

July 13, 2026

U.S. Department of the Interior
The Honorable Steve Pearce
Director
Bureau of Land Management
1849 C St. NW Room 5646
Washington, DC 20240

Dear Director Pearce:

The Public Lands Council (PLC), National Cattlemen’s Beef Association (NCBA), and American Sheep Industry Association (ASI) appreciate the opportunity to provide comments to the Bureau of Land Management (BLM) on the agency’s proposed revisions of the grazing regulations, exclusive of Alaska (RIN 1004-AE82). PLC is the only national organization dedicated solely to representing the cattle and sheep producers who hold more than 22,000 federal grazing permits on and manage more than 250 million acres in coordination with federal agencies. NCBA is the beef industry’s largest and oldest national marketing and trade association, representing American cattlemen and women who provide much of the nation’s supply of food and own or manage a large portion of America’s private property. ASI is a federation of forty-five state sheep associations representing a diverse industry since 1865 and has been the national trade organization representing the interests of the 100,000 sheep ranchers located throughout the country who produce America’s lamb and wool.

PLC, NCBA, ASI, and our respective affiliates’ (collectively, “the Livestock Groups”) members utilize federal grazing allotments as part of their business operations and rely upon functional regulations that support a system where economic profitability and environmental sustainability are not only compatible, but complimentary. Livestock producers manage complex environments while producing food and fiber, but also provide crucial services to the federal estate including, but not limited to: construction of range improvements; preservation of open spaces; support of multiple use infrastructure; and management of fine fuels which reduces the risk of catastrophic wildfire. The Livestock Groups have long histories of engaging in regulatory reform efforts and conducted robust engagement during the most recent substantive efforts to revise the regulations in 1995 and 2006, as well as the Department of the Interior’s scoping process in 2020. Our 2020 comments are incorporated here by reference.¹

The Livestock Groups support BLM’s proposed revisions to the regulations and applaud the agency’s focus on modernizing regulations that have not been functionally updated in more than thirty years. The agency’s proposed revisions recognize advancements in rangeland science and ecology, adaptations in the multiple-use demands on BLM lands, and opportunities to work collaboratively on the landscape to optimize grazing for ecosystem benefits while retaining the core principle that public lands grazing is not only crucial to domestic food and fiber production but to the communities closest to these landscapes.

¹ Public Lands Council (2020, March 6). *Comment in response to the Bureau of Land Management’s Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Revision of Grazing Regulations for Public Lands (85 Fed. Reg. 3410)*). Bureau of Land Management. Docket No.: 20XL.LLWO220000.L10200000.P.

The Livestock Groups appreciate BLM's recognition through these rules that rangeland health should be a standard against which all multiple uses are evaluated and that the 1995 regulations inappropriately constrained the agency to considering rangeland health only within the context of how the agency could limit grazing, rather than conducting a causal factor analysis and addressing the root cause of the impact. When combined with the permitting process improvements, the Livestock Groups believe these changes represent a meaningful modernization of not only grazing activities on BLM land, but of the way BLM can actually integrate uses on the landscape into a true, comprehensive multiple use profile.

The Livestock Groups urge swift integration of the policy across states as the agency conducts environmental analyses that underpin Resource Management Plans and offer the following comments for BLM to consider prior to finalizing updates to grazing regulations.

National Environmental Policy Act Analysis

All grazing activities on federal land are only authorized after the agency has completed the requisite analysis under the National Environmental Policy Act (NEPA). In itself, NEPA is a purely procedural statute², assessing a specific category of actions without directing a specific suite of activities or outcomes. BLM outlined agency intent to utilize a categorical exclusion (CE) to comply with NEPA requirements in the drafting of the rule. The Livestock Groups support this approach without reservation; the proposed changes to the grazing regulations do not change the volume of grazing, direct where grazing will occur, or make any other functional change that would affect the environment. While the Livestock Groups do believe that the rule is a significant improvement over the operative paradigm of the last thirty years, the changes herein are procedural and administrative in nature, and are subject to further NEPA prior to implementation of a grazing activity.

NEPA applies only to "major Federal actions significantly affecting the quality of the human environment," and courts have consistently held that agency actions lacking a sufficiently close connection to physical environmental change do not require NEPA analysis. In *Metropolitan Edison Co. v. People Against Nuclear Energy*, the Supreme Court explained that NEPA is concerned with effects on the physical environment, not merely procedural, informational, or policy consequences.³ Likewise, in *Andrus v. Sierra Club*, the Court held that internal governmental decision-making processes and administrative actions are not the type of major federal actions that trigger NEPA review.⁴ The Ninth Circuit has similarly held that NEPA does not apply where a federal action does not itself alter the physical environment.⁵ Because the proposed rule merely establishes the framework and procedures governing future grazing administration and does not itself authorize grazing use, approve allotment-level decisions, or mandate any site-specific management action, it falls squarely within the category of procedural agency actions that are not subject to NEPA. Any future grazing decisions with the potential for

² *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 145 S. Ct. 1497, 1507 (2025)

³ *See Metro. Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766, 772–74 (1983).

