

implements the action, which is subject to protest and appeal. Should the final decision be stayed pending appeal, further time is consumed. In practice, implementing appropriate action within 12 months of determining that grazing practices need to be changed is unrealistic in many cases. BLM proposes to extend its self-imposed deadline to 24, rather than 12 months in which to complete these processes. BLM believes that this will allow the necessary time to deliberate and implement responsive, reasonable, and lasting remedies.

V. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget determined that these proposed regulations are a significant regulatory action and therefore subject to review under Executive Order 12866. These proposed regulations would not have an effect of \$100 million or more on the economy. The proposed regulatory changes would not adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

The proposed rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. BLM is aware that there are differences between its grazing program and the program administered by the U.S. Forest Service (USFS). For example, the USFS regulations and procedures do not include a temporary suspension category, unlike the BLM proposal in section 4110.3–2. The USFS regulations at 36 CFR 222.9(b)(2) provide that title to permanent structural range improvements on National Forest System lands such as pipelines and water troughs remains with the United States, unlike the BLM proposal in section 4120.3–2 that allows for the sharing of the title for some improvements with permittees and lessees. The USFS regulations may provide for a more streamlined process to modify grazing permits, particularly in situations where grazing activities need to be restricted.

Despite these and other differences, BLM believes that any inconsistencies between BLM's grazing program and USFS' are not serious and will not interfere with actions taken or planned by the agencies. They merely represent differences in management approach and philosophy. However, we specifically invite public comment on

whether any inconsistencies between the regulations and practices of the two agencies interfere with the operations of any BLM lessees or permittees, or otherwise inconvenience them or any other stakeholders.

These proposed regulations do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor do they raise novel legal issues. However, the proposed rule raises novel policy issues by reversing or otherwise changing policy established in a 1995 rule.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. BLM prepared an Initial Regulatory Flexibility Act Analysis to address changes we are considering in this proposed rule and has concluded that this proposed rule will not have significant economic impact, either detrimental or beneficial, on a substantial number of small entities. This document is available for review at 1620 L Street NW., Washington, DC 20036 and on the Internet at <http://www.blm.gov.grazing>.

The proposed rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The proposed change would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor does it raise novel legal or policy issues, except as discussed in the previous section of the preamble.

Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a “major rule” as defined at 5 U.S.C. 804(2). The changes BLM is proposing to the current grazing regulations would not result in an effect on the economy of \$100 million or more, in an increase in costs or prices, or in significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

The changes BLM proposes are intended to clarify existing requirements and qualifications. These

changes would positively affect all applicants, whether small entities or not.

Unfunded Mandates Reform Act

This amendment of 43 CFR Part 4100, as proposed, would not result in any unfunded mandate to state, local, or tribal governments, or to the private sector, in the aggregate, of \$100 million or more. The rule would continue and strengthen requirements for BLM to consult with all of these governmental and other entities whenever they would likely be affected by our actions relating to livestock grazing.

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights

The proposed rule does not represent a government action capable of interfering with constitutionally protected property rights. The relevant statutes and regulations governing grazing on Federal land and case law interpreting these statutes and regulations have consistently recognized grazing on Federal land as a revocable license and not a property interest. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The proposed rule would not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. BLM's inability to issue conservation use grazing permits neither hinders nor enhances authority vested in states or local governments. The rule would continue and strengthen requirements for BLM to consult with all of these governmental and other entities whenever they would likely be affected by our actions relating to livestock grazing. Therefore, in accordance with Executive Order 13132, BLM has determined that this proposed rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 13175 Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have determined that this rule does not include policies that have tribal implications. The rule expressly does not apply to, and these rules