

**Guidance Regarding Conservation and Protection (C&P) Nonuse
and Regulatory References to “Conservation Use”**

Regulatory Citation to “conservation use” (43 CFR §)	Comment	Instruction
4100.0-5	The definition of “active use” provides that “conservation use” is an element of “active use” (a forage amount).	Do not consider conservation use or C&P nonuse to be an element of active use. See <i>Public Lands Council v. Babbitt</i> , 929 F. Supp. 1436, 1443 (D. Wyo. 1996), aff’d in part, rev’d in part on other grounds, 167 F.3d 1287, 1308 (10th Cir. 1999), aff’d, 529 U.S. 728 (2000).
4100.0-5	The term “conservation use” is defined in geographic terms (“excluding livestock on all or a portion of an <i>allotment</i> ”) rather than in terms of a forage amount that is approved for nonuse.	Do not use the definition of “conservation use.” When considering applications for nonuse for reasons of conservation and protection of the public lands, use the definition of C&P nonuse established by this IM.
4100.0-5	The definitions of “grazing lease” and “grazing permit” state that conservation use may be authorized by these documents.	Do not specify an amount of conservation use or C&P nonuse in grazing permits or leases.
4110.2-2(a)	Provides that conservation use is specified in permits or leases.	Do not specify an amount of conservation use or C&P nonuse in grazing permits or leases.
4120.3-3(c)	Provides that when operators cannot make use of forage available to them under their permits or leases and the BLM has denied an application for conservation use, they must cooperate with the BLM in allowing others the use of that forage.	For purposes of implementing this provision, substitute “C&P nonuse” for “conservation use” and apply the definition of C&P nonuse established by this IM.
4130.2(a)	Provides that permits or leases shall specify the amount of authorized conservation use.	Do not specify an amount of authorized conservation use or C&P nonuse in grazing permits or leases.
4130.2(g)	Provides that the BLM may approve conservation use if that action conforms with planning documents or	For purposes of implementing this provision, substitute “C&P nonuse” for “conservation use”

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	provisions of subpart 4180.	and apply the definition of C&P nonuse established by this IM.
4130.2(g)(1)	Provides that the BLM may approve conservation use for periods of up to 10 years.	Do not implement this provision. Follow the guidance in this IM regarding approval of C&P nonuse.
4130.2(h)	Provides that the BLM will not approve applications for nonrenewable permits to use forage that has become temporarily available as a result of approved conservation use.	For purposes of implementing this provision, substitute “C&P nonuse” for “conservation use” and apply the definition of C&P nonuse established by this IM.
4130.4(b)	Provides that permittees or lessees may apply to activate use that is within the terms and conditions of their existing permit or lease and previously approved for conservation use; also provides for forage placed into conservation use.	For purposes of implementing this provision, substitute “C&P nonuse” for “conservation use” and apply the definition of C&P nonuse established by this IM.
4130.5(b)(1)	Provides that the authorized officer may authorize free use when the primary objective of conservation use is management of vegetation to meet resource objectives other than production of livestock forage.	Ignore this reference to “conservation use.” As stated in this IM, no grazing fees are charged for approved C&P nonuse.
4130.8-3	Provides that the BLM may assess a service charge to process an application solely for conservation use.	For purposes of implementing this provision, substitute “C&P nonuse” for “conservation use” and apply the definition of C&P nonuse established by this IM.
4140.1(a)(2)	Provides that the prohibited act of “failing to make substantial use as authorized for two consecutive fee years” does not include approved conservation use.	For purposes of implementing this provision, substitute “C&P nonuse” for “conservation use” and apply the definition of C&P nonuse established by this IM.