specifically address NEPA documentation of social, economic, and cultural considerations in the regulations regarding changes in permitted use.	* Before changing grazing preference, the BLM would undertake appropriate analysis as required by NEPA. The BLM would analyze and document, if appropriate, the relevant social, economic, and cultural effects of the proposed action.	* Same as Proposed Action
Implementation of Changes in Grazing Use	* The present regulations do not address the timing of implementation of decisions to change grazing use.	* Changes in active use in excess of 10% would be implemented over a 5-year period unless: an agreement is reached with the permittee or lessee to implement the increase or decrease in less than 5 years; or the changes must be made before 5 years to comply with applicable law (e.g., Endangered Species Act).	* Same as proposed action, except that the 5-year phase-in of changes in use would be discretionary , i.e., change in active use in excess of 10% may be implemented over a 5-year period.
Range Improvement Ownership	* The United States holds title to permanent range improvements such as fences, wells, and pipelines authorized after August 21, 1995.	* Title to permanent range improvements such as fences, wells, and pipelines authorized under a cooperative range improvement agreement would be shared among cooperators in proportion to their initial contribution to on-the-ground project development and construction costs.	* Same as Proposed Action

Table ES-1 (continued). Proposed revisions to grazing regulations for the public lands: comparison of alternatives.

<i>Improving Working Relations with Permittees and Lessees (continued)</i>			
Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Cooperation with Tribal, State, County, or Local Government-Established Grazing Boards	* The BLM is required to cooperate with state, county, and Federal agencies in the administration of laws and regulations relating to livestock diseases, sanitation, and noxious weeds, including state cattle and sheep sanitary or brand boards and county or other weed control districts.	* Tribal agencies would be added to the list of agencies with which BLM would be required to cooperate in the administration of laws and regulations relating to livestock diseases, sanitation, and noxious weeds * In addition, BLM would be required to cooperate with Tribal, state, county, or local government-established grazing boards in reviewing range improvements and allotment management plans on public lands.	* Same as Proposed Action
Review of Biological Assessments and Evaluations	* BLM is required, to the extent practicable, to provide affected permittees or lessees, the State having lands or responsible for managing resources within the area, and 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. This provision has been interpreted to include biological assessments and biological evaluations as among the body of reports subject to this requirement.	* Same as existing regulations except for some minor edits Note: In the draft EIS, it was proposed to specifically identify biological assessments (BAs) and biological evaluations (BEs) prepared under the Endangered Species Act as reports during the preparation of which BLM would be required to provide affected permittees or lessees, the State, and the interested public an opportunity to review and give input. Based on concerns raised during the review of the draft EIS, it was determined to be inappropriate to highlight BAs and BEs in this fashion; implying that they had greater value or emphasis than other reports such as grazing management evaluations.	* Same as existing regulations

Table ES-1 (continued). Proposed revisions to grazing regulations for the public lands: comparison of alternatives.

<i>Protecting the Health of the Rangelands</i>			
Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Temporary Nonuse	* Grazing permittees or lessees may submit and the BLM may approve an annual application for temporary nonuse for no more than 3 consecutive years. Reasons for temporary nonuse include but are not limited to financial conditions or annual fluctuations of livestock.	* Grazing permittees or lessees could submit and the BLM could approve nonuse for no longer than 1 year at a time for resource reasons as well as for business or personal needs of the permittee or lessee (i.e., there would be no limit on consecutive years of nonuse allowed).	* Same as Proposed Action except that permittees or lessees could submit and the BLM could annually approve an application for nonuse for no more than 5 consecutive years.
Basis for Rangeland Health Determinations	* The present regulations do not prescribe how the BLM determines that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve the rangeland health standards and conform with the guidelines.	* Determinations that existing grazing management practices or levels of grazing use are significant factors in failing to achieve standards and conform with guidelines would be based on standards assessments and monitoring.	* Same as proposed action except that the BLM would not be required to use both assessments and monitoring as basis for determinations, i.e., may be based on assessment or monitoring.

Table ES-1 (continued). Proposed revisions to grazing regulations for the public lands: comparison of alternatives.

