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## **Subpart 4120—Grazing Management**

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**§ 4120.1 [Reserved]**

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**§ 4120.2 Allotment management plans and resource activity plans.**

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Allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans may be developed by permittees or lessees, other Federal or State resource management agencies, interested citizens, and the Bureau of Land Management. When such plans affecting the administration of grazing allotments are developed, the following provisions apply:

(a) An allotment management plan or other activity plans intended to serve as the functional equivalent of allotment management plans shall be prepared in careful and considered consultation, cooperation, and coordination with affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by such a plan, and the interested public. The plan shall become effective upon approval by the authorized officer. The plans shall—

(1) Include terms and conditions under §§4130.3, 4130.3–1, 4130.3–2 4130.3–3, and subpart 4180 of this part;

(2) Prescribe the livestock grazing practices necessary to meet specific resource objectives;

(3) Specify the limits of flexibility, to be determined and granted on the basis of the operator's demonstrated stewardship, within which the permittee(s) or lessee(s) may adjust operations without prior approval of the authorized officer; and

(4) Provide for monitoring to evaluate the effectiveness of management actions in achieving the specific resource objectives of the plan.

(b) Private and State lands may be included in allotment management plans or other activity plans intended to serve as the functional equivalent of allotment management plans dealing with rangeland management with the consent or at the request of the parties who own or control those lands.

(c) The authorized officer shall provide opportunity for public participation in the planning and environmental analysis of proposed plans affecting the administration of grazing and shall give public notice concerning the availability of environmental documents prepared as a part of the development of such plans, prior to implementing the plans. The decision document following the environmental analysis will be issued in accordance with §4160.1.

(d) A requirement to conform with completed allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans shall be incorporated into the terms and conditions of the grazing permit or lease for the allotment.

(e) Allotment management plans or other applicable activity plans intended to serve as the functional equivalent of allotment management plans may be revised or terminated by the authorized officer after consultation, cooperation, and coordination with the affected permittees or lessees, landowners involved, the resource advisory council, any State having lands or responsible for managing resources within the area to be covered by the plan, and the interested public.

[60 FR 9964, Feb. 22, 1995, as amended at 61 FR 4227, Feb. 5, 1996; 71 FR 39505, July 12, 2006]

### **§ 4120.3 Range improvements.**

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#### **§ 4120.3-1 Conditions for range improvements.**

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(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management.

(b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative range improvement agreement with the Bureau of Land Management or must have an approved range improvement permit.

(c) The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under §4130.3–2 of this title.

(d) The authorized officer may require a permittee or lessee to install range improvements on the public lands in an allotment with two or more permittees or lessees and/or to meet the terms and conditions of agreement.

(e) A range improvement permit or cooperative range improvement agreement does not convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States.

(f) The authorized officer will review proposed range improvement projects as required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.* ). The decision document following the environmental analysis shall be issued in accordance with §4160.1.

[49 FR 6452, Feb. 21, 1984, as amended at 60 FR 9964, Feb. 22, 1995; 61 FR 4227, Feb. 5, 1996; 71 FR 39505, July 12, 2006]

#### **§ 4120.3-2 Cooperative range improvement agreements.**

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(a) The Bureau of Land Management may enter into a cooperative range improvement agreement with a person, organization, or other government entity for the installation, use, maintenance, and/or modification of permanent range improvements or rangeland developments to achieve management or resource condition objectives. The cooperative range improvement agreement shall specify how the costs or labor, or both, shall be divided between the United States and cooperators(s).

(b) Subject to valid existing rights, cooperators and the United States will share title to permanent structural range improvements such as fences, wells, and pipelines where authorization is granted after August 11, 2006 in proportion to their contribution to on-the-ground project development and construction costs. The authorization for all new permanent water developments, such as spring developments, wells, reservoirs, stock tanks, and pipelines, shall be through cooperative range improvement agreements. The authorized officer will document a permittee's or lessee's interest in contributed funds, labor, and materials to ensure proper credit for the purposes of §§4120.3–5 and 4120.3–6(c).

(c) The United States shall have title to nonstructural range improvements such as seeding, spraying, and chaining.