⁴ *Andrus v. Sierra Club*, 442 U.S. 347, 363–65 (1979).

⁵ *Douglas Cnty. v. Babbitt*, 48 F.3d 1495, 1505–07 (9th Cir. 1995).

environmental effects can and should be evaluated through project-specific NEPA review at the time those actions are proposed, rather than at the programmatic rulemaking stage.

If finalized as written, every grazing authorization will continue to go through the required NEPA analysis to address site-specific ecosystem needs. This kind of analysis continues to be the appropriate application of NEPA; the site-specific nature of grazing authorizations and associated terms and conditions ensure that any local considerations (wildlife needs, threatened or endangered species, cultural or historic artefacts, sensitive areas, or multiple use footprints)⁶ are appropriately incorporated into grazing management plans and monitoring requirements. Requiring NEPA review for this procedural rulemaking would create the type of impermissible NEPA-on-NEPA process that courts have repeatedly rejected. As the Supreme Court has explained, NEPA's focus is on actions that bear a reasonably close causal relationship to changes in the physical environment, not on internal governmental processes or procedural frameworks.⁷ Likewise, courts have held that actions lacking direct environmental consequences are outside NEPA's scope.⁸ Applying NEPA to this rulemaking would therefore serve no statutory purpose, would generate unnecessary delay and litigation, and would improperly transform NEPA from a tool for informed decision-making into a perpetual mechanism for reviewing the procedures used to conduct future NEPA reviews. Applying any other analysis other than a CE on the proposed rule would be speculative, imprecise, and burdensome since further NEPA will undoubtedly be required.

Part 1700 – Fundamentals of Land Health and Standards for Program Administration

Over the last 30 years, one of the agency's primary management impediments has been their ability to assess and address activities that cause disturbance on the landscape in a timely way. The 1995 regulations directed the creation of Section 4180, which established a set of expectations for conducting landscape health assessments on lands contained within grazing allotments, with the underlying objective of determining whether the grazing activity was supporting rangeland health. Following implementation, and at an increasing pace in the three decades since the implementation of the language, the section was used as a cudgel to restrict and remove grazing from the landscape, regardless of whether the condition observed on the land was the result of a grazing activity, or from another factor or land use.

Put simply – because these assessments have been part of the agency's grazing regulations, the agency had only one tool to address any landscape health standards issue: restrict grazing, as it is often the only permitted use on the landscape. Extreme environmental litigants have repeatedly used the section as a way to attempt to substantiate their claims that the agency is somehow failing in its mission to ensure land health because until now, the agency had no direction to conduct a causal factor analysis and no tools to moderate the appropriate use.

The Livestock Groups have long held that a land health assessment should reflect all factors present on the landscape to provide the agency the information it needs to create a plan of action to address the cause of the impact. These causes may include, but should not be limited to: recreation (motorized and non-motorized), energy production, mining, trespass (recreation/public

⁶ 46 U.S.C. 205(c)

⁷ See *Metro. Edison Co.*, 460 U.S. at 772–74; *Andrus*, 442 U.S. at 363–65.

⁸ *Douglas Cnty.*, 48 F.3d at 1505–07.

access where none is currently permitted), wild horse and burro populations that far exceed the Appropriate Management Level (AML) for the area, wildlife utilization and density, livestock grazing, and other factors that affect resource condition independent of use, like prolonged drought, wildfire, encroachment from annual invasive grasses or woody species, and other relevant factors.

The proposed changes not only recognize the need for a causal factor analysis, but appropriately recognize that BLM should have a tool to fulfil the mission established in the Federal Land Policy and Management Act (FLPMA) to support multiple use and sustained yield while providing for tools to limit degradation for causes within its authority. The final rule must clearly establish that no management action should be imposed on an individual authorization or class of use if that use is not a significant causal factor.

The landscape level analyses proposed in the rules will provide the agency with the big-picture information for areas at scale; the rapid step-down assessments will provide the agency the ability to “zoom in” on areas in need of additional intervention. The rapid response approach to land health will undoubtedly support BLM’s ability to take action in a more timely way when degradation and the associated causal factor are identified. For grazing, this process already happens on an annual basis through the annual pre-turnout grazing meetings and evaluation of compliance; for other uses, these rapid assessments will provide the agency with information they do not currently have to justify implementation of tools they are constrained from using. For example, degraded land health condition from post-wildfire spread of invasive annual grasses, soil disturbance from motorized recreation, or riparian impacts from concentrated wildlife populations are all things within the agency’s scope of management, but BLM has long alleged they lack the kind of timely information and corresponding tools to intervene to prevent further degradation.

