



UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240



Dear Concerned Citizen:

The *Proposed Revisions to Grazing Regulations for the Public Lands* Draft Environmental Impact Statement is enclosed for your review. The draft analyzes the environmental effects of proposed revisions as well two alternatives, including no change to the regulations. Your comments and views on the proposed changes, as well as your advice on the accuracy and adequacy of the analysis, would be most helpful.

The proposed changes recognize that public land grazing has its roots in the settlement of the West. Communities and families still rely on a combination of public and private lands to sustain the rural landscapes and open spaces. Many changes have been made in livestock grazing management and practices to improve the health of the public rangelands since the passage of the Taylor Grazing Act in 1934 and the Federal Land Policy and Management Act in 1976. The changes outlined in the enclosed document are another important step forward to improve grazing, drawing upon the lessons learned since the previous revisions eight years ago.

The intent of the proposed revisions is to improve working relations with permittees and lessees, protect the health of the rangelands, and increase administrative effectiveness and efficiency.

Since March 2003, we have met with many individuals and groups on these draft revisions and received more than 8,300 comments on them. The high level of public interest and involvement has been useful in helping us develop the proposed changes. By placing a greater emphasis on cooperation and consultation, more sustainable progress in the health of public rangelands should be realized. Your ideas and input on the best approach for meeting the goals listed above can further improve grazing on public lands throughout the West.

We encourage you to submit comments using our interactive Web-based "ePlanning" system at <http://www.blm.gov/grazing>. If you do not have internet access, please mail your comments to: Director (220), Bureau of Land Management, Eastern States Office, 7450 Boston Boulevard, Springfield, VA 22153, Attn: Revisions to Grazing Regulations DEIS. You may also deliver your comments to: 1620 L Street, NW, Suite 1075, Washington, D.C. 20036, Attn: Revisions to Grazing Regulations DEIS.

Thank you for your time, attention and thoughts on the *Proposed Revisions to Grazing Regulations for the Public Lands*.

Sincerely,

Kathleen Clarke
Director

Proposed Revisions to Grazing Regulations for the Public Lands

Draft Environmental Impact Statement
DES 03-62

Because this publication was developed using a test version of ePlanning, you might notice that some text does not meet standard formatting conventions. For example, there might be a single line of text at the bottom or top of a page, extra spacing between words and sentences, or unusual justification of text within tables. As ePlanning software continues to improve, publication formatting will also improve. Thanks for your understanding.

Prepared by
The Department of the Interior
Bureau of Land Management



December 2003

Abstract

Proposed Revisions to Grazing Regulations for the Public Lands

Environmental Impact Statement

Draft (X) Final ()

The United States Department of the Interior, Bureau of Land Management (BLM)

1. Type of Action: Administrative (X) Legislative ()
2. Abstract: The BLM is proposing to revise grazing regulations for the public lands, 43 CFR Part 4100, Grazing Administration—Exclusive of Alaska. The proposed revisions are intended to improve working relations with permittees and lessees, to protect the health of the rangelands, and to increase administrative efficiency and effectiveness, including resolution of legal issues. The grazing regulations govern all public lands that have been identified as suitable for livestock grazing. These lands presently include approximately 160 million acres in the western United States. This Draft Environmental Impact Statement (DEIS) is a national-level, programmatic EIS that documents the ecological, cultural, social, and economic effects that would result from implementing the proposed regulatory changes. Also analyzed in this DEIS are the projected effects of continuing under the existing regulations (the "no action" alternative) and a "modified" alternative that reflects several modifications to the proposed action.
3. For further information, contact: Molly S. Brady, Bureau of Land Management, 202/452-7714.
4. Comments on the DEIS must be received no later than 60 days after the Environmental Protection Agency (EPA) notice of availability (NOA) is published in the *Federal Register*. Comments are to be submitted electronically using the BLM's "ePlanning" Web-based public comment system. You may access ePlanning at <http://www.blm.gov/grazing/>. If you do not have access to a computer, comments may be mailed to: Director (220), Bureau of Land Management, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, Attn: Revised Grazing Regulations DEIS. You may deliver your comments to: 1620 L Street, NW, Suite 1075, Washington, D.C. 20036, Attn: Revisions to Grazing Regulations DEIS.

Comments on the DEIS should be as specific as possible and address the adequacy of the DEIS or the merits of the alternatives discussed, or both.