<i>Protecting the Health of the Rangelands (continued)</i>			
Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Timeframe for Taking Action to Meet Rangeland Health Standards	* The BLM is required to take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the fundamentals of rangeland health conditions exist or progress is being made toward achieving the fundamentals of rangeland health	* Where standards and guidelines have not been established , the BLM would take appropriate action as soon as practicable but not later than the start of the next grazing year following completion of relevant and applicable requirements of law, regulations and consultation requirements to ensure <u>fundamentals of rangeland health</u> conditions exist or progress is being made toward achieving rangeland health.	* Same as Proposed Action.
	* Upon determining that existing grazing practices or levels of use are significant factors in failing to achieve standards and conform with guidelines for grazing administration, the authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year.	* Upon determining that existing grazing practices or levels of use are significant factors in failing to achieve standards and guidelines, the BLM would, in compliance with applicable laws and with the consultation requirements, formulate, propose, and analyze appropriate action to address failure to meet standards or conform to guidelines no later than 24 months after determination is made. Upon execution of agreement or documented decision, the BLM would implement appropriate actions as soon as practicable but not later than start of next grazing year. * BLM could extend the deadline when legally required processes that are the responsibility of another agency prevent completion of all legal obligations within the 24 month timeframe.	* Same as Proposed Action.

Table ES-1 (continued). Proposed revisions to grazing regulations for the public lands: comparison of alternatives.

<i>Increasing Administrative Efficiency and Effectiveness</i>			
Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Conservation Use	* <u>Conservation use</u> is defined, is identified as a component of permitted use, may be authorized for up to 10 years, and is addressed in other provisions. However, no conservation use permits can or have been issued due to the 10 th Circuit Court decision in 1999 that issuance of conservation use permits exceeds the Secretary's authority under the Taylor Grazing Act.	* All references to and provisions on <u>conservation use</u> would be deleted.	* Same as Proposed Action.
Definition of Grazing Preference, Permitted Use, and Active Use	* <u>Grazing preference or preference</u> is defined as 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.	* <u>Grazing preference or preference</u> would mean 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 would include active use and use held in suspension. Grazing preference holders would have a superior or priority position against others for the purpose of receiving a grazing permit or lease.	* Same as Proposed Action.
	* <u>Permitted use</u> is defined as 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. The term permitted use encompasses authorized use including livestock use, suspended use and conservation use.	* The term <u>permitted use</u> would be dropped from the regulations and replaced with the term grazing preference, preference or active use , depending upon the context, throughout the regulations.	* Same as Proposed Action.
	* <u>Active use</u> means present authorized use, including livestock grazing and conservation use. Active use may constitute a portion, or all, of permitted use. Active use doesn't include temporary nonuse or suspended use within all or a portion of an allotment.	* <u>Active use</u> would be redefined to mean that portion of the present authorized use that is available for livestock grazing based on livestock carrying capacity and resource conditions in an allotment under a permit or lease and that is not in suspension.	* Same as Proposed Action.

Table ES-1 (continued). Proposed revisions to grazing regulations for the public lands: comparison of alternatives.

<i>Increasing Administrative Efficiency and Effectiveness (continued)</i>			
Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Definition and Role of Interested Public	* <u>Interested public</u> is defined as an individual, groups or organization that has submitted a written request to the authorized officer to be provided an opportunity to be involved in the decision-making process for the management of livestock grazing on specific allotments or has submitted written comments to the authorized officer regarding the management of livestock grazing on a specific allotment.	* <u>Interested public</u> would be defined as an individual, group or organization that has: (1) Submitted a written request to BLM to be provided an opportunity to be involved in the decision-making process as to a specific allotment and followed up on that request by commenting on or otherwise participating in the decision-making process on management of a specific allotment; or (2) Submitted written comments to the BLM regarding management of livestock grazing on a specific allotment.	* Same as Proposed Action.
	* The BLM is required to consult, cooperate and coordinate with interested public on the following: <ul style="list-style-type: none"> • Designating/adjusting allotment boundaries. • Apportioning additional forage • Reducing permitted use • Emergency closures or modifications • Development or modification of grazing activity plan. • Planning of the range development or improvement program • Renewing/issuing grazing permit/lease • Modifying a permit/lease • Reviewing/commenting on grazing evaluation reports. • Issuing temporary non-renewable grazing permits. 	* Requirements to consult, cooperate and coordinate with the interested public would be modified as follows: <ul style="list-style-type: none"> • Removed • Retained • Removed • Removed • Retained • Retained • Removed • Removed • Retained (dropped reference to commenting) • Removed 	* Same as Proposed Action.

Table ES-1 (continued). Proposed revisions to grazing regulations for the public lands: comparison of alternatives.