A rapid collection of data will improve the turnaround time for interventions, which is reflected in the agency’s proposed timeline in the section. Specifically, the proposed six-month timeline for a causal factor analysis will be a significant improvement on current response time. The proposed language requiring the agency to make substantial progress toward addressing the causal factor within two years recognizes ecological realities; current regulations require a solution within a year, while some landscapes (or causal factors) may need additional time to respond, e.g. post-fire seeding growth, topsoil restoration after trampling from horses and burros, etc. The proposed timeframes will inherently require the agency to make causal factor interventions more coordinated across agency programs and ultimately, more durable.

The Livestock Groups note BLM’s proposed removal of state water quality standards (Section 1700.2) and support this change. While water quality continues to be a priority for livestock producers and rural communities alike, BLM does not have the authority required to ensure conditions outlined in prior versions of the regulation. Instead, the agency should coordinate with appropriate state and federal officials.

The Livestock Groups urge BLM to adopt stringent standards for the data and information that will be used to inform the landscape analyses and step-down assessments. The Groups acknowledge the value of remote sensing, satellite data, and other geospatial inputs, but urge caution in sole reliance on that data without on-the-ground substantiation. BLM should clarify that

all causal factor analyses and remedies must also have in-person monitoring that verifies remote sensing data prior to implementation of a remedy. Methods should include long term trend data that utilizes ecological site description inputs, photo monitoring, cooperative monitoring with permittees (where applicable), and other methods that inform trend data.

Further, BLM must make clear that information originating from these assessments should be used to inform development of grazing management plans and other landscape plans, but should not be empowered as a tool to require grazing permittees to deliver on other landscape objectives that are attached to other agency deliverables; e.g., land health standards should not be used as a tool to require permittees to provide habitat for wildlife, threatened or endangered species, when there are other mechanisms in place to address use-specific concerns.

In sum, the Livestock Groups believe the adapted Section 1700 recognizes that landscape health is an evolving paradigm that should be flexible and responsive, while emphasizing consistency where possible. The Livestock Groups support creation of national standards to reduce state-to-state inconsistencies, while also recognizing that the landscape analyses will direct the site-specific interventions.

Part 4100 – Grazing Administration, Exclusive of Alaska

In whole, the Livestock Groups support the proposed changes to the administration of grazing permits suggested in this proposal, and offer the following commentary on sections to bolster, clarify, or refine components herein.

4100.0-2 Objectives

The groups appreciate the continued recognition that livestock grazing is not only a valuable use of public lands to provide food and fiber, but a powerful management tool to achieve desirable rangeland health conditions. These values can be optimized if the agency makes clear in the final rule that permit administration should prioritize flexibility and responsiveness to resource conditions.

4100.0-5 Definitions

Active use: The Livestock Groups commend the agency for the removal of “conservation use” here and wherever found within the regulations; removal ensures consistency with the opinion of the U.S. District Court for the District of Wyoming (*Public Lands Council v. Babbitt*, 929 F. Supp. 1436 (D. Wyo. 1996)), and upheld by the Tenth Circuit Court of Appeals (*Public Lands Council v. Babbitt*, 167 F.3d 1287 (10th Cir. 1999)), which found that the term supersedes the BLM’s authorities under the Taylor Grazing Act.

Allotment management plan (AMP): Recognition of AMPs and their functional equivalent brings the regulations into line with Congressional requirements for an AMP or a functional equivalent to outline requirements for monitoring and other objectives.

Animal unit month (AUM): The Livestock Groups appreciate the updates to grazing species to be able to more accurately quantify forage utilization on the landscape.

Base property: The Livestock Groups recognize the updates to base property requirements to bring the requirements into line with definitions of “beginning ranchers”, below. The Groups suggest the final rule clarity that changes in the base property attached to a permit will not necessarily result in the cancellation of a permit; flexibility in which lands or waters may be used as a base property, so long as sufficient base property continues to exist, would benefit many states where land transitions are common.

Beginning rancher (mentee): The Livestock Groups support addition of this definition and subsequent permitting tools provided to this category of permittee. The composition of many livestock operations has changed significantly over the last 30 years, and many permittees have been constrained in their private businesses and ability to retain allotments due to changes in a family structure that do not support generational transfer. Over the last decade, however, the livestock industry has seen a resurgence in young and new farmers and ranchers interested in livestock production, despite having limited access to capital. This definition opens the door for young or new producers, or those with limited access to capital the ability to partner with an existing permittee to learn the process, ecology, and demands of managing a federal lands grazing allotment. This change will encourage retention of livestock operations in the West, and will support long-term efforts of a strong livestock grazing program.

Carrying capacity: The Livestock Groups appreciate the inclusion of this definition, and seek further clarification that carrying capacity recognizes total forage availability, including for livestock operations. The Groups recommend clear delineation between the agency’s intent to use stocking rate and carrying capacity, with the addition of the new definition.

Conservation use: The Groups support elimination of “conservation use” here and wherever found to comply with rulings related to deficiencies of the 1995 rule⁹.

Ephemeral rangelands: The Livestock Groups note the changes to this definition and seek further clarification that when forage is available, the agency can and shall work with the permittee to permit utilization of available forage according to permitted conditions.

