

affected by livestock decisions than are permittees.

The Department does not agree that the regulations include excessive public involvement by expanding opportunities for input into grazing management to the *interested public*. Anyone with a high level of interest in shaping objectives, planning courses of action, and evaluating results associated with management of the public lands should have an opportunity for involvement. Congress has acknowledged this interest and makes provisions for it in FLPMA, NEPA, FACA and the Administrative Procedure Act (APA). Experience has shown that the greater and more meaningful the participation during the formulation of decisions and strategies for management, the higher the level of acceptance and thus the lower the likelihood of a protest, an appeal or some other form of contest. Nevertheless, it will remain the responsibility of BLM to make timely decisions. These rules do not change existing time frames for public comment or for protests or appeals.

Some comments were received on the definition of *grazing permit* or *grazing lease*. Commenters asserted that the definition failed to make adequate distinction between Section 3 and Section 15 allotments. The distinction between Section 3 and Section 15 lands is made at § 4110.2-1(a).

The Department received a few comments on the definition of *land use plan*. Some commenters wanted the definition to require BLM planning documents to conform to State or local land use plans. Other commenters wanted BLM land use plans to give guidance to the designation of lands for grazing. *Land use plans* provide guidance on a regional scale and allocate resource uses and objectives. FLPMA and the subsequent planning regulations provide sufficient authority to prevent grazing in areas where grazing would conflict with other objectives. Local and State governments will be considered members of the interested public and invited to participate in the development of land use plans. It is not necessary for Federal plans to conform to local or State plans in all cases. FLPMA requires the Department's planning process to be as consistent as possible with local or State plans, but not to be in conformance with them.

A few comments were received on the definition of *range improvement*. Some commenters supported the use of the range improvement fund to benefit livestock; others sought to expand use of the fund to support projects intended to

improve rangeland. FLPMA directs that " \* \* \* such rehabilitation, protection, and improvements shall include all forms of range land betterment including but not limited to, seeding, and reseeding, fence construction, weed control, water development, and fish and wildlife habitat enhancement \* \* \* " All uses authorized by FLPMA, including improvements to the health of the rangeland, will remain valid under this rule.

The Department received a few comments on the definition of *unauthorized leasing and subleasing*. Commenters stated that the proposed subleasing definition limited subleasing, which is necessary to rural economic health. The Department believes the final provisions relating to *unauthorized leasing and subleasing* do not discourage subleasing that may be necessary to sustain rural economic health. Indeed, the current definition of subleasing implies that no subleasing is allowed. This new definition, by addition of the word "unauthorized," clarifies that the Department *will* approve subleasing under certain conditions. The Department believes that it is simply good land management for it to know to whom permittees or lessees have subleased their grazing privileges, and under what circumstances.

In response to concerns raised by the commenters, the Department has decided to delete provisions requiring the payment of a surcharge on subleasing grazing privileges in conjunction with the lease or sublease of base property. This is discussed in detail in the section of this preamble relating to final § 4130.8 (§ 4130.7-1 in the proposed rule).

The Department also received requests that it define *de minimus*, biological diversity, ecosystem, environmentalists, ecosystem management, ecosystem management framework and viable population. Some commenters suggested that a definition of grazing association be added. A number of commenters requested a definition of "substantial compliance." The Department believes that these terms are adequately defined by common usage.

In accordance with the above discussion, the Department has decided to adopt the proposed definitions, with some changes.

The definition of *affiliate* is revised to eliminate references to percentage of ownership and specific relationships such as being an officer, director, or controlling fiscal or real property resources. The Department believes the definition adopted adequately

encompasses such relationships. The language is also amended by adding reference to "applicant" as well as "permittee or lessee." Finally, "is controlled by, or is under common control with," is added after "controls," to clarify what types of relationships are covered by the provision.

A new definition of *annual rangelands* is added in response to commenters' requests. The term means those areas which are occupied primarily by annual plants and which are available for livestock grazing during some years. This is a technical term associated with the rangeland management program, and the Department agrees that a definition will provide clarity to the application of these provisions.

The definition of *conservation use* is revised to clarify that it can apply to all or a portion of an allotment.

The definition of *consultation, cooperation, and coordination* is revised to mean a process for communication between BLM and parties involved in particular rangeland management decisions.

A definition of *ephemeral rangeland* is added to mean areas of the Hot Desert Biome (Region) that do not consistently produce enough forage to sustain a livestock operation but may briefly produce unusual volumes of forage to accommodate livestock grazing. Typically, such areas receive less than 8 inches of rainfall each year and lie below 3,200 feet elevation. This is a technical term associated with the rangeland management program and the Department believes that a definition will provide clarity to the application of these provisions.

The definitions of *grazing lease* and *grazing permit* are revised by the addition of the phrase "the area authorized for grazing use, or both," to accommodate situations such as ephemeral or annual rangeland in which the area authorized for grazing is used in place of AUMs to specify permitted use, because of inconsistent production of forage. The definition of *land use plan* is revised to clarify that the term refers to plans developed under 43 CFR Part 1600.

The definition of *range improvement* is revised to remove the phrase "or provide habitat for" to "to benefit" livestock. This change was made to avoid confusion with the concept of wildlife habitat.

The definition of *utilization* is revised to clarify that it refers to a "portion" of forage consumed, which reflects actual practices. The proposal used the term "percentage."