<i>Increasing Administrative Efficiency and Effectiveness (continued)</i>			
Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Definition and Role of Interested Public (continued)	* BLM is required to send copies of proposed and final decisions to the interested public.	* Same as existing regulations.	* Same as existing regulations.
Water Rights	* Any right acquired on or after 8/21/95 to use water on public land for the purpose of livestock watering shall be acquired, perfected, maintained, and administered under the substantive and procedural laws of the State within which land is located. To the extent allowed by State law, any such water right shall be acquired, perfected, maintained, and administered in the name of the United States.	* The phrase – “on or after 8/21/95” - would be dropped from the first sentence. The second sentence of this provision - stating that, to the extent allowed by State law, any water right would be acquired, perfected, maintained, and administered in the name of the United States - would be removed.	* Same as Proposed Action.
Satisfactory Performance of Permittee or Lessee	* Requirements for satisfactory performance for renewal of permits and leases and for new permits or leases are defined in terms of when the applicant for such permits or leases is deemed not to have a satisfactory record of performance.	* The provisions on satisfactory performance would be moved from the section on “mandatory qualifications” to the section on “filing applications”. Minor editorial changes would be made in the definition of “satisfactory performance” for a new applicant for a permit or lease or for a permit or lease subsequent to a preference transfer – basically changing the definition from a negative (what “is not” satisfactory performance) to a positive (what “is” satisfactory performance).	* Same as Proposed Action.

Table ES-1 (continued). Proposed revisions to grazing regulations for the public lands: comparison of alternatives.

<i>Increasing Administrative Efficiency and Effectiveness (continued)</i>			
Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Changes in Grazing use Within Terms and Conditions of Permit or Lease	* Changes within the terms and conditions of the permit or lease may be granted by the authorized officer.	* Same as existing regulations.	* Same as existing regulations.
	* The present regulations do not define what is meant by “temporary changes in grazing use within the terms and conditions of the permit or lease.”	* “Temporary changes in grazing use within the terms and conditions of the permit or lease ” would be defined to mean temporary changes to livestock number, period of use, or both that would: (1) Result in temporary nonuse; or (2) Result in forage removal that does not exceed the amount of active use specified in the permit or lease ; and, unless otherwise specified in an allotment management plan, occurs no earlier than 14 days before the begin date specified on the permit or lease, and no later than 14 days after the end date specified on the permit or lease ; or (3) Result in both temporary nonuse and forage removal as defined above.	* Same as Proposed Action.
	* The present regulations do not include consultation requirements for such changes.	*The BLM would consult, cooperate and coordinate with the permittee or lessee on such changes.	* Same as Proposed Action.
Service Charges	* A service charge may be assessed for each crossing permit, transfer of grazing preference, application solely for nonuse and each replacement or supplemental billing notice except for actions initiated by the authorized officer. A specific fee is not identified in the present regulations, however the present fee for these actions is \$10.	* Except where BLM initiates the action, BLM would assess a service charge as shown below: (1) Issuance of crossing permit: \$75; (2) Transfer of grazing preference: \$145; (3) Cancellation and replacement of grazing fee billing: \$50	* Same as Proposed Action.

Table ES-1 (continued). Proposed revisions to grazing regulations for the public lands: comparison of alternatives.

<i>Increasing Administrative Efficiency and Effectiveness (continued)</i>			
Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Prohibited Acts	* There are three categories of acts that are prohibited on public lands.	* Same as existing regulations.	* Same as existing regulations.
	* The first category provides that permittees or lessees may be subject to civil penalties if they perform any of the 6 prohibited acts listed in this section.	* Same as existing regulations with several minor editorial changes and clarifications.	* Same as Proposed Action.
	* The second category provides that anyone, not just permittees or lessees, shall be subject to civil or criminal penalties if they perform any of the 11 prohibited acts listed in this section. Prohibited acts in this category include actions such as littering, damaging or removing U.S. property without authorization, and failing to reclose any gate or other entry during periods of livestock use.	* Same as existing regulations with some minor editorial changes.	* Same as the Proposed Action plus the following prohibited act would be added to this section: “Failing to comply with the use of certified weed seed free forage, grain, straw or mulch when required by the authorized officer.”
	* The third category provides that permittees or lessees could be subject to civil penalties for performance of acts listed in this section where: public lands are involved or affected; the violation is related to grazing use authorized by BLM; the permittee has been convicted or otherwise found to be in violation of any of these laws or regulations; and no further appeals are outstanding.	* The performance of prohibited acts in the third category of prohibited acts would be further limited to the performance of such acts on an allotment where the permittee or lessee is authorized to graze under a BLM permit or lease. In addition, there would be some minor editorial changes.	* Same as Proposed Action.