Grazing permit: The Livestock Groups appreciate BLM’s efforts to streamline the description of authorizations under the law that include both permits and leases. Most notably, the Livestock Groups support the requirement that permits should specify the total AUMs, including active and suspended AUMs. Too often, grazing authorizations have been eroded over time, without recorded analysis or justification for the reductions, because the suspended AUMs (even temporarily) were not included on a permit.

Grazing preference or preference: The Livestock Groups support this definition of preference, and urge BLM to further clarify that preference must continue to be expressed both in terms of the priority position itself, but also in the contents of what is contained in the permit attached to that priority position. Retention of the authorized AUMs will help the agency maintain a more accurate accounting of actual use and potential use during ongoing management deliberations. To that end, temporary non-renewable authorizations should also be included here.

⁹ *Public Lands Council v. Babbitt*, 929 F. Supp. 1436 (D. Wyo. 1996)), and upheld by the Tenth Circuit Court of Appeals (*Public Lands Council v. Babbitt*, 167 F.3d 1287 (10th Cir. 1999))

Monitoring: The Livestock Groups appreciate the temporal frame added to this definition. Further, we recommend inclusion of “quantitative” prior to “data” in this definition, and incorporate prior comments¹⁰ herein:

Monitoring shall consider the ecological site and the current ecological site potential, based on state and transition modeling applied in the current rangeland science applications, in assessing the effects of management actions and the effectiveness of actions in meeting management objectives. It is vital to avoid “best guess” opinions by BLM on grazing decisions that have economic and practical implications to permittees. The BLM should rely on replicable, high-quality scientific data to inform administrative actions, particularly when permittees often are integral in the collection and analysis of **quantitative** measures on public land resources. The Livestock Groups recognize that **qualitative** data often informs a number of agency actions, but monitoring should be focused on clear, defensible metrics that allow for direct comparison over time.

Permitted use: The Livestock Groups support explicit inclusion of active and suspended AUMs in this definition (see prior comments on “*Grazing permit*”). Suspended AUMs are the product of management decisions and should continue to be included as a primary part of permitted use to prevent erosion of future use of this adjudicated use.

Prescribed grazing: The addition of this definition is a significant supplement to the proposed regulations, as it bolsters the agency’s underlying directive to utilize grazing both as a land management tool and as a Congressionally-directed use. The Livestock Groups recommend revision to the last sentence to read “Prescribed grazing includes, but is not limited to, targeted grazing and temporary non-renewable grazing activities.” The Livestock Groups further recommend the agency consider how targeted or prescribed grazing could be applied outside allotment boundaries for maximum landscape health benefit.

Production-oriented livestock: The Livestock Groups are comprised of members whose lives and livelihoods depend on access to forage from these federal allotments as part of an economic enterprise. The Taylor Grazing Act (TGA)¹¹ spoke to the agency’s responsibility to provide for “landowners [who are] engaged in the livestock business” when identifying qualifications for preference positions. (See also the Livestock Groups’ comments on *Grazing preference* above).

Range improvement: The improvements to this definition recognize the multifaceted needs reflected by range improvement applications made by permittees. Because permittees are solely responsible for maintenance of range improvements as part of compliance with their permits, recognition that a range improvement should serve the underlying production-oriented livestock responsible for the improvement is apt. Further refinement could include enumerating types of structures most commonly included in grazing permits to provide parity with examples provided for treatment projects and mechanical means.

¹⁰ *Public Lands Council v. Babbitt*, 929 F. Supp. 1436 (D. Wyo. 1996)), and upheld by the Tenth Circuit Court of Appeals (*Public Lands Council v. Babbitt*, 167 F.3d 1287 (10th Cir. 1999))

¹¹ Taylor Grazing Act of 1934, 43 U.S.C. §§ 315b.

Stocking rate: This definition recognizes the need to address the livestock component of carrying capacity, but would benefit from further refinement in how stocking rate may be expressed if not in AUMs/acre.

Sustained yield: The Livestock Groups recommend revising this definition to recognize a balance of high-level annual or regular periodic “**use and** output” of a renewable resource, as the yield of a grazed rangeland is both forage and the product that results from the forage conversion (beef, lamb, wool, hide, etc.).

Targeted grazing: The Livestock Groups recommend revision of the definition to read:

Targeted grazing means using livestock as a tool to **pursue or achieve specific and strategic ecological objectives that may include: decreased wildfire risk through the creation of** linear fuel breaks, **reduced** fine fuel height and fuel loading, and to maintain fine fuels reduction for a specified period under § 4190.1(a)(1) of this part; **to control or mitigate** undesirable plant species; **or to complement other land treatments.**

Temporary nonrenewable or TNR: The Livestock Groups encourage inclusion of “but not limited to” immediately following “include” prior to the list of TNR authorizations since there are other potential scenarios in which a TNR could be issued. Further, the Groups recommend bolstering the last sentence of the definition to make clear that an authorization of a TNR on an existing allotment will not be made if the existing permittee objects. Authorizing a TNR over the objectives of the existing permittee who holds preference both on the permit and the expression of the contents of that permit on the allotment would be a violation not only of the concept of preference, and it would introduce significant uncertainty and conflict where none need be.

