

stocking rates, adjusting the season or duration of livestock use, or modifying or relocating range improvements.

*State or Regional Standards and Guidelines.* Standards and guidelines are to be developed for an entire State or for an area encompassing portions of more than one State, except where the geophysical or vegetal character of an area is unique and the health of the rangelands will not be ensured by using standards and guidelines developed for a larger geographical area. The geographical area covered will be determined by BLM State Directors in consultation with affected RACs.

State or regional standards and guidelines will be developed, under the umbrella of the fundamentals and consistent with the guiding principles of this final rule, to provide specific measures of rangeland health and to identify acceptable or best management practices in keeping with the characteristics of a State or region such as climate and landform. The preparation of standards and guidelines will involve public participation and consultation with RACs, Indian tribes, and Federal agencies responsible for the management of lands within the affected area.

The guiding principles for the development of standards presented in this final rule pertain to the factors needed to help achieve rangeland health. More specifically, the factors relate to watershed function, threatened or endangered species and candidate species, habitat for native plant and animal populations, water quality and the distribution of nutrients and energy flow. The guiding principles for guidelines direct the identification of acceptable or best grazing management practices that will result in or ensure significant progress towards fulfillment of the standards.

State or regional standards and guidelines will provide the resource measures and guidance needed to develop terms and conditions of permits, leases, and other authorizations, AMPs and other activity plans, cooperative range improvement agreements and to issue range improvement permits in a manner that will result in maintaining or making significant progress toward healthy, functional rangelands.

Once standards and guidelines are in effect, the authorized officer is required to take appropriate action under 43 CFR part 4100 as soon as practical, but not later than the start of the next grazing year, upon determining that existing grazing management practices are significant factors in failing to meet the standards and conform with the

guidelines. Appropriate actions may include reducing livestock stocking rates, adjusting the season or duration of livestock use, or modifying or relocating range improvements.

*Fallback Standards and Guidelines.* The Department recognizes the importance of putting standards and guidelines in place in a timely manner, and has provided a mechanism for doing so in this rule. This final rule includes a provision for fallback standards and guidelines that would become effective 18 months after this rule becomes effective in the event that State or regional standards and guidelines have not been developed and put into effect. They will remain in effect until State or regional standards and guidelines are in effect.

The fallback standards and guidelines address largely the same factors that are provided in the guiding principles for the development of the State or regional standards and guidelines. The fallback standards include more detail regarding the conditions that would exist under each of the factors when rangelands are in a healthy, functional condition than do the guiding principles for State or regional standards discussed above. Similarly, the fallback guidelines include grazing management practices while the guiding principles for State or regional guidelines refer more generally to the types of concerns to be addressed. The BLM State Directors can adjust the fallback standards and guidelines, subject to approval of the Secretary, to fit State or local conditions.

Fallback standards and guidelines will be applied in the same manner as standards and guidelines developed for a particular State or region, which are discussed above.

*NEPA and Implementation of Standards and Guidelines.* The fundamentals of rangeland health proposed in this rule, and all standards and guidelines whether fallback, State, or regional, will be implemented subject to the National Environmental Policy Act of 1969 (NEPA) and applicable land use planning regulations. The fundamentals of rangeland health, the guiding principles for the development of State and regional standards and guidelines and the fallback standards and guidelines were analyzed in the FEIS for this final rulemaking. Any additional NEPA analysis required during development of State or regional standards and guidelines could tier to the analysis of the fundamentals of rangeland health and standards and guidelines presented in the FEIS.

BLM planning regulations direct that actions be in conformance with BLM land use plans. In some instances, the

standards and guidelines may be consistent with existing land use plans and implementation may proceed without further action. In many cases, however, land use plans will require modification to ensure conformance with the land use plan and the standards and guidelines. The Department intends to develop State or regional standards and guidelines, complete plan conformance tests, and undertake necessary plan amendments within 18 months of the effective date of this rule. State or regional standards and guidelines will be implemented as they are finalized and approved by the Secretary.

#### *The Federal Grazing Fee and Subleasing*

*Grazing fees.* The fee portion of the proposed rule generated numerous public comments with diverse and conflicting views about the impact of an increased fee and the calculation of the fee formula. The Department has decided not to promulgate the fee increase provision of the proposed rule in order to give the Congress the opportunity to hold additional hearings on this subject and to enact legislation addressing appropriate fees for grazing on public lands. Other changes not pertaining to fees proposed in section 4130.7-1, redesignated as § 4130.8-1 in the final rule, remain a part of this rulemaking package.

As proposed, this section would have been amended by revising the grazing fee formula, with a provision for phasing in the grazing fee increase over the years 1995 through 1997. The proposed rule provided for a 30% incentive fee reduction. The incentive was to have been implemented after BLM developed separate rules describing the eligibility criteria for this incentive based fee. The proposed rule also provided that the full fee increase would not go into effect in the event that a separate final rule prescribing qualification criteria for the incentive-based fee was not completed. Multiple-year billing would have been allowed in certain circumstances. In addition, the proposed rule provided for a 25 percent cap on changes in the calculated fee from year to year. These proposals are not adopted in the final rule.

As adopted by today's action, Section 4130.8-1 clarifies the definition of billing unit, provides for assessing a surcharge in certain instances for the public landlord's share of authorized pasturing agreements associated with public land grazing, and clarifies that grazing use occurring before a bill is paid is an unauthorized use that may be dealt with under the settlement and penalties sections of this rule and may