Table ES-1 (continued). Proposed revisions to grazing regulations for the public lands: comparison of alternatives.

<i>Increasing Administrative Efficiency and Effectiveness (continued)</i>			
Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Prohibited Acts (continued)	* The third category consists of three sets of prohibited acts including: <ul style="list-style-type: none"> • Specific laws or regulations (e.g., Endangered Species Act) • Federal or state laws pertaining to natural, environmental, or cultural resources • State laws related to livestock operations 	* Same as existing regulations.	The third category would consist of only 2 sets of prohibited acts including: <ul style="list-style-type: none"> • Specific laws or regulations (e.g., Endangered Species Act) • State laws related to livestock operations * Federal or state laws pertaining to natural, environmental, or cultural resources would be deleted from the prohibited acts list.

Table ES-1 (concluded). Proposed revisions to grazing regulations for the public lands: comparison of alternatives.

<i>Increasing Administrative Efficiency and Effectiveness (continued)</i>			
Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Grazing Use Pending Resolution of Appeals When Decision Has Been Stayed	* If a decision is stayed, the permittee or lessee will graze in accordance with the authorization issued the previous year.	* If a stay is granted on an appeal to a decision to cancel, suspend, change or renew a term permit or lease or to deny or offer a permit or lease to a preference transferee, then the BLM will authorize grazing under the immediately preceding permit or lease, or the relevant term or condition thereof.	* Same as Proposed Action.
	* If the applicant had no authorized grazing use the previous year or the application is for ephemeral or annual grazing use, then grazing use will be consistent with the final decision pending resolution of the appeal.	* Decisions on ephemeral or annual rangeland grazing use and nonrenewable grazing permits would be effective immediately or on the date specified in the decision. There would be no special provisions for grazing use if a stay is granted on such decisions, therefore if a stay is granted the decision would be inoperative and, if appropriate considering the specific stay, the livestock may have to be removed from the allotment.	
Treatment of Biological Assessments and Evaluations in the Grazing Decision-Making Process	* Present regulations do not specifically address biological assessments or biological evaluations prepared in compliance with the Endangered Species Act. However, in accordance with the IBLA <i>Blake</i> decision, biological assessments are to be treated as decisions subject to protest and appeal.	* A biological assessment or biological evaluation prepared for Endangered Species Act consultation or conference would not be a decision for purposes of protest or appeal.	* Same as Proposed Action.

Table ES-2. Comparison of the effects across alternatives.

Alternative 1	Alternative 2	Alternative 3
<i>Grazing Administration</i>		
<p>*BLM grazing administration would provide some partnership opportunities.</p> <p>*Mechanisms for changing grazing management would be hurried, impractical, inefficient, and discourage partnerships, and may result in decisions of inconsistent quality.</p> <p>*The consideration and documentation of social, economic and cultural effects of grazing decisions would remain inconsistent.</p> <p>*The timeframe for implementing changes in use would be determined on a case-by case basis.</p> <p>*Cooperation with government established grazing boards would be inconsistent.</p> <p>*Decisions on day-to-day operations would cumbersome, inefficient and untimely.</p> <p>*Biological assessments and evaluations could be appealed, creating workloads that would displace other high priority work such as monitoring, and delaying implementation of grazing decisions.</p>	<p>*The regulations would promote greater partnership with grazing permittees, lessees, and grazing advisory boards.</p> <p>*The extended timeframe for developing appropriate action following a determination would yield reasoned, comprehensive and sustainable decisions. This timeframe would delay on-the-ground action in a relatively small number of allotments but would improve cooperation and build partnerships with permittees and lessees.</p> <p>*Ensure greater consistency in the consideration and documentation of relevant social, economic, and cultural impacts.</p> <p>*The requirement to use monitoring data to support determinations on allotments that fail to meet standards because of existing grazing management may result in an additional workload for BLM.</p> <p>*Reprioritizing data collection efforts to conduct monitoring may effect watershed assessment schedules and could delay permit renewal where current monitoring data is not available.</p> <p>*Allowing shared title to permanent structural range improvements may stimulate private investment.</p> <p>*BLM would focus communications with interested public on significant issues occurring on grazing allotments where input would be of the greatest value.</p> <p>*By providing that biological assessments are not subject to appeal, BLM would be able to more efficiently and timely make changes in grazing management.</p>	<p>*Similar to Alternative 2 but with additional overall flexibility at the local level.</p> <p>*Allowing BLM discretionary authority for phase-in period instead of requiring 5-year timeframe could provide additional protection for wildlife or other sensitive resources.</p> <p>*Allowing discretionary use of monitoring data for standards determinations rather than requiring it would allow BLM to flexibility at the local level to prioritize data and information collection.</p> <p>*The provision allowing the requirement to use weed seed free forage, grain, straw or mulch would provide enforcement authority as a preventative measure to reduce the spread of noxious weeds.</p>

Table ES-2 (continued). Comparison of the effects across alternatives.