Trend: This definition should be harmonized with the definition of *Monitoring* above to make clear that quantitative data should provide the basis for trend analyses.

Subpart 4110 – Qualifications and Preference

Section 4110.1 Mandatory Qualifications.

The Livestock Groups recommend removal of “Federal” from subpart (i) where it appears before grazing permit, as the regulations in question only deal with BLM permits and not permits from other agencies, or from state agencies. In plain reading, it is clear this section applies to BLM permit and grazing authorizations.

Section 4110.2-2 Specifying permitted use.

The Livestock Groups emphasize the importance of retaining clarifying language that having preference is a basic requirement to be able to exercise permitted use under this section. Further, it’s crucial the agency retains the provision which outlines that permitted use includes both active and any suspended use. Whether or not forage is available, preference must continue to be expressed through the permitted use and suspended AUMs must continue to be part of the evaluation of allotment utility.

Section 4110.2-3 Transfer of grazing preference.

The Livestock Groups support the inclusions of new subparts (h) and (i), and subsequent sections to direct and clarify process for the transfer of permits prior to expiration of the authorization. The Livestock Groups further recommend enumerating that transfer of a permit with preference should not result in a reduction of AUMs, either active or suspended, as a condition or consequence of the transfer, without documented rationale and appropriate NEPA analysis.

Section 4110.3 Changes in permitted use.

The Livestock Groups recommend BLM clarify the conditions under which decisions about reductions in permitted use would occur, and delineate the difference between a change in permitted use over the life of the permit and active use during the implementation of the permit from year to year. For the last 30 years, permittees have almost universally seen a downward trend in both active and permitted use without the ability to recover that utilization even if the ecology warrants an increase in forage use. The Livestock Groups recommend the agency include language that a change in permitted use will only be made after a permanent or long-term change in land availability results in conditions under which active use is not possible to restore/increase, based on site-specific trend data.

4110.3-1 Increasing active use.

The Livestock Groups offer resounding support for the changes in this section that delineate the process by which an increase in actual use would occur, including through a clear statement that the increase can include both temporary non-renewable methods and long-term inclusion in a term permit for allotment management. Temporary reductions in utilization through non-use or suspension of AUMs should not become permanent by default, and a clear process for increasing active use based on permitted use thresholds will benefit holistic resource management.

4110.3-2 Decreasing active use.

The Livestock Groups recognize that scenarios will arise when a decrease in active use will result from range monitoring and livestock utilization patterns. When temporary resource conditions call for a decrease in active use, the agency should work with permittees to identify existing conditions, establish monitoring protocols and a schedule to document recovery objectives, document the rationale for decreasing active use. As this process concludes, the agency should work to restore grazing once the resource conditions established at the time of change in active use occurred are resolved. Further, the Groups support clear language that shows the agency will first suspend the AUMs, rather than moving to cancellation or otherwise omit the unused AUMs from the permit. We recommend adding at the end of subpart (c) “or until rangeland data prompts a reactivation of the suspended AUMs, whichever is first.”

4110.3-3 Implementing changes in active use.

The Livestock Groups recognize the need for the agency to have tools to be responsive to emergencies that affect both human safety and ecology, but have concerns that the language would facilitate permanent closure of an allotment for a temporary emergency (drought, fire, insect infestation, etc.). The agency should revise (2) to read (changes in bold):

“(2) After consultation, cooperation, and coordination with affected permittees and the state having lands or responsible for managing resources within the area, the authorized

officer **may temporarily** close allotments or portions of allotments to grazing by any kind of livestock or **temporarily** modify **active** grazing use notwithstanding the other provisions of this paragraph.”

Closure of all or a portion of an allotment should be a decision not based on a temporary emergency, but only as the result of long-term trend monitoring about the suitability of the area to sustain grazing as part of a multiple use profile. This should require analysis under NEPA, as well as robust coordination with permittees and other land and resource managers, as removal of grazing can and has had significant impacts on resource health.

4110.4-2 Decrease in land acreage.

This section should be further modified to clarify that a decrease in public land acreage available should only be as the result of a conversion of the land to a single use (e.g., grazing to solar, open mine), land sale/transfer/disposal, or eminent domain.

Degradation of land and forage availability as a result of the agency’s failure to appropriately adjust/reduce other land-disturbing uses (motorized recreation, horses and burros) should not constitute a land loss that would justify cancellation of a permit, unless the agency has already removed the other use and reclamation of the disturbance will exceed the useful duration of the permit. This cancellation should happen only with the concurrence of the permittee, and should not result in closure of the allotment or long-term elimination of grazing.

