

situations in which the ability of permittees or lessees to obtain loans was adversely affected by having some of their forage allocation suspended.

BLM also proposes to reorganize this section to describe how we would authorize increased grazing use when additional forage is available either temporarily, or on a sustained yield basis. BLM proposes to add two new paragraphs, (a) and (b), that would clarify who gets priority when we grant additional grazing use because livestock forage has become available on either a nonrenewable basis or a sustained yield basis. This change would clarify existing language and does not substantially depart from the requirements of the existing regulations.

Section 4110.3-2 Decreasing Active Use

BLM proposes replacing the term "permitted use" with the term "active use" wherever it occurs in this section. BLM is proposing to clarify this section by amending paragraph (a) to provide that BLM will document its observations that support the need for temporary suspension of active use and by amending paragraph (b) to provide that BLM will place any reductions in active use made under this paragraph into suspension rather than require a permanent reduction. BLM wants to ensure that it clearly documents the justification for the suspension and believes that it is important to maintain a complete record of forage allocation actions so that it may fairly remove suspensions upon future range recovery.

Section 4110.3-3 Implementing Changes in Active Use

BLM proposes changing the title of this section to reflect that it pertains to both increases and decreases grazing use and to add language to this section to modify how BLM would implement changes in active use. This section would provide that BLM would phase in changes in active use of more than 10 per cent over a 5-year period unless either the affected permittee or lessee agrees to a shorter period or the changes must be made before the end of 5 years to comply with applicable law. When possible, the 5-year phase-in period for changes in active use would provide time for gradual operational adjustments by grazing permittees or lessees to lessen sudden adverse economic impacts that may arise from a reduction, or to allow time to build their herd in the event of an increase. The phase-in period also allows for ongoing monitoring in order to determine whether the initial decision needs to be adjusted. This 5-year phase in period is

similar to that specified by the regulations in effect before 1995.

BLM also proposes amending paragraphs (a) and (b) by removing the phrase "the interested public" from this section. Any change in active use would be preceded by reports, including NEPA documents, that analyze data that BLM would use to support the change. Under section 4130.3-1, BLM would provide the interested public the opportunity to comment on these reports. Under section 4160.1 BLM would provide a copy of the proposed and final grazing decisions to implement the change to the interested public. BLM will provide the interested public full opportunity for participation and comment on the action prior to actual implementation. For this reason additional consultation with the interested public regarding the actual scheduling of the change is redundant.

Section 4110.4-2 Decrease in Land Acreage

BLM proposes removing the term "permitted use" from this section and replacing it with the term "grazing preference" for the reasons explained previously.

Subpart 4120—Grazing Management

Section 4120.2 Allotment Management Plans and Resource Activity Plans

BLM proposes to revise paragraph (c) for clarity only.

4120.3 Range Improvements

4120.3-1 Conditions for Range Improvements

BLM proposes to revise paragraph (f) for clarity and to correct a citation to NEPA. The change is not substantive.

4120.3-2 Cooperative Range Improvement Agreements

BLM proposes to revise paragraph (b) to provide that, subject to valid existing rights, cooperators and the United States would share title to permanent structural range improvements constructed under cooperative range improvement agreements on public lands. Such structural improvements include wells, pipelines, or fences constructed on BLM managed public lands. BLM is proposing to revise the regulations to allow contributors to share title to range improvements of public lands proportionate to the value of their contributed labor, material, or equipment to make on-the-ground structural improvements, subject to valid existing rights. This would return the provision on how title for improvements constructed under Cooperative Range Improvement

Agreements is shared to that in place before 1995.

During scoping, BLM received comments supporting and opposing the revision. Some opponents to the revision commented that, by re-instituting shared title to range improvements, BLM would be allowing private property rights on public lands. Some commenters supported the provision, stating that it gives livestock operators, who pay for and construct improvements, incentive to invest funds, time, and effort in their allotments.

The current regulations provide that the United States has title to new permanent structural range improvements. BLM has the discretion in administering the public rangelands to determine where title to range improvements should lie. Sharing title among cooperators and the United States provides the opportunity to maintain some asset value for investments made, thereby encouraging and facilitating private investment in range improvements. Granting title to a structural improvement on public lands does not grant title to the underlying lands. Cooperative Range Improvement Agreements will continue to include provisions that protect the interests of the United States in its lands and resources and ensure BLM's management flexibility on public lands.

Section 4120.3-3 Range Improvement Permits

BLM must remove the term conservation use from this section to comply with the decision of the Tenth Circuit Court of Appeals.

Section 4120.3-8 Range Improvement Fund

BLM is proposing to amend this section only to correct a misspelling.

Section 4120.3-9 Water Rights for the Purpose of Livestock Grazing

BLM proposes to amend this section by removing the reference date in the first sentence and the second sentence in total. This would remove the requirement that livestock water rights be acquired, perfected, maintained and administered in the name of the United States to the extent allowed by the laws of the states where the rights would be acquired. The proposed amendment would provide BLM greater flexibility in negotiating arrangements, within the scope of state processes, for construction of watering facilities in states where the United States is allowed to hold a livestock water right. In those states, BLM would continue to have the option of acquiring the water