

BLM Public Comment Proposal

We are especially interested in public comment addressing the following:

- (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected;
- (4) How might the agency minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Comments for Reindeer Herders Association

Background: The Reindeer Herders Association (RHA) is a program of Kawerak, Inc. (the Tribal non-profit corporation of the Bering Strait) representing 21 Alaska Native Reindeer Herders across Western Alaska, primarily in the Bering Strait and Northwest Arctic Borough regions.

RHA represents nearly all current holders of reindeer public land grazing permits on the Seward Peninsula, the primary area where this proposed change will be implemented. RHA represents 5 current holders of BLM grazing permits under the terms of the MOU in 2014 between the National Park Service, Bureau of Land Management, USDA Natural Resources Conversation Service (NRCS), and the Alaska Department of Natural Resources. RHA submits these comments on behalf of its full membership but also consulted directly with the BLM permit holders specifically.

1. The instructions on the Form AK 4201-1 “Reindeer Grazing Permit Application” should not require a separate attachment regarding “detailed description of your plans for stocking and operating the proposed permit area.” RHA proposes that this directive be scaled back significantly, and any questions of this nature be included in the 10-year grazing permit application itself to minimize administrative burden on reindeer producers who primarily live in villages with minimal internet, cell and mail access.

BLM Response: Including blank space on the form for a “detailed description of your plans for stocking and operating the proposed permit area” would make the form unnecessarily cumbersome and long. Permit applicants have varying levels of operational plans, some simple and some complex. By providing for a separate attachment, the applicant can use as much space as needed to describe their proposed plans for reindeer stocking and grazing

operations.

RHA proposes that the separate content requirements of attachment directives 1-5 are both significantly burdensome on reindeer herders, many of whom have families practicing reindeer husbandry on the land since the 19th century and will not support BLM in its agency functions in any way. For example, the requests for 'cost of structures' is arguably proprietary information to herders as are improvement schedules (which are not well estimated anyway given challenging village barge logistics), livestock sources (which regard private business transactions as there is no current government loan program), any 'plans' regarding 'marketing,' and any plans regarding 'disposal' which are permitting functions allocated to environmental agencies like EPA and Alaska DEC.

BLM Response: The cost of structures and improvement schedules gives BLM the ability to determine the environmental effects of the structures and to address the plans for removing these structures after expiration or termination of the reindeer permit issued. BLM requests information on the livestock source because it is currently a regulatory requirement (43 CFR§ 4300.21).

BLM recognizes that currently there are limited sources of livestock and therefore this information is necessary to understand the impacts of moving livestock across public lands and to ensure that permittees are complying with all applicable State and Federal laws on livestock quarantine and sanitation under 43 CFR§ 4300.44.

BLM requests information about the applicant's plans for marketing because such information will help BLM understand the need for and analyze requests for range improvements and the number of reindeer requested within the permit area. Additionally, this information will assist BLM in addressing future requests by permit holders for additional improvements, increasing the number of reindeer within a permit area, assignment requests, or reindeer crossing permits.

Information concerning disposal of animal carcasses and waste products will allow BLM to ensure that BLM authorization's do not impact water quality or other land health standards. If BLM determines that an authorization might affect water quality, BLM coordinates with the applicable state or federal agencies to determine the appropriate course of action to cease sources of contamination and/or reduce impacts.

Reindeer herders have credible resistance to sharing this type of additional information given the potential for Freedom of Information Act discovery.

BLM Response: The [Freedom of Information Act](#) provide for exemptions to information sharing if they contain proprietary information.

FOIA Exemption:

(b)(4) - exempts from disclosure (1) trade secrets and (2) information which is (a) commercial or financial, (b) obtained from a person and (c) privileged or confidential. This exemption applies only to information submitted from outside the government. Information which has been voluntarily submitted is confidential if it constitutes information which the submitter would not customarily make available to the public. This exemption allows a federal agency to withhold records submitted by a private entity when the submitter keeps the records secret and the agency promises to keep the records from disclosure.

What RHA would recognize as a reasonable ask of reindeer herders regarding public land permitting are the questions on accessing the land, transportation methods on the land, and initial structures. Questions on these items, which support the BLM agency function, should be added to the grazing permit application and not separately required. For example, a question added to the form could be “What do you anticipate as your primary transportation method for accessing the land and transporting reindeer in herding activities?”