Alternative 1	Alternative 2	Alternative 3
<i>Vegetation</i>		
<p>*Vegetation would move toward achievement of management objectives. *Timelines for formulating management changes may limit vegetation management alternatives and strain working relationships with permittees or lessees. *Riparian vegetation would remain static or improve slightly.</p>	<p>*Vegetation would move toward achievement of management objectives. *Potential for short-term adverse effects where vegetative conditions are in a downward trend and recovery is delayed. *Additional resources may be invested in improvements due to partnerships and improved working relationships. *Increased flexibility for temporary nonuse may result in greater alignment between forage production and utilization levels. *Increased flexibility to negotiate cooperative water developments may stimulate private investments and assist BLM to achieve vegetation management objectives. *Riparian vegetation would remain static or improve slightly.</p>	<p>*Similar to Alternative 2 but the flexibility in the use of monitoring or standards assessments data for making determinations and the timeframe for implementing management changes would allow BLM to accelerate short-term vegetative recovery. *Weed seed-free forage enforcement authority would result in slower weed expansion rates..</p>
<i>Fire and Fuels</i>		
<p>*A minimal effect on the ability to reach a more historical fire regime.</p>	<p>*A slight improvement in the ability to reestablish historical fire regimes resulting in vegetation improvements.</p>	<p>*Similar to Alternative 2.</p>
<i>Soils</i>		
<p>*Short-term adverse impacts would be minimal except at the local scale. *Would result in maintenance of or slight improvement in conditions in the long term.</p>	<p>*Short-term adverse impacts would be minimal except at the local scale where watershed cover is inadequate. *Maintenance or slight improvement would be expected in the long-term due to maintenance of adequate watershed cover.</p>	<p>*Overall the effects would be neutral to slightly beneficial because of maintenance or slight improvement in watershed cover. * Allowing greater discretion in the phase-in schedule, and choice of data used for making determinations may allow more rapid implementation of changes, accelerating recovery of watershed cover. A weed-seed free forage provision that reduces the spread of weeds might enhance watershed cover.</p>

Table ES-2 (continued). Comparison of the effects across alternatives.

Alternative 1	Alternative 2	Alternative 3
<i>Water Resources</i>		
<p>*The proposed changes would have little or no impact on short-term water resource conditions. *Slow improvement in watershed conditions would be expected for the long term. *Water quality would remain static or improve slowly.</p>	<p>*Similar to Alternative 1.</p>	<p>*Similar to Alternative 1.</p>
<i>Air Quality</i>		
<p>*Air quality would be expected to be maintained or improved and within standards.</p>	<p>*Similar to Alternative 1.</p>	<p>*Similar to Alternative 1.</p>
<i>Wildlife</i>		
<p>*Risks and benefits to wildlife and wildlife habitat, are not expected to change. *Current timeframes for developing grazing management changes would impede adequate analysis and consultation, resulting in less effective and acceptable decisions on wildlife.</p>	<p>*In the long-term, there would be little or no effect on wildlife due to better partnerships with permittees and lessees and longer timeframes for developing effective and acceptable decisions. *Implementation of changes in grazing use and timeframes for taking action could have an adverse effect on wildlife in the short-term in a small number of allotments. *The elimination of the 3 consecutive year limit on temporary non-use could improve opportunities for cooperation to benefit wildlife resources by allowing a longer recovery period. *The extended timeframe would allow formulation of reasoned, comprehensive and sustainable decisions that, in the long term, may benefit wildlife.</p>	<p>*Changes in temporary non-use over current regulations from 3 to 5 consecutive years would slightly benefit wildlife. *Allowing greater discretion for BLM managers to schedule phasing in changes in grazing use would allow more rapid implementation benefiting wildlife. * Allowing greater discretion on the type of data used for making rangeland health determinations would allow more rapid implementation, benefiting wildlife resources. *A weed-seed free forage provision that reduces the spread of weeds would enhance wildlife habitat. *Removal of certain prohibited acts would eliminate a mechanism for protecting wildlife.</p>
<i>Special Status Species</i>		
<p>* Risks and benefits to special status species, are not expected to change *Effects similar to wildlife in Alternative 1.</p>	<p>*No effect on most special status species. *At risk species and those designated by each BLM State Director as BLM-sensitive may be affected in the short-term in a small number of allotments however, in the long-term, there would be little or no effect.</p>	<p>*Similar to wildlife effects in Alternative 3.</p>

Table ES-2 (continued). Comparison of the effects across alternatives.

