

final rule makes this change. For further discussion, see § 4110.0-5. Otherwise, the provision is adopted as proposed.

Section 4110.3-2 Decreasing Permitted Use

The proposed rule would have amended this section by revising the heading to change the term "active use" to "permitted use." This change would have been consistent with the proposed definitions of these two terms, as discussed at § 4100.0-5. Paragraph (b) also would have been amended to provide that when monitoring and field observations show grazing use or patterns of grazing use are not consistent with the fundamentals of rangeland health (titled "national requirements" in the proposed rule) or standards and guidelines or are otherwise causing an unacceptable level or pattern of utilization, the authorized officer must reduce permitted grazing use or otherwise modify management practices. Paragraph (b) would also have added ecological site inventory and other acceptable methodologies to monitoring as ways of estimating rangeland carrying capacity as the basis for making adjustments in grazing use. Subsequent adjustments could be made as additional data were collected and analyzed.

Paragraph (c) would have been deleted to remove the provision requiring the authorized officer to hold those AUMs comprising the decreased permitted use in suspension or in nonuse for conservation purposes. Existing paragraph (a) of this section, which was not proposed to be changed, would continue to provide for the temporary suspension of active use due to drought, fire, or other natural causes, or to installation, maintenance, or modification of a range improvement.

Some commenters stated that the proposed language is inconsistent with legal requirements. Some commenters stated that the term "corrective action" is "vague and subjective."

Numerous commenters stated that it is necessary for the authorized officer to determine the cause of range problems before decreasing permitted use and questioned whether methods other than monitoring would be suitable for determining carrying capacities. Some of these comments suggested correcting other uses, such as wild horses and wildlife, before permitted use is reduced. Some commenters expressed concerns on the monitoring and inventory methodologies BLM would use. Others stated that reductions should be placed in suspended use rather than eliminated.

This regulation is not inconsistent with statutory requirements. A discussion pertaining to legal authorities and requirements is presented under "General Comments."

The BLM authorized officer will make a determination on a case-by-case basis as to what corrective actions are appropriate. In some cases the corrective action may not result in a reduction in permitted AUMs. For instance, a change in use periods or a temporary suspension in use may be determined to be the appropriate action. In other instances, data may show that other uses of the public lands need to be modified. The Department believes that it would be inconsistent with its mandate to manage the public rangelands to allow an allotment to continue to deteriorate while prolonged monitoring studies are conducted in those instances where other reliable measures of rangeland health indicate a need for action.

BLM uses a variety of accepted methodologies and available data to determine carrying capacities of grazing allotments and to identify unacceptable levels or patterns of use. Typically, findings of one form of data collection are corroborated with other data before making reductions in livestock use. The BLM Technical Reference 4400-5 (*Rangeland Inventory and Monitoring Supplemental Studies*) describes acceptable methodologies for estimating forage production. Additionally, BLM intends to develop rapid assessment techniques that can be used to evaluate rangeland health as represented by established standards and the guidelines to be followed in meeting standards and the fundamentals of rangeland health. (See subpart 4180.)

Although in some cases reductions made under this section of the rule may be carried in temporary suspension, the Department does not believe that it serves the best interests of either the rangeland or the operator to continue to carry suspended numbers on a permit, unless there is a realistic expectation that the AUMs can be returned to active livestock use in the foreseeable future. Should additional forage become available there are provisions at § 4110.3-1 to address increases in permitted use. Decisions resulting in a decrease in permitted grazing use are subject to the administrative remedies outlined in subpart 4160, including a right of appeal.

In accordance with the above discussion, the Department has decided to adopt the provision as proposed, with one minor change. The term "authorized grazing use" in paragraph (b) is changed to "permitted grazing

use," to make this provision more consistent with the definitions included in this final rule.

Section 4110.3-3 Implementing Reductions in Permitted Use

The proposed rule would have renamed the section and removed existing paragraph (a) and other requirements for phased-in reductions in grazing use. This proposal was intended to provide the authorized officer more flexibility to deal with situations in which immediate action was necessary to protect rangeland resources; phase-in periods for reduction in grazing use could still have been available if determined by the authorized officer to be appropriate.

The proposal would also have redesignated existing paragraph (b) as paragraph (a) and amended it by removing the requirements to phase-in reductions in use over a five year period. The proposal also would have removed the terms "consultation, coordination and cooperation," and "suspension of preference" and added in their place the terms "consultation" and "reductions in grazing use," respectively. These changes would have been consistent with changes in definitions discussed at § 4100.0-5. It would also have provided, by reference to § 4110.3-2, for the application of the fundamentals of rangeland health and standards and guidelines and the use of other methods, in addition to monitoring, for determining the need for an initial reduction.

Existing paragraph (c) would have been redesignated as paragraph (b) and amended to remove the word "temporary" because that term implies that protection would be needed for only one season. In actuality, the influences of natural events such as drought could significantly affect vegetation health and productivity for several months or years after a drought has passed. Other minor amendments would have clarified action to be taken by the field manager and made the language concerning provisions for making decisions effective when necessary to protect the resource consistent with language on that provision in proposed subpart 4160. Language would have been added specifying that such decisions would have remained in effect pending any appeal of the decision, unless a stay were granted by the OHA. The overall intent of the changes in this paragraph was to provide the authorized officer with the authority needed to implement decisions to close allotments or portions of allotments or modify authorized grazing use when immediate action was