BLM Response: Including fields on the form for the information requested concerning how a herder will access the land during activities will allow for varying levels of operations and access methods to be explained in more detail. BLM has seen increased environmental damage to off highway vehicle use and changes to transportation modes—four-wheeler use changing to side by side (or UTV) use, for example. By having a separate detailed description of land access, the applicant will be allowed to explain varying levels of operations and access methods in detail, and the BLM will be able to make more fully informed decisions concerning potential effects of access types on the landscape and work with herders to mitigate impacts.

The other questions on improvements (like corrals) are sufficiently answered by question 5b. RHA would require questions on the other proposed items in the separate plan as proprietary and unnecessary to BLM’s function.

BLM Response: Question 5b addresses current range improvements on the land, which are allowed (43 CFR §4300.42). However, new improvement requests require a separate application and authorization (allowed (43 CFR §4300.43)).

RHA also notes that the NRCS, a party to the Memorandum of Understanding on grazing permitting, already collects grazing information through grazing management plans with the state management specialist. If this information is required for BLM, there should be amending of the 2014 MOU with NRCS to share this information with other agencies while still under commercial interest protections of FOIA.

BLM Response: Stocking and operational plans are the responsibility of the herder to address. The NRCS can assist the herder directly with complying with the requested stocking and operational plans required as a separate attachment of Form AK 4201-1 Reindeer Grazing Permit Application Form.

2. RHA doesn't propose that BLM's estimate of administrative burden on reindeer herders is ill conceived, but RHA does propose that asking for separate additional form submissions (like separate grazing plan information) inherently complicates administrative burden on herders and is burdensome to village residents in ways almost unfathomable to others given logistics constraints (RHA Director included). Any collection should be absolutely critical to the agency's function and should provide added weight to the reality of mail and logistics in village life when balancing these decisions. Questions on business plans not directly related to movement on public lands should not rise to this balancing test.

BLM Response: BLM has a long history of working with herders to reduce administrative burdens to reindeer herders. The request for separate detailed information gives the herders the flexibility to address varying levels of operations and also provides an opportunity for dialogue between the BLM and the herders so that environmental and grazing impacts can be mitigated for the benefit of the land and ensuring future grazing carrying capacity.

3. RHA proposes that the addition of transportation questions to the Reindeer Grazing Permit Application and the elimination of separate submission requirements addressed in bullet 1 will go a long way in quality and clarity of information supporting BLM function. RHA also proposes eliminating the Form 4120-7 on Application for Range Improvement Permit as this is significantly burdensome on reindeer herders and is sufficiently addressed in the 'improvements' questions on the reindeer grazing permit application. When reindeer herders provide notice in the grazing permit about the presence of a corral on the land, its an inherently semi-permanent structure and may be occasionally moved to support herding activities. However, the movement of the corral on the same individual's grazing permit does not change land management such that a new permit for movement is required. A secondary question under 5b on the grazing permit application, for example, would fulfill this collection objective for the agency's function while significantly reducing herder administrative burden. As an example, the question could say: "How often do you anticipate moving improvements?" Beyond this, regular communication with BLM Field Managers should suffice to fulfill this collection interest. RHA would also propose legally defining the term "improvements" as this information is gathered, so that herders fully understand what they are required to provide.

BLM Response: BLM is unable to remove the requirement for Form 4120-7 because it is currently a regulatory requirement (43 CFR §4300.43).

4. With reindeer herders exclusively off the Railbelt road system, with significant technological challenges, the most important way to minimize collection burden is to condense collection to the greatest extent possible to the one 10-year permit application, and to make every effort to work with herders in-person at annual functions (like the RHA Annual Meeting each fall) with additional time allotted outside meetings for this purpose. There is no technological fix that will suffice to account for the burden of additional requirements as many herders don't have access to regular internet, email or cell coverage (usually out of their control). Another option for the BLM Field Manager is to travel physically to villages to assist herders with these paperwork requirements which would be the second-best way to support the administrative burden.

BLM Response: BLM understands that access to high-speed internet is not regularly available in many locations where reindeer herders reside. BLM will continue to communicate with applicants and permittees through standard mail, phone, email and in person at the annual Reindeer Herder's Association meeting.