

104TH CONGRESS
1ST SESSION

S. 636

To require the Secretary of Agriculture to issue new term permits for grazing on National Forest System lands to replace previously issued term grazing permits that have expired, soon will expire, or are waived to the Secretary, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 28 (legislative day, MARCH 27), 1995

Mr. DASCHLE (for himself and Mr. PRESSLER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To require the Secretary of Agriculture to issue new term permits for grazing on National Forest System lands to replace previously issued term grazing permits that have expired, soon will expire, or are waived to the Secretary, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS AND PURPOSE.**

4 (a) FINDINGS.—Congress finds that—

5 (1) the Secretary of Agriculture (referred to in
6 this Act as the “Secretary”) administers the

1 191,000,000-acre National Forest System for mul-
2 tiple uses in accordance with Federal law;

3 (2) where suitable, 1 of the recognized multiple
4 uses for National Forest System land is grazing by
5 livestock;

6 (3) the Secretary authorizes grazing through
7 the issuance of term grazing permits that have
8 terms of not to exceed 10 years and that include
9 terms and conditions necessary for the proper ad-
10 ministration of National Forest System land and re-
11 sources;

12 (4) as of the date of enactment of this Act, the
13 Secretary has issued approximately 9,000 term graz-
14 ing permits authorizing grazing on approximately
15 90,000,000 acres of National Forest System land;

16 (5) of the approximately 9,000 term grazing
17 permits issued by the Secretary, approximately one-
18 half have expired or will expire by the end of 1996;

19 (6) if the holder of an expiring term grazing
20 permit has complied with the terms and conditions
21 of the permit and remains eligible and qualified, that
22 individual is considered to be a preferred applicant
23 for a new term grazing permit in the event that the
24 Secretary determines that grazing remains an appro-

1 appropriate use of the affected National Forest System
2 land;

3 (7) in addition to the approximately 9,000 term
4 grazing permits issued by the Secretary, it is esti-
5 mated that as many as 1,600 term grazing permits
6 may be waived by permit holders to the Secretary in
7 favor of a purchaser of the permit holder's permitted
8 livestock or base property by the end of 1996;

9 (8) to issue new term grazing permits, the Sec-
10 retary must comply with the National Environ-
11 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
12 and other laws;

13 (9) for a large percentage of the grazing per-
14 mits that will expire or be waived to the Secretary
15 by the end of 1996, the Secretary has devised a
16 strategy that will result in compliance with the Na-
17 tional Environmental Policy Act of 1969 and other
18 applicable laws (including regulations) in a timely
19 and efficient manner and enable the Secretary to
20 issue new term grazing permits, where appropriate;

21 (10) for a small percentage of the grazing per-
22 mits that will expire or be waived to the Secretary
23 by the end of 1996, the strategy will not provide for
24 the timely issuance of new term grazing permits;
25 and

1 (11) in cases in which ranching operations in-
2 volve the use of a term grazing permit issued by the
3 Secretary, it is essential for new term grazing per-
4 mits to be issued in a timely manner for financial
5 and other reasons.

6 (b) PURPOSE.—The purpose of this Act is to ensure
7 that grazing continues without interruption on National
8 Forest System land in a manner that provides long-term
9 protection of the environment and improvement of Na-
10 tional Forest System rangeland resources while also pro-
11 viding short-term certainty to holders of expiring term
12 grazing permits and purchasers of a permit holder's per-
13 mitted livestock or base property.

14 **SEC. 2. DEFINITIONS.**

15 In this Act:

16 (1) EXPIRING TERM GRAZING PERMIT.—The
17 term “expiring term grazing permit” means a term
18 grazing permit—

19 (A) that expires in 1995 or 1996; or

20 (B) that expired in 1994 and was not re-
21 placed with a new term grazing permit solely
22 because the analysis required by the National
23 Environmental Policy Act of 1969 (42 U.S.C.
24 4321 et seq.) and other applicable laws has not
25 been completed.

1 (2) FINAL AGENCY ACTION.—The term “final
2 agency action” means agency action with respect to
3 which all available administrative remedies have
4 been exhausted.