Nothing in this section should reduce or otherwise impinge the ability of the permittee to receive compensation, consistent with authorities that persist from TGA.

4120.2 Allotment management plans.

The Livestock Groups support modification of this section to make clear that allotment management plans should include robust rangeland data, incorporate the full scope of land health from Section 1700 of these proposed regulations, and be responsive to the coordinated needs of the permittee and agency. The language removed from this section is consistent both with the conditions of NEPA and other activity plans for other multiple uses, so consolidation of the inputs is appropriate.

4120.3-1 Conditions for range improvements.

Maintenance and construction of range improvements are required for a permittee to maintain compliance with their grazing permit, and therefore should not be appealable under Section 4160. The Livestock Groups recommend conforming the proposed rule with the updated guidance issued by the Department regarding NEPA implementation (February 2026). Permittees should not need to apply to conduct range improvement maintenance on improvements; more pointedly, a permittee should never be in jeopardy of being in non-compliance on their permit due to a delay or failure of the agency to approve work that was already directed by the agency as part of the grazing permit and allotment management plan (or equivalent). The range improvement should be considered part of the robust NEPA analysis for the grazing activity as well as serving the function of objectives outlined both in the land use plan and consistent with Section 1700.

4120-3-2 Cooperative range improvement agreements.

Broadly, grazing permittees have long raised concerns about the title conveyance for range improvements post-1995 being granted to the United States. While the Livestock Groups recognize that unwinding 30 years of policy that disadvantaged grazing permittees' position on the landscape would be difficult, at a minimum the agency must bolster the processes to appropriately account for the contributed funds, labor, materials, and maintenance costs for the purposes of reimbursement in the event of a cancelled permit or cessation of grazing. Permittees' make outsized investment that support all multiple use on the landscape, and compensation in the event of lost access should be commensurate.

4120.3-3 Range improvement permits.

The Livestock Groups appreciate the creativity of the agency to provide for temporary use permits if a permittee is unable to make use of active use on an allotment, but recommend the following changes: no temporary use permit should be authorized without the explicit agreement of the current permittee who holds preference. The Livestock Groups support policy that allows for temporary use, including by smaller, newer, or younger permittees or those who are in significant need of temporary forage, but the integrity of the allotment must not be compromised. Bringing in a new permittee introduces new complexities in animal health, husbandry, labor and management practices, particularly if the holder of the temporary permit comes from outside the immediate geographic area.

This section should make clear that any permittee who operates under a range improvement permit should take on the maintenance responsibility and liability for range improvements and infrastructure for the duration of the temporary permit. Additionally, the agency should provide for the ability to be flexible in the species considerations for a temporary permit to be responsive to the animal health considerations listed above.

4120.3-9 Water rights for the purpose of livestock grazing on public lands.

PLC strenuously opposes any federal legislation or any action by a federal agency that would diminish, alter use, or transfer any water on federal lands without just compensation to the holder of such water rights. The changes reflected in this section should prioritize the complex nature of state water right requirements. The agency should not seek to acquire, through agreement or force, private water rights held by livestock producers and existing permittees. Further, the final rule must make clear that permit administration is not conditional on the permittees treatment of their water right; no changes to an underlying permit should be forced or coerced based on an agency's directive related to possession of water rights. The final rule should conform with expectations established in the Taylor Grazing Act: "*[N]othing in this subchapter shall be construed or administered in any way to diminish or impair any right to the possession and use of water for mining, agriculture, manufacture, or other purposes which has heretofore vested or accrued under existing law validly affecting the public lands or which may be hereafter initiated or acquired and maintained in accordance with such law.*"¹²

4130.1-2 Conflicting applications.

BLM should convert the "may authorize" to "**shall** authorize", as grazing should be authorized if it is consistent with permittee need and agency policy referenced herein.

¹² 43 U.S.C. § 315(b)

4130.2 Grazing permits.

The Livestock Groups support removal of “conservation use” here and wherever found in the regulations. We recommend adding language in subpart (i) with the following: “..., (3) the timing of completion of analyses under Section 1700 that have informed annual management and any necessary adjustments.”.

4130.3-1 Mandatory terms and conditions.

This section requires further refinement for the methodologies used to determine carrying capacity, with respect to the proposed definition of stocking rate. Subsection (e) should be modified to recognize that “...livestock grazing timing [may] be **temporarily advanced, moved up**, delayed, discontinued, or modified to allow for or optimize reproduction, establishment, or restoration of vigor of plants” (changes bolded). The agency must make clear that flexible grazing access must both allow for early and late access to allotments to achieve resource objectives and/or be responsive to resource conditions.

4130.3-3 Modification of permits.

This section should be further revised to outline a sequential process for changes that must occur prior to modification of a permit. If management of an area under a permit is not meeting standards under Section 1700, the terms and conditions of the permit, or if the available forage has substantively changed, the agency should first work with the affected permittee to modify active use, then permitted use, and then the underlying permit. The agency must not go directly to permit modification in absence of a robust process. The Livestock Groups continue to emphasize that any changes to active or permitted use, or a permit modification must *only* happen if grazing is identified as the causal factor in the agencies expression of impacts under Section 1700.