(d) Range improvement work performed by a cooperator or permittee on the public lands or lands administered by the Bureau of Land Management does not confer the exclusive right to use the improvement or the land affected by the range improvement work.

[60 FR 9964, Feb. 22, 1995, as amended at 61 FR 4227, Feb. 5, 1996; 71 FR 39505, July 12, 2006]

### **§ 4120.3-3 Range improvement permits.**

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(a) Any permittee or lessee may apply for a range improvement permit to install, use, maintain, and/or modify removable range improvements that are needed to achieve management objectives for the allotment in which the permit or lease is held. The permittee or lessee shall agree to provide full funding for construction, installation, modification, or maintenance. Such range improvement permits are issued at the discretion of the authorized officer.

(b) The permittee or lessee may hold the title to authorized removable range improvements used as livestock handling facilities such as corrals, creep feeders, and loading chutes, and to temporary structural improvements such as troughs for hauled water.

(c) If forage available for livestock is not or will not be used by the preference permittee or lessee, BLM may issue nonrenewable grazing permits or leases to other qualified applicants to use it under §§4130.6–2 and 4130.4(d), or §4110.3–1(a)(2). The term “forage available for livestock” does not include temporary nonuse that BLM approves for reasons of natural resource conservation, enhancement, or protection, or use suspended by BLM under §4110.3–2(b). Before issuing a nonrenewable permit or lease, BLM will consult, cooperate, and coordinate as provided in §4130.6–2. If BLM issues such a nonrenewable permit or lease, the preference permittee or lessee shall cooperate with the temporary authorized use of forage by another operator.

(1) A permittee or lessee shall be reasonably compensated for the use and maintenance of improvements and facilities by the operator who has an authorization for temporary grazing use.

(2) The authorized officer may mediate disputes about reasonable compensation and, following consultation with the interested parties, make a determination concerning the fair and reasonable share of operation and maintenance expenses and compensation for use of authorized improvements and facilities.

(3) Where a settlement cannot be reached, the authorized officer shall issue a temporary grazing authorization including appropriate terms and conditions and the requirement to compensate the preference

permittee or lessee for the fair share of operation and maintenance as determined by the authorized officer under subpart 4160 of this part.

[49 FR 6452, Feb. 21, 1984; 49 FR 12704, Mar. 30, 1984, as amended at 60 FR 9964, Feb. 22, 1995; 71 FR 39505, July 12, 2006]

#### **§ 4120.3-4 Standards, design and stipulations.**

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Range improvement permits and cooperative range improvement agreements shall specify the standards, design, construction and maintenance criteria for the range improvements and other additional conditions and stipulations or modifications deemed necessary by the authorized officer.

[49 FR 6452, Feb. 21, 1984, as amended at 61 FR 4227, Feb. 5, 1996]

#### **§ 4120.3-5 Assignment of range improvements.**

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The authorized officer shall not approve the transfer of a grazing preference under §4110.2–3 of this title or approve use by the transferee of existing range improvements, unless the transferee has agreed to compensate the transferor for his/her interest in the authorized improvements within the allotment as of the date of the transfer.

[53 FR 10234, Mar. 29, 1988]

#### **§ 4120.3-6 Removal and compensation for loss of range improvements.**

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(a) Range improvements shall not be removed from the public lands without authorization.

(b) The authorized officer may require permittees or lessees to remove range improvements which they own on the public lands if these improvements are no longer helping to achieve land use plan or allotment goals and objectives or if they fail to meet the criteria under §4120.3–4 of this title.

(c) Whenever a grazing permit or lease is cancelled in order to devote the public lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States reasonable compensation for the adjusted value of their interest in authorized permanent improvements placed or constructed by the permittee or lessee on the public lands covered by the cancelled permit or lease. The adjusted value is to be determined by the authorized officer. Compensation shall not exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein. Where a range improvement is authorized by a range improvement permit, the livestock operator may elect to salvage materials and perform rehabilitation measures rather than be compensated for the adjusted value.

