



4310-84

## **DEPARTMENT OF THE INTERIOR**

### **Bureau of Land Management**

**[20XL.LLWO220000.L1020000.PK0000]**

### **Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Revision of Grazing Regulations for Public Lands**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of intent.

**SUMMARY:** In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management's (BLM) Resources and Planning Directorate, located in Washington, DC, by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues. Scoping is the process by which the BLM solicits input on the issues, impacts, and potential alternatives and the extent to which those issues and impacts will be analyzed in the Environmental Impact Statement (EIS).

**DATES:** This notice initiates the public scoping process. Comments on issues may be submitted in writing until 15 days after the last public meeting. The date(s) and location(s) of scoping meetings will be announced at least 7 days in advance through local media, newspapers and the BLM website at: <https://go.usa.gov/xyMqb>. In order to be included in the Draft EIS, all comments must be received prior to 15 days after the last public meeting. The BLM will provide additional opportunities for public participation upon publication of the Draft EIS.

**ADDRESSES:** You may submit comments related to scoping for the BLM Grazing Regulation Revision EIS to the following weblink: <https://go.usa.gov/xyMqb>.

Documents pertinent to this proposal may also be examined at this same weblink.

If you do not have web access and wish to submit a written comment, you may mail it to the Bureau of Land Management, Attn: Seth Flanigan, 3948 S Development Ave, Boise, ID, 83702.

**FOR FURTHER INFORMATION CONTACT:** Seth Flanigan, Project Manager, telephone 208-384-3450; email: [blm\\_wo\\_grazing\\_email@blm.gov](mailto:blm_wo_grazing_email@blm.gov). If you do not have web access, please contact Mr. Flanigan for help in obtaining copies of documents that are pertinent to this proposal. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact Mr. Flanigan during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The BLM is soliciting public comment as it prepares this EIS to update the Code of Federal Regulations (CFR), at 43 CFR part 4100, Grazing Administration – Exclusive of Alaska. As part of the proposed changes, the BLM may consider moving and revising some provisions contained in 43 CFR part 4100 to other regulations as part of a single rulemaking effort. The EIS will analyze the environmental effects of proposed changes to these regulations.

The BLM grazing regulations (43 CFR part 4100) govern all public lands, excluding Alaska, that have been identified as suitable for livestock grazing. These lands presently include approximately 155 million acres in the western United States. These

regulations were promulgated in accordance with FLPMA (43 U.S.C. 1701 et seq.), the Taylor Grazing Act (TGA) (43 U.S.C. 315, 315a-315r), and the Public Rangelands Improvement Act (43 U.S.C. 1901 et seq.).

Since the first adoption of grazing regulations after passage of the TGA, the BLM has periodically modified, revised, and updated its regulations in response to legislative and policy changes and implementation challenges. The BLM comprehensively revised its grazing regulations in 1995 and 2006. In 2007, the U.S. District Court in Idaho permanently enjoined implementation of the 2006 amendments. The U.S. Court of Appeals for the Ninth Circuit affirmed the permanent injunction in 2011.

The BLM has managed public land livestock grazing activities in conformance with the regulations that were in effect immediately before the 2006 amendments were adopted (October 1, 2005 edition of 43 CFR part 4100), except for the conservation use permit provision previously struck down by the U.S. Court of Appeals for the Tenth Circuit in 1999. The 1995 regulations without the provision for conservation use permits have never been published in the CFR. Despite the injunction, the 2006 amended version of the grazing administration regulations still appears in the CFR. This has created significant confusion for grazing permittees and lessees, BLM staff, the public, and the courts.

On December 19, 2014, Congress amended section 402 of FLPMA (43 U.S.C. 1752), in Public Law 133-291. Amendments to section 402(c) provide that the terms and conditions of an expired permit or lease shall continue under a new permit or lease until the Secretary completes any remaining applicable environmental review and documentation. This amendment to section 402(c) is similar to provisions in previous

appropriations riders.<sup>1</sup> Amendments to section 402(h) authorize the Secretary to categorically exclude decisions that authorize certain grazing permits and leases, and the trailing and crossing of livestock across public land, from the requirement to prepare an environmental document under NEPA. Lastly, new section 402(i) provided Congressional direction regarding the priority and timing for completion of environmental analyses.

In addition, the U.S. Government Accountability Office (GAO) released a report in July 2016 titled, “Unauthorized Grazing: Actions Needed to Improve Tracking and Deterrence Efforts” (GAO-16-559). The GAO recommended that the Secretary of the Interior direct the Director of the BLM to amend the regulations on unauthorized grazing use, 43 CFR subpart 4150 (2005), “to establish a procedure for the informal resolution of violations at the local level.”

The BLM plans to initiate a rulemaking to address the Congressional amendments and the GAO’s concerns, as well as ensure that the CFR reflects the applicable regulations governing the grazing program in the continental United States. In addition, the BLM is interested in amending 43 CFR part 4100 to address the following:

- Updating and modernizing the regulations, including revising definitions to provide more accurate and concise descriptions of the terms, and to align with current statutory, and regulatory authorities; rewording certain sections to improve readability and understanding; and considering ways to improve grazing

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<sup>1</sup> *E.g.*, Sec. 123, Pub. L. 106-113 (Nov. 29, 1999); Sec. 116, Pub. L. 106-291 (Oct. 11, 2000); Sec. 114, Pub.L. 107-67 (Nov. 12, 2001); Sec. 325, Pub. L. 108-108 (Nov. 10, 2003); Sec. 426, Pub.L. 111-8 (Mar. 11, 2009); Sec. 416, Pub.L. 111-88 (Oct. 30, 2009); Sec. 415, Pub. L. 112-74 (Dec. 23, 2011); Sec. 411, Pub. L. 113-76 (Jan. 17, 2014).

permit administration, such as: transfers of grazing preference; provisions that allow for greater flexibility for using livestock grazing to address fuel loads and protect areas with high quality habitat from wildfire; continued Resource Advisory Committee review of rangeland improvements and allotment management plans; and emergency public consultation.

- Improving permitting efficiency. This could include, for example, changing how the BLM issues decisions for crossing permits, temporary nonrenewable permits, and authorizing grazing to reduce wildfire risk, expanded or clarified use of NEPA categorical exclusion authorities, and streamlining protest and appeal processes.
- Promoting land health. Considering where and how the BLM will evaluate the Land Health Fundamentals and Standards. Explore ways to use livestock grazing to reduce wildfire risk and improve rangeland conditions.
- Public participation. The BLM seeks to ensure adequate participation of all stakeholders without unduly burdening administrative processes.

The purpose of the public-scoping process is to determine relevant issues that will influence the scope of the EIS, including alternatives, and guide the process for developing the EIS.

The BLM is also seeking the views of the public on the potential for prospective regulatory changes to affect historic properties. The information about historic and cultural resources will assist the BLM in identifying and evaluating impacts to such resources and determine the agency's obligations under Section 106 of the National Historic Preservation Act (54 USC 306108).

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175, BLM MS 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed BLM Grazing Regulation Revision that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the EIS as a cooperating agency.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 40 CFR 1501.7)

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