

clarify that use must not exceed the livestock carrying capacity of the allotment, and by removing unnecessary references to previous sections. The section is further amended to add a paragraph (c) that requires that the fundamentals of rangeland health and the appropriate standards and guidelines be reflected in the terms and conditions of permits, leases and other authorizations.

Section 4130.3-2, Other terms and conditions, is amended to provide for proper rangeland management and to remove unnecessary language. The final rule allows terms and conditions to provide for improvement of riparian area functions and protection of rangeland resources and values consistent with applicable land use plans. Paragraph (h) affirmatively states that BLM will have reasonable administrative access across the permittee's or lessee's owned or leased private lands for the management and protection of public land.

Section 4130.3-3, Modification, is amended to clarify consultation requirements in the modification of terms and conditions of permits and leases. The rule provides for greater State and public participation when changes are proposed that are not within the scope of the existing permit or lease. The rule also provides for increased State and public participation during the evaluation of monitoring results or other data that provide a basis for decisions regarding grazing use or management.

Section 4130.4, Authorizations within terms and conditions of permits and leases, is amended to allow field managers to make temporary changes in authorized use that are within the scope of existing permits and leases.

Section 4130.5, Free-use grazing permits, is modified to reflect new circumstances under which the authorized officer may grant free-use permits. This new provision was contained in § 4130.7-1 of the proposed rule.

The final rule provides that free use can be permitted where the primary objective of authorized grazing use or conservation use is the management of vegetation to meet resource objectives other than the production of livestock forage, to conduct scientific research or administrative studies, or to control noxious weeds.

Section 4130.6-1, Exchange of use grazing agreements, is amended to specify that exchange of use grazing agreements must be consistent with management objectives and compatible with existing livestock operations. The agreements will be required to address

the fair sharing of maintenance and operation of range improvements and will be approved for the same term as any leased lands that are offered.

Section 4130.6-2, Nonrenewable grazing permits and leases, is modified to require the authorized officer to consult with the affected permittee or lessee, the State, and the interested public before issuing a nonrenewable permit.

Section 4130.6-3, Crossing permits, is modified to specify that crossing permits are a form of temporary use authorization.

Section 4130.7, Ownership and identification of livestock, is amended to make it clear that, before grazing livestock owned by persons other than the permittee or lessee, the permittee or lessee must have an approved use authorization and must have submitted a copy of the documented agreement or contract that includes information required for BLM's administration of permits and leases and management of rangeland resources.

Sons and daughters of permittees or lessees are exempted from the provisions of this section in specified circumstances. This is necessary to allow sons and daughters, who are grazing livestock on public lands under their parents' permit or lease in specified circumstances, to avoid the pasturing surcharge provided in § 4130.8.

Section 4130.8-1, Payment of fees, is amended to make clear the definition of a billing unit, to provide for the assessment of a surcharge for authorized pasturing of another owner's livestock and to clarify that grazing use that occurs before a bill is paid is an unauthorized use, may be dealt with under the settlement and penalties sections of these regulations. Also, the section is amended to clarify that delays in payment of actual use billings and noncompliance with the terms and conditions of permits or leases may result in the loss of after-the-grazing-season billing privileges authorized under an AMP. For administrative convenience, the assessment of pasturing surcharges will not begin until the start of the next grazing year, March 1, 1996.

The final rule recognizes two types of authorized subleasing. The first is the sublease of public land grazing privileges along with the base property associated with the permit or lease. Such a sublease of the public land grazing privileges must be accompanied by a lease or sublease of the associated base property and the BLM authorized officer must approve the transfer of the grazing permit or lease. Such transfers

shall be for a minimum of three years unless it is determined by the authorized officer that a shorter period is consistent with management and resource condition objectives. The second is a pasturing agreement under which livestock not owned by the permittee or lessee, but under the control of the permittee or lessee, is allowed to graze on the public lands that are subject to a permit or lease. The BLM authorized officer must approve such pasturing agreements. Other types of subleasing arrangements will be considered unauthorized. A surcharge for the lease or sublease of public land grazing privileges associated with base property is not adopted in the final rule.

The final rule provides for the collection of a surcharge for authorized pasturing activities associated with a Federal permit or lease. The final rule provides for a surcharge of 35 percent of the difference between the grazing fee per AUM rate and the prior year's private lease rate for the appropriate State as determined by the NASS for forage used by livestock owned by another party other than the permittee or lessee.

The final rule excludes from the pasturing surcharge sons and daughters of permittees or lessees grazing livestock on public lands as part of an educational or youth program pertaining to livestock rangeland management, or when establishing a livestock herd in anticipation of assuming part or all of the family ranch operation.

Section 4130.8-3, Service charge, is amended to include temporary nonuse and conservation use in the list of items for which BLM may assess a service charge. The service fee will offset the costs of processing such applications.

Subpart 4140—Prohibited Acts

Section 4140.1, Prohibited acts on public lands, is amended to clarify that failure to make substantial use as authorized is a prohibited act, but that approved temporary nonuse, conservation use, and use temporarily suspended are not prohibited acts.

This section also clarifies that it is prohibited to use public lands for grazing without a permit or lease and an annual grazing authorization. Furthermore, mere receipt of a grazing fee bill does not authorize grazing use of the range; the bill must actually be paid. (However, § 4140.1(c) specifically provides for civil penalties only where violations, including unauthorized use resulting from payment by a check that is not honored, are repeated and willful.) The final rule also makes it clear that the permittee is responsible for controlling livestock so cattle do not