5 (3) TERM GRAZING PERMIT.—The term “term
6 grazing permit means a term grazing permit or
7 grazing agreement issued by the Secretary under
8 section 402 of the Federal Land Policy and Manage-
9 ment Act of 1976 (43 U.S.C. 1752), section 19 of
10 the Act entitled “An Act to facilitate and simplify
11 the work of the Forest Service, and for other pur-
12 poses”, approved April 24, 1950 (commonly known
13 as the “Granger-Thye Act”) (16 U.S.C. 580), or
14 other law.

15 **SEC. 3. ISSUANCE OF NEW TERM GRAZING PERMITS.**

16 (a) IN GENERAL.—Notwithstanding any other law,
17 the Secretary shall issue a new term grazing permit with-
18 out regard to whether the analysis required by the Na-
19 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
20 et seq.) and other applicable laws has been completed, or
21 final agency action respecting the analysis has been
22 taken—

23 (1) to the holder of an expiring term grazing
24 permit ; or

1 (2) to the purchaser of a term grazing permit
2 holder's permitted livestock or base property if—

3 (A) between January 1, 1995, and Decem-
4 ber 1, 1996, the holder has waived the term
5 grazing permit to the Secretary pursuant to
6 section 222.3(c)(1)(iv) of title 36, Code of Fed-
7 eral Regulations; and

8 (B) the purchaser of the term grazing per-
9 mit holder's permitted livestock or base prop-
10 erty is eligible and qualified to hold a term
11 grazing permit.

12 (b) TERMS AND CONDITIONS.—Except as provided in
13 subsection (c)—

14 (1) a new term grazing permit under subsection
15 (a)(1) shall contain the same terms and conditions
16 as the expired term grazing permit; and

17 (2) a new term grazing permit under subsection
18 (a)(2) shall contain the same terms and conditions
19 as the waived permit.

20 (c) DURATION.—

21 (1) IN GENERAL.—A new term grazing permit
22 under subsection (a) shall expire on the earlier of—

23 (A) the date that is 3 years after the date
24 on which it is issued; or

1 (B) the date on which final agency action
2 is taken with respect to the analysis required by
3 the National Environmental Policy Act of 1969
4 (42 U.S.C. 4321 et seq.) and other applicable
5 laws.

6 (2) FINAL ACTION IN LESS THAN 3 YEARS.—If
7 final agency action is taken with respect to the anal-
8 ysis required by the National Environmental Policy
9 Act of 1969 (42 U.S.C. 4321 et seq.) and other ap-
10 plicable laws before the date that is 3 years after the
11 date on which a new term grazing permit is issued
12 under subsection (a), the Secretary shall—

13 (A) cancel the new term grazing permit;
14 and

15 (B) if appropriate, issue a term grazing
16 permit for a term not to exceed 10 years under
17 terms and conditions as are necessary for the
18 proper administration of National Forest Sys-
19 tem rangeland resources.

20 (d) DATE OF ISSUANCE.—

21 (1) EXPIRATION ON OR BEFORE DATE OF EN-
22 ACTMENT.—In the case of an expiring term grazing
23 permit that has expired on or before the date of en-
24 actment of this Act, the Secretary shall issue a new
25 term grazing permit under subsection (a)(1) not

1 later than 15 days after the date of enactment of
2 this Act.

3 (2) EXPIRATION AFTER DATE OF ENACT-
4 MENT.—In the case of an expiring term grazing per-
5 mit that expires after the date of enactment of this
6 Act, the Secretary shall issue a new term grazing
7 permit under subsection (a)(1) on expiration of the
8 expiring term grazing permit.

9 (3) WAIVED PERMITS.—In the case of a term
10 grazing permit waived to the Secretary pursuant to
11 section 222.3(c)(1)(iv) of title 36, Code of Federal
12 Regulations, between January 1, 1995, and Decem-
13 ber 31, 1996, the Secretary shall issue a new term
14 grazing permit under subsection (a)(2) not later
15 than 60 days after the date on which the holder
16 waives a term grazing permit to the Secretary.

17 **SEC. 4. ADMINISTRATIVE APPEAL AND JUDICIAL REVIEW.**

18 The issuance of a new term grazing permit under sec-
19 tion 3(a) shall not be subject to administrative appeal or
20 judicial review.

21 **SEC. 5. REPEAL.**

22 This Act is repealed effective as of January 1, 2001.

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