

Bureau of Land Management, U.S. Department of the Interior

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FACTSHEET

on the BLM'S New Grazing Regulations

The Bureau of Land Management (BLM) is making regulatory changes aimed at improving the Bureau's management of public lands grazing in the rural West. More specifically, the regulation revisions seek to improve the BLM's working relationships with public land ranchers, conserve rangeland resources, and enhance administrative efficiency. The changes, which the Bureau proposed in December 2003 and is publishing in final form today (July 12, 2006), underscore grazing's standing as one of the authorized uses of BLM-managed lands. This regulatory initiative recognizes the economic and social benefits of public lands grazing, as well as the role of ranching in preserving open space and wildlife habitat in the rapidly growing West.

In developing the new regulations, collectively known as a final "rule," the BLM solicited input from stakeholders and the general public. The agency received more than 18,000 public comments on its proposed grazing rule and draft Environmental Impact Statement (EIS), the comment periods for which both closed on March 2, 2004; these comments were considered and analyzed in the BLM's preparation of the final EIS, published June 17, 2005. The BLM also considered and analyzed comments that came in after the deadline; the Bureau addressed these late comments in an addendum to the EIS, published March 31, 2006. The new grazing rule takes effect 30 days after today's publication in the *Federal Register*.

Below are key features of the new grazing regulations, which apply specifically to BLM-managed public lands.

Improving Working Relationships with Grazing Permittees and Lessees

In this category, the new rule:

- provides that the BLM and a grazing permittee or lessee (or other cooperating party) will share title to future range improvements – permanent structures such as fences, wells, or pipelines – if they are constructed under what is known as a Cooperative Range Improvement Agreement, as was allowed prior to 1995.
- phases in grazing-use decreases (as well as increases) of more than 10 percent over a five-year period, consistent with existing law and in full recognition of the BLM's authority to respond as necessary to drought, fire, and other resource conditions.
- promotes a consistent approach by BLM managers in considering and documenting the social, cultural, and economic effects of decisions that determine levels of authorized grazing use. The impact analyses resulting from this consistent approach will then be incorporated into the relevant documents required under the 1969 National Environmental Policy Act (NEPA).
- requires the BLM, in reviewing range improvements and grazing allotment management plans, to cooperate with grazing boards established by Tribes, states, counties, and local governments.

Assessing and Protecting Rangelands

In this category, the new rule:

- removes a restriction that has limited temporary non-use of a grazing permit to three consecutive years. The new rule instead allows livestock operators to apply for non-use each year, whether for conservation or business purposes, with no limit on the number of consecutive years. Before giving approval, the BLM will examine the need for non-use to make sure it is justified.
- requires use of existing or new monitoring data in cases where the BLM has found, based on its initial assessment, that a grazing allotment is failing to meet rangeland health standards. By using monitoring data, which shows land-condition trends in significant detail, the BLM will be better able to determine the reasons for an allotment's failure to meet such standards, and to what extent, if any, grazing practices are at issue.

- allows up to 24 months – instead of prior to the start of the next grazing season – for the BLM to analyze and formulate an appropriate course of action in cases where grazing practices are at issue. The management action would address and correct the grazing practices that have contributed to the rangeland's failure to meet health standards. This deadline could be extended when legally required processes (such as the issuance of a biological opinion) that are the responsibility of another agency prevent the BLM's completion of all legal obligations within the 24-month timeframe. Existing regulations – which will be revised in 30 days, when the new rule takes effect – have required implementation of an appropriate course of action before the start of the next grazing season, which is often an unrealistic timeframe in light of certain legal requirements, such as environmental analysis under NEPA.

Addressing Legal Issues while Enhancing Administrative Efficiency

In this category, the new rule:

- eliminates a 1995 “Rangeland Reform” regulatory provision allowing the BLM to issue long-term “conservation use” permits. This change brings the agency’s grazing regulations into compliance with a 1999 Federal court ruling, *Public Lands Council vs. Babbitt*, handed down by the 10th Circuit Court of Appeals.
- expands the definition of “grazing preference” to include an amount of forage on public lands that is linked 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, when the “Rangeland Reform” regulations took effect, 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).
- modifies the definition of “interested public” to cover only those individuals and organizations that actually participate in the process leading to specific grazing decisions. Under existing regulations (which will be revised in 30 days, when the new rule takes effect), a party might remain indefinitely on the interested public list without ever commenting on or providing input into the decisionmaking process. This change will 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 in certain administrative matters. 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 involve the public in grazing planning activities, such as allotment management planning and range improvement project planning.
- provides flexibility to the Federal government in decisions relating to livestock water rights by removing the requirement that the BLM seek ownership of these rights to the maximum extent allowed by state law.
- increases certain service fees to reflect more accurately the cost of grazing administration. (The fees apply to the BLM’s issuance of livestock crossing permits; transfer of grazing preferences; and cancellation and replacement of grazing fee bills.)
- clarifies that if a grazing permittee or lessee is convicted of violating Federal or state environmental or livestock laws and regulations, and if the violation occurs while the livestock operator 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.
- makes clear how the BLM will authorize grazing if implementation of a Bureau decision affecting a grazing permit is “stayed” (temporarily stopped) pending an administrative appeal.
- clarifies that a biological assessment of the BLM, prepared in compliance with the Endangered Species Act, is *not* a decision of the Bureau and therefore is not subject to protest and appeal.

The new set of regulations retains key elements of the “Rangeland Reform” initiative that revised grazing regulations more than a decade ago. For example, the new rule:

- **leaves intact** the rangeland health standards and guidelines that were developed by the BLM’s Resource Advisory Councils under the “Rangeland Reform ‘94” rules that took effect in August 1995, and
- **makes no change** to the existing Resource Advisory Council (RAC) system, in which the BLM receives advice and recommendations from 24 citizen-based RACs across the West.

Also, the new rule **does not change** the way the Federal grazing fee is calculated, a formula established by Congress in 1978 that continues under a 1986 Presidential Executive Order.