Alternative 1	Alternative 2	Alternative 3
<i>Wild Horses and Burros</i>		
*Little affect on wild horse and burro populations on public lands.	*Slight long-term beneficial impact from improved condition of the vegetation on habitat areas through an improved decision making process.	*Similar to Alternative 2.
<i>Recreation</i>		
*Minimal impacts to the Recreation Program. *Slight improvement where the vegetation is improved.	*Minimal impacts to the Recreation Program. *Slight improvement where the vegetation is improved. *Effects could be adverse in the short term if corrective actions are delayed.	*Similar impacts to alternative 2. *The reduction of weed expansion would have an additional benefit to recreation interests.
<i>Special Areas</i>		
*Little impact due to existing good conditions and Special Area mandates.	*Little impact due to existing good conditions and Special Area mandates.	*Slight improvement of conditions on the long term due to reduction of weed expansion.
<i>Heritage Resources: Paleontological and Cultural Resources (Properties)</i>		
*Heritage resources are protected through case-by-case, site specific surveys and analysis. *Prohibited act regarding removal or destruction of cultural resources may act as a deterrent.	*There would be little to no effect on heritage resources. * New on-the-ground projects would be analyzed on a case-by-case basis.	* There would be little to no effect on heritage resources. * New on-the-ground projects would be analyzed on a case-by-case basis.
<i>Economic Conditions</i>		
*Local/regional economic effects would be minor. *On-going effects include: 1) low flexibility; 2) lack of incentive to participate in range improvements; 3) lack of time to implement land health determinations; and 4) lack of cost recovery.	*Local/regional economic effects would be minor. *Primary effects would be: 1) Increased flexibility; 2) Increased BLM costs; 3) reduced adverse impacts on ranchers from herd reductions; 4) increased service charges for ranchers and increased cost recovery for BLM.	*Similar to Alternative 2. *Greater discretion for BLM managers in implementing changes in use and using monitoring data for land health determinations could have an adverse economic impact on ranchers.

Table ES-2 (concluded). Comparison of the effects across alternatives.

Alternative 1	Alternative 2	Alternative 3
<i>Social Conditions</i>		
<p>*Ranchers would continue to face increasing stress related to public land grazing.</p> <p>*Ranchers would continue to have difficulty passing ranch on to the next generation.</p> <p>*Ranchers would continue to sell ranches for amenity reasons and subdivision.</p>	<p>*Ranching, environmental and recreation interests perceive the monitoring requirements as being positive and believe this provision would provide beneficial social impacts.</p> <p>*Ranchers would experience beneficial social effects as a result of most provisions – particularly documentation of social, economic, and cultural impacts, phasing in of implementation of changes, required cooperation with grazing boards, focusing stock water rights provision on following state law and providing more time for developing appropriate action following rangeland health determination.</p> <p>*Ranchers would experience adverse social effects from the removal of the limit on consecutive years of nonuse.</p> <p>*Environmental groups would experience adverse social effects from the stock water rights provision change.</p> <p>*Social effects on environmental interests and recreation interests would generally be minimal or neutral for most of the other proposed revisions.</p>	<p>*There could be minimal social effects on ranchers and conservation groups due to BLM having discretion to use monitoring for rangeland health determinations.</p> <p>*Elimination of certain prohibited acts would have an adverse effect on conservation, environmental and recreation groups.</p>
<i>Environmental Justice</i>		
<p>*No disproportionate effects on low-income, minority, or Tribal populations.</p> <p>*Would not result in violation of environmental justice principles.</p>	<p>*No disproportionate effects on low-income, minority, or Tribal populations.</p> <p>*Would not result in violation of environmental justice principles..</p>	<p>*No disproportionate effects on low-income, minority, or Tribal populations.</p> <p>*Would not result in violation of environmental justice principles.</p>