(d) Permittees or lessees shall be allowed 180 days from the date of cancellation of a range improvement permit or cooperative range improvement agreement to salvage material owned by them and perform rehabilitation measures necessitated by the removal.

[49 FR 6452, Feb. 21, 1984; 49 FR 12704, Mar. 30, 1984, as amended at 61 FR 4227, Feb. 5, 1996]

#### **§ 4120.3-7 Contributions.**

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The authorized officer may accept contributions of labor, material, equipment, or money for administration, protection, and improvement of the public lands necessary to achieve the objectives of this part.

[49 FR 6452, Feb. 21, 1984]

#### **§ 4120.3-8 Range improvement fund.**

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(a) In addition to range developments accomplished through other resource management funds, authorized range improvements may be secured through the use of the appropriated range improvement fund. One-half of the available funds shall be expended in the State and district from which they were derived. The remaining one-half of the fund shall be allocated, on a priority basis, by the Secretary for on-the-ground rehabilitation, protection and improvement of public rangeland ecosystems.

(b) Funds appropriated for range improvements are to be used for investment in all forms of improvements that benefit rangeland resources including riparian area rehabilitation, improvement and protection, fish and wildlife habitat improvement or protection, soil and water resource improvement, wild horse and burro habitat management facilities, vegetation improvement and management, and livestock grazing management. The funds may be used for activities associated with on-the-ground improvements including the planning, design, layout, contracting, modification, maintenance for which the Bureau of Land Management is responsible, and monitoring and evaluating the effectiveness of specific range improvement projects.

(c) During the planning of the range development or range improvement programs, the authorized officer shall consult the resource advisory council, affected permittees, lessees, and members of the interested public.

[60 FR 9965, Feb. 22, 1995, as amended at 61 FR 4227, Feb. 5, 1996; 71 FR 39505, July 12, 2006]

#### **§ 4120.3-9 Water rights for the purpose of livestock grazing on public lands.**

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Any right that the United States acquires to use water on public land for the purpose of livestock watering on public land will be acquired, perfected, maintained, and administered under the substantive and procedural laws of the state within which such land is located.

[71 FR 39505, July 12, 2006]

#### **§ 4120.4 Special rules.**

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(a) When a State Director determines that local conditions require a special rule to achieve improved administration consistent with the objectives of this part, the Director may approve such rules. The rules shall be subject to public review and comment, as appropriate, and upon approval, shall become effective when published in the Federal Register as final rules. Special rules shall be published in a local newspaper.

(b) Where the Bureau of Land Management administers the grazing use of other Federal Agency lands, the terms of an appropriate Memorandum of Understanding or Cooperative Agreement shall apply.

[49 FR 6452, Feb. 21, 1984]

## **§ 4120.5 Cooperation.**

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### **§ 4120.5-1 Cooperation in management.**

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The authorized officer shall, to the extent appropriate, cooperate with Federal, State, Indian tribal and local governmental entities, institutions, organizations, corporations, associations, and individuals to achieve the objectives of this part.

[60 FR 9965, Feb. 22, 1995]

### **§ 4120.5-2 Cooperation with Tribal, state, county, and Federal agencies.**

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Insofar as the programs and responsibilities of other agencies and units of government involve grazing upon the public lands and other lands administered by the Bureau of Land Management, or the livestock which graze thereon, the Bureau of Land Management will cooperate, to the extent consistent with applicable laws of the United States, with the involved agencies and government entities. The authorized officer will cooperate with Tribal, state, county, and Federal agencies in the administration of laws and regulations relating to livestock, livestock diseases, sanitation, and noxious weeds, including—

(a) State cattle and sheep sanitary or brand boards in control of stray and unbranded livestock, to the extent such cooperation does not conflict with the Wild Free-Roaming Horse and Burro Act of 1971 (16 U.S.C. 1331 et seq.);

(b) County or other local weed control districts in analyzing noxious weed problems and developing control programs for areas of the public lands and other lands administered by the Bureau of Land Management; and

(c) Tribal, state, county, or local government-established grazing boards in reviewing range improvements and allotment management plans on public lands.

[60 FR 9965, Feb. 22, 1995, as amended at 71 FR 39505, July 12, 2006]