4130.4 Authorization of temporary changes in grazing use within the terms and conditions of permits, including temporary nonuse.

The Livestock Groups support the changes in this section to refine the ability of the agency to use temporary non-renewable use for a variety of land management objectives. The value of this kind of flexibility cannot be overstated; for the last thirty years, the agency has largely been unable to be responsive to calls for flexible management, which this language would enable. The Livestock Groups emphasize the following: temporary non-renewable authorizations should not: impede the underlying grazing activity, or the associated preference; should not impact the ability of the holder of the temporary permit to exercise the full scope of their permit on another allotment; nor should a repeated use of a temporary permit be the singular basis for establishment of a future competing preference right (if the holder of the temporary permit is different than the underlying permittee). Instead, if a permittee repeatedly holds a temporary permit, demonstration of compliance of BLM requirements as outlined in Section 4130.2.

4130.6-2 Nonrenewable grazing permits.

See above comments regarding 4130.4.

4130.6-2 Trailing permits.

BLM should remove “temporary” where found in this section to be able to assess the need for and facilitate a longer-term trailing permit where activities are routine. Further, trailing permits should be authorized under a CE if the forage to be consumed during the trailing does not reduce or

otherwise affect the existing permitted use of the area within the crossing permit. These authorizations should not be subject to review under Section 4160. Additionally, the final rule should recognize the need to provide for emergency trailing in cases of fire, flooding, animal health emergencies, and other unpredictable emergency situations. In these cases, the regulations should provide for expedited administrative procedures to ensure livestock can be moved timely, even if prior authorizations did not cover the area in question.

4130.7 Ownership and identification of livestock.

The Livestock Groups offer resounding support for changes in this section. Expanding the eligibility criteria of livestock ownership for grazing to grandchildren and beginning ranchers (mentees) will provide greater continuity for operations with complex estate scenarios, and for ranches who want to foster relationship with small, new, or young permittees. This expansion bolsters the likelihood of keeping grazing on the landscape in a way that promotes long-term sustainability in land management and food production, supporting both cultural and economic goals.

4130.8-1 Payment of fees.

Consolidated billing, particularly for permittees who have a smaller number of AUMs, and those who have a number of smaller permits who can be billed in the aggregate, will improve customer service for permittees and will alleviate burdens on agency staff time who now spend multiple days billing at various points in the year.

We also support the waiver of the surcharge for producers who are being provided relief from drought, fire, or other natural causes, and especially for those who are engaged in a range improvement permit.

4140.1 Acts prohibited on public lands.

The Livestock Groups support the provisions in this section related to validation of the permit. Members of all associations have many stories about entities who hold permits who never intended to graze the allotment and the agency needs tools to be able to hold those permittees in violation.

This section also raises the need to distinguish willful, unreasonable, intentional trespass by allowing livestock to graze on areas outside the permit with the incidental, unintentional, non-willful incident that could occur. BLM could easily address this and conform with other sections to address concerns raised by the Government Accountability Office.

The Livestock Groups recommend the addition of “unless no specific authorization is required” to subparts 2-4. There are scenarios in which seeding, cutting, chaining, maintenance or modification of range improvements are all conditions of the underlying permit, which is not clear in this section. This same language should also be added to (c)(1) parts (ii) and (iii).

4150.1 Violations

Changes in this section, most notably that a “nonwillful violation will be considered incidental” is appreciated by the Livestock Groups, however we recommend that nonwillful events not be recorded as violations in the grazing file. Certainly, the standard should be compliance with all terms and conditions, but the regulations must recognize that recording of such incidents, even if

nonwillful, as violations builds a record against a permittee that will be both inaccurate and easily leveraged to remove grazing access. The Livestock Groups recommend that once a nonwillful trespass is resolved with the cooperation of the permittee, the incident will be exempted from violation criteria and not recorded as a black mark in the permittees' grazing file.

4150.2 Notice and order to remove.

See comments above related to nonwillful incidents. The Livestock Groups recommend revision of this section to read (suggested changes in bold):

- (a) Whenever a violation has been determined to be nonwillful and incidental, the authorized officer shall notify the alleged violator that the violation must be corrected **and coordinate on resolution of the incident** based on the discretion of the authorized officer. The authorized officer may notify the alleged violator through informal means. **Once the incident is resolved, the authorized officer shall make a note of the communication with the permittee and date of resolution and clearly distinguish this communication about allotment management from other kinds of violations.**

4150.3 Settlement

The Livestock Groups support the addition of (a), which supports our request to exempt nonwillful, incidental incidents from the strict standard of violations; permittees who face no damage settlement and for whom the incident occurred through no fault of their own should not face punitive action for something outside their control.