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Executive Summary

Introduction

The BLM proposes to revise its regulations concerning the administration of livestock grazing on public lands. These revisions are needed to advance BLM's goal of promoting cooperation to achieve rangeland management objectives. The regulatory revisions focus on improving working relations with permittees and lessees, protecting the health of the rangelands, and increasing administrative efficiency and effectiveness. In addition, the revisions are intended to resolve several legal issues.

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 Draft Environmental Impact Statement (DEIS) is a national-level, programmatic EIS that documents the ecological, cultural, social, and economic effects that would result from implementing the proposed regulatory changes. Because there seems to be substantial controversy regarding the degree to which the proposed regulations affect the human environment, the BLM has determined that an environmental impact statement is required.

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, in Albuquerque, New Mexico; Billings, Montana; Reno, Nevada; and Washington, D.C. More than 8,300 comments were received. Whereas most of the comments were form letters, 35 letters containing substantive comments were received from special interest groups and State and Federal agencies.

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."

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. 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 analyze and document 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 (decreases or increases) of more than 10% over a 5-year period, consistent with existing law.

- Provide for joint ownership of range improvements—changes would allow the BLM and a grazing permittee to share title of certain permanent range improvements, such as a fence, well, or pipeline, if they are constructed under a Cooperative Range Improvement Agreement.
- Require BLM to cooperate with State, local, or county established grazing boards in reviewing range improvements and allotment management plans on public lands.
- Clarify that an opportunity to review and provide input on biological assessments and biological evaluations prepared under the Endangered Species Act be provided to affected permittees or lessees, States having lands or responsibility for managing resources within the areas, and the interested public.

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 by allowing livestock operators to apply for nonuse for no longer than 1 year at a time, whether for conservation or business purposes. In other words, there would no limit on the number of consecutive years that permittees or lessees could be authorized temporary nonuse however BLM could only authorize nonuse for one year at a time.
- Require 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 rangeland health standards or to conform with guidelines for grazing administration.
- Provide additional time (as long as 24 months) after a determination that grazing practices or levels of use are significant factors in failing to achieve standards and guidelines for BLM to formulate, propose and analyze actions, to comply with all applicable laws such as NEPA or ESA, and to complete all consultation, cooperation and coordination requirements before a final decision is reached on the appropriate actions.

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

- Eliminate the "conservation use" permit regulatory provisions to comply with Federal court rulings.
- 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 (precedence of position in the "line" for grazing privileges).
- Modify the definition of "interested public" to ensure that only those individuals and organizations who actually participate in the process are maintained on the list of interested publics. The regulations with respect to the interested public is also revised to improve efficiency in the BLM's management of public lands grazing by reducing the occasions in which the Bureau is mandated to involve the interested public. Under this provision, 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 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 where 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 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 a court of competent jurisdiction does not bar the applicant or affiliate from holding a Federal grazing permit or lease.
- Clarify what is meant by changes in grazing use "within the terms and conditions of permits and leases." Under the present regulations, the BLM can approve changes in grazing use within the terms and conditions of a permit or lease. The proposed regulations clarify that "within the terms and conditions" means temporary changes to livestock number, period of use, or both, that would result 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. (The service charges apply to the BLM's issuance of livestock crossing permits, transfer of grazing preferences, and cancellation or replacement of grazing bills.)
- Clarify that if a livestock operator 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 operator is authorized to graze.
- Clarify how the BLM will authorize grazing if a Bureau decision affecting a grazing permit is "stayed" pending administrative appeal. A provision is also added to address the case of a stay on a decision related to a grazing preference transfer. Under the proposed regulations, if a stay is granted on a decision to modify or renew a grazing permit or lease or to offer a permit or lease to a preference transferee, then the immediately preceding authorization and any terms and conditions therein would not expire, and grazing would continue under the immediately preceding authorization.
- 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% 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-year limit rather than unlimited consecutive years as proposed.
- Allows for discretion by the BLM manager in determining what data are necessary to support evaluations of whether an allotment is meeting rangeland health standards and

to make a determination as to whether existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve rangeland health standards or to conform with guidelines for grazing administration.

