

In accordance with the above discussion, the Department has decided to adopt this section as proposed except for replacing "consultation" with "consultation, cooperation and coordination" in reference to obtaining public input, replacing proposed language pertaining to issuance of permits and leases for a period of less than 10 years with wording taken directly from FLPMA (43 U.S.C. 1752), and adding to the requirement that temporary nonuse and conservation use be in conformance with plans, standards, and guidelines a requirement for conformance with the fundamentals of rangeland health presented in § 4180.1.

Section 4130.3 Terms and Conditions (Formerly, Section 4130.6)

This section would have required that permits and leases incorporate terms and conditions that ensure conformance with the national requirements and established standards and guidelines. This requirement would have established that terms and conditions of permits and leases are the principal vehicle for implementing the standards and guidelines and thereby the precepts of ecosystem management.

A few commenters stated that the national requirements and established standards and guidelines are not linked to livestock grazing, are unattainable due to their lack of site-specific analysis and contradict Congressional intent.

Other commenters asserted that maintenance of national standards and guidelines should be made a condition of the permit and that livestock operators should have to get approval from the authorized officer before making use of any resource beyond their permitted forage such as water, wildlife, etc. and that permits should include a schedule for monitoring.

The fundamental requirements, guiding principles and fallback standards are all linked directly to livestock grazing. Developing standards and guidelines at the local level, with heavy reliance on public involvement through the RACs, will assure that they are attainable and consistent with local conditions. The fundamental requirements and guiding principles are based upon ecological principles. The Department believes this is consistent with the intent of Congress which has mandated the Secretary in FLPMA to protect the quality of scientific, scenic, historical, ecological, environmental, air, and atmospheric, water resources, and archaeological values and to assure the proper use of the public land resources to assure sustainability.

The standards and guidelines will be made part of the terms and conditions of the permit in accordance with § 4130.3. Levels of permitted use are subject to adjustment, depending in part on resource condition concerns, in accordance with § 4110.3-2. Livestock operators are required to get approval from the authorized officer before making use of any resource beyond the uses of public resources directly associated with livestock grazing, as provided in their permit or lease. Monitoring schedules may become part of the terms and conditions of some permits and leases, especially where activity plans have been completed for the allotment.

In accordance with the above discussion, the Department has decided to adopt the provision as proposed.

Section 4130.3-1 Mandatory Terms and Conditions (Formerly, Section 4130.6-1)

This section would have been amended to remove reference to acceptable methods for determining carrying capacity and to remove the cross references for those sections of the rule that detail how stocking levels are adjusted. This change was made to recognize the use of methods other than monitoring in determining carrying capacity and to streamline the wording of the mandatory terms and conditions by removing unnecessary cross references. Other provisions in the proposal, such as § 4110.3, would have broadened the sources of information that could be relied upon by BLM as a basis for making decisions about permitted use, carrying capacity, and other factors. The section would have been further amended by adding a paragraph (c) that would have required that standards and guidelines be reflected in the terms and conditions of permits and leases. This provision would have ensured that individual permits or leases contribute to the maintenance or enhancement of healthy rangelands and is the principal mechanism for implementing standards and guidelines.

Many commenters asserted that monitoring should be retained as a requirement for determining carrying capacity and that the Department should add a requirement that the level of use should only be part of the terms and conditions if accepted uncontested by the affected permittee or lessee. Commenters also asserted that conformance with the national requirements, standards, and guidelines would be impossible. Other commenters stated that if the agency cannot afford to protect the public lands used for grazing

through monitoring, then grazing should not be allowed.

Use of other sources of information besides monitoring are discussed above, principally at § 4110.3 and also at § 4110.3-2. Carrying capacity for the allotment is set by the permit or lease. Changes in permitted use, including the requirement that they be supported by monitoring, field observations, ecological site inventory or other data is addressed at § 4110.3. The methods to be used are more appropriately dealt with under subpart 4110 rather than being included as a parenthetical statement in § 4130.3-1.

The fallback standards and guidelines are reasonable and achievable. Field testing during development of this proposal showed significant conformance between fallback standards and guidelines and existing land use plans. Regional standards and guidelines will be developed with full public participation (including grazing permittees and lessees) and in consultation with the RAC. This level of public involvement will help ensure that the regional standards and guidelines developed will be realistic and achievable. Issues relating to the standards and guidelines are discussed more fully at subpart 4180.

Reference to "monitoring" was eliminated from this section not because the Department does not intend to monitor range conditions, but because other sources of information are legitimate means for BLM to evaluate range conditions and because this section does not establish the practices to be followed in estimating carrying capacity (See §§ 4110.3-1 and 4110.3-2).

In accordance with the above discussion the Department has decided to adopt the provision as proposed, with one change. The words "the national requirements, standards, and guidelines pursuant to" have not been included in the final rule. Actual achievement of national requirements, (which have been modified from the proposed rule and are now reflected in fundamentals of rangeland health), standards, and guidelines may not be immediately possible but rather may depend on a series of actions taken over a period of time.

Section 4130.3-2 Other Terms and Conditions (Formerly, Section 4130.6-2)

Paragraph (f) of this section would have been amended to allow terms and conditions to provide for temporary changes in livestock use for the improvement of riparian area functions and for protecting other rangeland resources and values consistent with