stray onto "closed to range" areas where grazing is prohibited by local laws, such as formally designated agriculture districts or municipalities. The final rule specifies that permittees or lessees are subject to penalties if they violate Federal or State laws pertaining to protection of bald eagles, endangered or threatened species, and wild horses and burros; the placement of poisonous bait or hazardous devices designed for the destruction of wildlife; application or storage of pesticides, herbicides or other hazardous materials; alteration of stream courses without authorization; pollution of water sources; illegal take; destruction or harassment of fish and wildlife; and illegal removal or destruction of archeological or cultural resources when public lands are involved or affected.

Other changes in the section clarify that it is unlawful to harm livestock authorized to graze on public land, and to interfere with other lawful uses of the land. These provisions include a prohibition on obstructing free transit

across public land.

Finally, provisions which specify that violations subject to penalty under § 4170.1–1 are limited to those where public land administered by the Bureau of Land Management is involved or affected, the violation is related to grazing use authorized by permit or lease, and the permittee or lessee has been convicted or otherwise found to be in violation of any of these laws or regulations by a court or by final determination of an agency charged with the administration of these laws or regulations, and no further appeals are outstanding, are moved from proposed § 4170-1-3 and incorporated into this final section.

Subpart 4150—Unauthorized Grazing Use

Section 4150.1, Violations, is reorganized for clarity and amended to add the requirement that the authorized officer must determine whether a violation is nonwillful, willful, or repeated willful. This clarifies subsequent sections of the rule.

Section 4150.2, Notice and order to remove, is amended to provide authority for the authorized officer to exercise discretion in determining how nonwillful violations will be settled, close areas temporarily for a period of up to 12 months to specified classes and kinds of livestock in order to abate unauthorized use, and allow notices of closure to be issued as final decisions.

Section 4150.3, Settlement, is amended to provide the authorized officer with the authority to consider nonmonetary settlement for unintentional incidental trespasses, in cases when the authorized officer determines the livestock operator is not at fault, when an insignificant amount of forage has been consumed, when damage to the public lands has not occurred, and when nonmonetary settlement is in the best interest of the United States. The method for determining settlement amounts is amended. Settlement for nonwillful violations equals the value of forage based on the monthly rate per AUM for pasturing livestock on private, nonirrigated land in the State in which the violation occurred.

Subpart 4160—Administrative Remedies

Subpart 4160, Administrative remedies, is amended to improve organization, clarify administrative processes and requirements, provide for application of the Departmental rule located at § 4.21 of this title regarding effectiveness of a decision pending appeal and procedures for obtaining a stay, and provide for the issuance of decisions that take effect immediately.

Section 4160.1, Proposed decisions, is amended to clarify that a final decision may be issued without first issuing a proposed decision when action under paragraph 4110.3–3(b) of this part is necessary to protect rangeland resources, or when action is taken under paragraph 4150.2(d) to close an area to unauthorized grazing use. Other provisions clarify the information that must be contained in a proposed decision, and specify that decisions will be served by certified mail or personal delivery.

Sections 4160.1–1 and 4160.1–2 are removed.

Section 4160.3, Final decisions, is amended to clarify the process for filing an appeal and a petition for a stay of a final decision. It provides that decisions will be implemented at the end of the 30-day appeal period except where a petition for stay has been filed with OHA, in which case OHA will have up to 45 days to act on the petition. If the petition is granted, the decision will be stayed until resolution of the appeal.

The final rule also clarifies the amount of grazing use that is authorized when a decision has been stayed by OHA. Where an appellant has had no authorized grazing use during the preceding year, the authorized grazing use must be consistent with the decision, pending a final determination on appeal. Where a decision proposes a change in the amount of authorized grazing use, the authorized grazing use during the time an appeal is pending

will not exceed the appellant's previously authorized use.

Finally, this section provides authority to the authorized officer for making decisions effective immediately, unless a stay is granted, when it is necessary to protect rangeland resources under the standards imposed by § 4110.3–3(b), or to facilitate abatement of unauthorized use by closing an area temporarily to grazing use under § 4150.2 of this part.

Section 4160.4, Appeals, provides instructions regarding the filing of appeals and petitions to stay decisions. When a final decision is issued, any person whose interest has been adversely affected may file an appeal and a petition for stay of the decision within 30 days from the date of receipt of a final decision, or 30 days from the date a proposed decision becomes final in the absence of a protest. Under the process of § 4.21 of this title, OHA is allowed 45 days from the end of the appeal period to review a petition for stay.

Subpart 4170—Penalties

Section 4170.1–1, Penalty for violations, is amended to provide for a penalty for unauthorized leasing and subleasing in the amount of two times the private grazing land lease rate for the state in which the violation occurred as supplied annually by the NASS, as well as reasonable expenses incurred by the United States in detecting, investigating, and resolving the violation.

Section 4170.1–2, Failure to use, is amended to provide that if a permittee or lessee has, for 2 consecutive grazing fee years, failed to make substantial use as authorized in the lease or permit, or has failed to maintain or use water base property in the grazing operation, the authorized officer, after consultation with the permittee or lessee, may cancel whatever amount of permitted use the permittee or lessee has failed to use.

Section 4170.1–3, Federal or State animal control and environmental protection or resource conservation regulations or laws, is removed. The substance of this section is incorporated in § 4140.1(c) of this final rule.

Section 4170.2–1, Penal provisions under TGA, is revised slightly to specify that any person who willfully commits an act prohibited under § 4140.1(b), or who willfully violates approved special rules and regulations, is punishable by a fine of not more than \$500.

Section 4170.2–2, Penal provisions under FLPMA, is amended to adopt the alternative fines provisions of Title 18 U.S.C. section 3571.