- Eliminates several Federal or State laws and regulations, from the list of prohibited acts identified in the existing 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 the possibility of having his permit or lease withheld from issuance, or suspended or cancelled.
- Adds a requirement that certified weed seed-free forage, grain, straw, or mulch be used 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 proposed rulemaking. There may be some short-term adverse effects that cannot be avoided because of extended timeframes resulting from several components of this proposed rulemaking, including the requirement for a 5-year phase-in of changes in use of more than 10%, the requirement for monitoring prior to making a determination on rangeland health, and the extension of time allowed to develop and implement management actions after a determination that livestock grazing is a significant factor in failing to meet rangeland health standards or to conform with the guidelines. However, better and more sustainable grazing decisions would be the outcome of using monitoring data and taking the time to ensure complete communication, consultation and coordination with permittees or lessees and interested public, and completing other administrative obligations. The resulting grazing decisions would be sustainable and result in long-term positive effects on rangeland health. To minimize the potential for short-term adverse effects, the BLM could exercise authority under 43 CFR 4110.3-3(b) to curtail grazing if imminent likelihood of significant resource damage exists. 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

A letter has been sent to all tribal chairpersons for Federally recognized tribes west of the Mississippi River initiating consultation in accordance with the National Environmental Policy Act, the National Historic Preservation Act, the American Indian Religious Freedom Act, the Native American Graves Protection and Repatriation Act, the Archaeological Resources Protection Act, and Executive Order 13007 to ensure that any concerns they have will be fully considered. The letter included a copy of the Draft EIS for their review, and requests comments to be submitted during the 60-day public comment period.

Consultation With Fish and Wildlife Service and National Marine Fisheries Service

During the review of the Draft EIS, the BLM will consult informally with the Fish and

Wildlife Service and National Marine Fisheries Service under Section 7 of the Endangered Species Act.

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. The Draft EIS has been sent to them for their review.

Public Participation and Final Rulemaking—EIS Process

Publication of the Environmental Protection Agency (EPA) Notice of Availability (NOA) of the DEIS in the *Federal Register* initiates a 60-day review period for the public to comment on the proposed revisions to the regulations and this DEIS. During this time, the BLM will conduct additional public meetings to collect feedback on the proposed rulemaking and environmental analysis.

After careful consideration of all comments on the Draft EIS and Proposed Rulemaking, the BLM will incorporate any necessary changes into a Final EIS and Final Rulemaking. The Notice of Availability (NOA) for the Final EIS will then be published in the *Federal Register*. Thirty days after publication of the Final EIS, the BLM will issue a Record of Decision in the form of a Final Rulemaking that sets forth the BLM's final decision. The Final Rulemaking will become effective 60 days after publication. The regulations will become part of the Code of Federal Regulations.

**Table ES-1 Proposed Revisions to Grazing Regulations for the Public Lands
Comparison of Alternatives**

Improving Working Relationship with Permittees and Lessees			
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.	* A new provision would be added stating that before changing grazing preference, 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 current 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	* Under the current regulations, 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
Cooperation with State, Local, and County Established Grazing Boards	* Under current regulations, 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.	* Under the proposed regulations, a requirement is added for the BLM to cooperate with State, local, or county established grazing boards in reviewing range improvements and allotment management plans on public lands.	* Same as Proposed Action

Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Review of Biological Assessments and Evaluations	* Current rules do not specifically mention biological assessments or evaluations, however the current regulations require that BLM, to the extent practicable, 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.	* Biological assessments and biological evaluations prepared under the Endangered Species Act are specifically identified as reports that BLM would, to the extent practical, provide affected permittees or lessees, the state having lands or responsibility for managing resources within the area, and the interested public an opportunity to review and provide input during their preparation.	* Same as Proposed Action
Protecting the Health of the Rangelands			
Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Temporary Nonuse	* Grazing permittees or lessees may submit and BLM may approve an annual application for temporary non-use for no more than three (3) consecutive years. Reasons for temporary non-use include financial conditions or annual fluctuations of livestock.	* Grazing permittees or lessees could submit and BLM could approve non-use for no longer than one year at a time for resource reasons as well as for business/personal needs of the permittee or lessee (i.e., there would be no limit on consecutive years of non-use allowed).	* Same as Proposed Action except that permittees or lessees could submit and BLM could annually approve an application for nonuse for no more than five consecutive years.
Basis for Rangeland Health Determinations	* The current 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 BLM would not be required to use both assessments and monitoring as basis for determinations, i.e., may be based on assessment and/or monitoring.

Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
<p>Timeframe for Taking Action to Meet Rangeland Health Standards</p>	<p>* Under current regulations, 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 rangeland health</p>	<p>* Under the proposed regulations, where standards and guidelines have not been established,- 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 fundamentals of rangeland health conditions exist or progress is being made toward achieving rangeland health.</p>	<p>* Same as Proposed Action.</p>
	<p>* Current regulations state that upon determining that existing grazing practices or levels of use are significant factors in failing to achieve standards and 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.</p>	<p>* 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 action(s) as soon as practicable but not later than start of next grazing year.</p>	<p>* Same as Proposed Action.</p>

Increasing Administrative Efficiency and Effectiveness			
Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Conservation Use	*Under the current regulations, conservation use 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 conservation use would be deleted.	* Same as Proposed Action.

Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Definition of Grazing Preference, Permitted Use, and Active Use	* In the current regulations, <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.
	* In the current regulations, <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.
	* In the current regulations, <u>active use</u> means current 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 current authorized use which is available for livestock grazing based on rangeland carrying capacity and resource conditions in an allotment under a permit or lease and which is not in suspension.	* Same as Proposed Action.

Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Definition and Role of Interested Public	<p>* Under the current regulations, <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.</p>	<p>* <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 process leading to a decision for management of livestock grazing 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, as part of the process leading to a BLM decision on the management of livestock grazing on the allotment.</p>	<p>* Same as Proposed Action.</p>
	<p>* The BLM is required to consult, cooperate and coordinate with interested public on the following:</p> <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. 	<p>* Requirements to consult, cooperate and coordinate with the interested public would be modified as follows:</p> <ul style="list-style-type: none"> • Removed • Retained • Removed • Removed • Retained • Retained • Removed • Removed • Retained/Modified (added review on biological assessments/evaluations; removed specific reference to comment opportunity) • Removed 	<p>* Same as Proposed Action.</p>
	<p>* Under the current regulations, BLM is required to send copies of proposed and final decisions to the interested public.</p>	<p>* Same as existing regulations.</p>	<p>* Same as existing regulations.</p>

Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Water Rights	* Current regulations state that 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	* Current regulations identify requirements for satisfactory performance for renewal of permits and leases and for new permits or leases.	* 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 new applicants – basically changing the definition from a negative (what “is not” satisfactory performance) to a positive (what “is” satisfactory performance).	* Same as Proposed Action.

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	* The current regulations state that changes within the terms and conditions of the permit or lease may be granted by the authorized officer.	* The proposed regulations would provide that BLM may authorize temporary changes in grazing within the terms and conditions of a permit or lease to respond to annual fluctuations in timing and amount of forage production; or to meet locally established range readiness criteria.	* Same as Proposed Action.
	* The current regulations do not include consultation requirements for such changes	*The BLM would consult with the permittee or lessee on such changes.	* Same as Proposed Action.
	* The current regulations do not define what is meant by “within terms and conditions of the permit or lease”.	* “ Within terms & conditions ” would be defined to mean temporary changes to livestock number, period of use, or both that would result in grazing use that results in forage removal that does not exceed the amount of active use specified in the permit or lease; and occurs either 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.	* Same as Proposed Action.

Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
Service Charges	* A service charge may be assessed for each crossing permit, transfer of grazing preference, application solely for nonuse and each replacement/supplemental billing notice except for actions initiated by the authorized officer. A specific fee is not identified in the current regulations, however the current fee for these actions is \$10.	* Service charges would be specified as follows: 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.
Prohibited Acts	* There are 3 categories of acts which 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.	* Under the proposed regulation, the performance of prohibited acts in this third category 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.
	* The third category consists of 3 sets of prohibited acts including: <ul style="list-style-type: none"> • specific laws or regulations (e.g., Endangered Species Act) • Federal or State laws 	* 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., End. Species Act) • Federal or State laws

Elements	No Action/No Change Alternative 1	Proposed Action Alternative 2	Modified Alternative 3
	<p>pertaining to natural/ environmental/ cultural resources</p> <ul style="list-style-type: none"> • State laws related to livestock operations 		<p>pertaining to natural/ environmental/ cultural resources - deleted</p> <ul style="list-style-type: none"> • State laws related to livestock operations.
<p>Grazing Use Pending Resolution of Appeals When Decision Has Been Stayed</p>	<p>Under the current regulations, if a decision is stayed, the permittee or lessee will graze in accordance with the authorization issued the previous year. 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.</p>	<p>The provisions would be moved and editorial changes would be made to clarify these requirements. In addition, a provision would be added addressing the stay of a decision on a permit or lease offered to a preference transferee. If a stay is granted on a decision to modify or renew a permit or lease or to offer a permit or lease to a preference transferee, then the immediately preceding authorization would not expire, and grazing would continue under the immediately preceding authorization with the same terms and conditions therein.</p>	<p>* Same as Proposed Action.</p>
<p>Treatment of Biological Assessments & Evaluations in the Grazing Decision-Making Process</p>	<p>* Current regulations do not specifically address biological assessments or biological evaluations prepared in compliance with the Endangered Species Act. However, in accordance with the IBLA Blake decision, biological assessments are to be treated as decisions subject to protest and appeal.</p>	<p>* In the proposed regulations it would be stated that 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.</p>	<p>* Same as Proposed Action.</p>