4160.1 Proposed decisions.

The Livestock Groups recommend revision to subpart (5) to remove “where there is no interested public”. In order to maintain consistency with prior sections, range improvements are a management tool and not a substantive change in land use, and therefore should not be eligible under that section. Practically, BLM has historically failed to maintain adequate lists of interested public on allotments, and requiring the agency to move through a likely-outdated interested public list before authorizing a water trough or replacement of a culvert is not a prudent use of agency resources. The Groups support the remainder of the section.

4160.3 Final Decisions

Many of the decisions contained in the grazing regulations should not be subject to an appeals process because they are land management decisions rather than authorizations. The Livestock Groups urge the agency to maintain a clear distinction between land management decisions and grazing authorization decisions. Land management determinations establish policy, objectives, monitoring requirements, desired resource conditions, and management direction, but they do not themselves authorize grazing use or alter the terms and conditions of a permit or lease. Because such decisions do not directly affect a permittee's authorized use, they should not be independently appealable. Expanding appeal rights to encompass programmatic management determinations would invite piecemeal litigation, create duplicative review of the same issues, and significantly delay implementation of public-land management decisions without providing corresponding benefits to permittees. Appeals should instead be limited to decisions that directly grant, deny, modify, suspend, or cancel grazing authorizations, where the effects on permittees are immediate, concrete, and readily identifiable.

For those activities that are subject to section 4160, the Livestock Groups recommend clarifying the process for permittees who are receiving a grazing authorization for the first time. For permittees who seek renewal of a permit with amended terms and conditions whose authorization is stayed pending appeal, they have the ability to “fall back” on the previously authorized conditions. For permittees who are first-time recipients of permits with no prior authorization, they will rely heavily on the ability to “continue to make that use pending final action on the appeal”. The Groups recommend a further modification to reflect that an authorized officer may provide that a final decision is to be in full force and effect only if the officer determines that this is required for the protection of range resource values

4170.1-1 Penalty for violations.

The Livestock Groups recommend the addition of “permittee or” ahead of “nonpermittee” in subpart (c). Members of our associations have experienced situations during which referrals to a civilian court for civil or criminal penalties was made without access to the full scope of tools afforded by a non-administrative court. Permittees should have the ability to seek recourse where appropriate.

Subpart 4180 – Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration

The Livestock Groups applaud the agency’s conversion of grazing-specific standards that take a myopic view of landscape health and multiple use and welcome the replacement and improvement in process in Section 1700. See previous comments.

4190.1 Effect of wildfire management decisions

Grazing for wildfire mitigation is perhaps one of the most important benefits for many western landscapes, and we appreciate the recognition in the retained section 4190. The section should be further amended by clarifying that any authorization made under this section shall be made separate and distinct from permits that carry underlying preference, and a permittee partner should be able to work with the agency independent of their underlying grazing authorization.

The Livestock Groups further recommend BLM make clear that the agency can authorize these wildfire management decisions/fuels reduction tools *outside* existing allotments to reduce liability for other parts of the agency, rather than limiting grazing to the specific boundaries of existing allotments.

Conclusion

The Livestock Groups appreciate the opportunity to provide substantive feedback on the proposed changes to the agency’s grazing regulations to make meaningful updates that will benefit both permit administration and balanced multiple use that supports land health. Livestock grazing is a crucial management tool for BLM to manage the nearly 155 million acres of adjudicated grazing land in the West, both for control of fire risk and annual invasives, but also for resource management that promotes public access, critical infrastructure, and a functional agency budget.

Over the last 30 years, technology, range monitoring, and academic support for adaptive management have made significant advancements; updating regulations to reflect dynamic range

conditions and evolving land use patterns requires regulations that are both recognize the value of grazing and the complex multiple use patterns of today and tomorrow, rather than decades past.

The Groups submit this feedback for your consideration and stand ready to assist the agency in future deliberations.

Sincerely,

Public Lands Council
American Sheep Industry Association
National Cattlemen's Beef Association
Arizona Cattle Growers Association
Arizona Public Lands Council
California Cattlemen's Association
California Public Council
California Wool Growers Association
Colorado Cattlemen's Association
Colorado Public Lands Council
Colorado Wool Growers Association
Idaho Cattle Association
Idaho Public Lands Council
Idaho Wool Growers Association
Kentucky Sheep and Wool Producers Association
Montana Public Lands Council
Montana Stockgrowers Association
Montana Wool Growers Association
Nevada Cattlemen's Association
Nevada Central Committee
New Mexico Cattle Growers Association
North Dakota Stockmen's Association
Oregon Cattlemen's Association
Oregon Public Lands Council
Oregon Sheep Growers Association
South Carolina Sheep Industry Association
South Dakota Cattlemen's Association
South Dakota Public Lands Council
South Dakota Sheep Growers Association
Utah Cattlemen's Association
Utah Wool Growers Association
Washington Cattlemen's Association
Washington Public Lands Council
Washington State Sheep Producers
Wyoming Stock Growers Association
Wyoming Public Lands Committee
Wyoming Wool Growers Association