Table ES-2 - Comparison of the Impacts Across Alternatives

Alternative 1	Alternative 2	Alternative 3
<i>Grazing Administration</i>		
<p>*BLM grazing management would provide some partnership opportunities. *Mechanisms for assessing standards and changing grazing management would be rushed, discourage partnerships, and produce decisions of inconsistent quality. *Inconsistent documentation and consideration of social, economic and cultural effects of grazing decisions.</p>	<p>*BLM would promote greater partnership with grazing permittees, lessees, and grazing advisory boards. *Additional time would be allocated for developing appropriate action following a rangeland health determination. This would delay on-the-ground action but would lead to better, more comprehensive and acceptable decisions and would improve partnerships. *Additional consideration would be given to social, economic, and cultural impacts. *Monitoring data would support partnerships and sustainable decisions.</p>	<p>*Similar to Alternative 2 but with additional flexibility at the local level.</p>
<i>Vegetation</i>		
<p>*Vegetative cover would increase slowly. *Timelines for management changes may limit vegetation management alternatives and partnerships. *Riparian vegetation would remain static or improve slightly.</p>	<p>*Vegetative conditions would move toward achievement of management objectives. *Potential for short-term adverse effects where vegetative recovery is delayed. *Additional resources would be invested in improvements due to partnerships and improved working relationships. *Riparian vegetation would remain static or improve slightly.</p>	<p>*Similar to Alternative 2 but flexibility in standards assessments and management implementation schedules would allow focus on high priority allotments and accelerate short-term vegetative recovery. *Slower weed expansion rates than Alt. 1 or 2.</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>		
*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.	*Short-term adverse impacts would be minimal except at the local scale. *Maintenance or slight improvement would be expected in the long-term due to watershed cover.	*Similar to Alternative 2.
<i>Water Resources</i>		
*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.	*Similar to Alternative 1.	*Similar to Alternative 1 except the increase in weeds will be slower than Alternative 1.
<i>Air Quality</i>		
*Air quality would be expected to be maintained or improved and within standards.	*Similar to Alternative 1.	*Similar to Alternative 1.
<i>Wildlife</i>		
*Wildlife populations and habitat would remain static or improve slightly as habitat improvements are implemented. *Current timeframes for developing grazing management changes would impede adequate analysis and consultation, thus resulting in less effective and acceptable decisions on wildlife.	*In the long run, there would be a slight beneficial 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. *The elimination of the 3 consecutive year limit on temporary non-use could improve opportunities for cooperation to benefit wildlife resources.	*Changes in temporary non-use over current regulations from 3 to 5 consecutive years would slightly benefit wildlife. *More discretion for BLM managers in phasing in implementation of changes in grazing use would be beneficial to wildlife. * More discretion for BLM managers on the data to use for making rangeland health determinations could be beneficial to wildlife resources. *Reduction in spread of weeds would enhance wildlife habitat.
<i>Special Status Species</i>		
*Slight positive or no effect on special status species. *Effects similar to wildlife in Alternative 1.	*Slight positive or no effect on special status species. *Effects similar to wildlife effects in Alternative 2	*Similar to wildlife effects in Alternative 3.

<i>Wild Horses and Burros</i>		
*Little change in wild horse and burro populations on public lands.	*Slight long-term positive 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 current good conditions.	*Little impact due to existing good conditions.	*Slight improvement of conditions on the long term due to reduction of weed expansion.
<i>Paleontological and Cultural Resources</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.	*Similar to Alternative 2 except removal of cultural damage prohibited act may have slight adverse impact.
<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.

<i>Social Conditions</i>		
<p>Ranchers would continue to face increasing stress related to public land grazing. 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. *Ranchers would experience beneficial social effects as a result of most provisions – particularly phasing in of implementation of changes, required cooperation with grazing boards, focusing water rights provision on following state law and providing more time for developing appropriate action following rangeland health determination. *Ranchers would experience negative social effects from the removal of the limit on consecutive years of nonuse – they perceive this as a form of conservation use and a threat to the economic and social viability of their communities. *Environmental groups would experience adverse social effects from the water rights provision change. *Social effects on environmental interest 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. *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 as a result of present regulations.</p>	<p>*Would not result in violation of environmental justice principles.</p>	<p>*Would not result in violation of environmental justice principles.</p>