

Calendar No. 158

104TH CONGRESS
1ST SESSION

S. 852

[Report No. 104-123]

A BILL

To provide for uniform management of livestock grazing on Federal land, and for other purposes.

JULY 28 (legislative day, JULY 10), 1995
Reported with an amendment

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IN THE HOUSE OF REPRESENTATIVES

MAY 25 (legislative day, MAY 15), 1995

Mr. DOMENICI (for himself, Mr. CRAIG, Mr. BROWN, Mr. CAMPBELL, Mr. HATCH, Mr. BENNETT, Mr. BURNS, Mr. SIMPSON, Mr. THOMAS, Mr. KYL, Mr. PRESSLER, Mr. KEMPTHORNE, Mr. CONRAD, Mr. DORGAN, Mr. DOLE, Mr. GRAMM, and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

JULY 28 (legislative day, JULY 10), 1995

Reported by Mr. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To provide for uniform management of livestock grazing
on Federal land, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) ~~SHORT TITLE.~~—This Act may be cited as the
 3 “Livestock Grazing Act”.

4 (b) ~~TABLE OF CONTENTS.~~—The table of contents of
 5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Effective date.

TITLE I—MANAGEMENT OF GRAZING ON FEDERAL LAND

Subtitle A—General Provisions

Sec. 101. Findings.

Sec. 102. Application of title.

Sec. 103. Objective.

Sec. 104. Definitions.

Sec. 105. Fundamentals of rangeland health.

Sec. 106. Land use plans.

Sec. 107. Rule of construction.

Subtitle B—Qualifications and Grazing Preferences

Sec. 111. Mandatory qualifications.

Sec. 112. Acquired land.

Sec. 113. Grazing preferences.

Sec. 114. Changes in grazing preference status.

Sec. 115. Changes in Federal land acreage.

Subtitle C—Grazing Management

Sec. 121. Allotment management plans.

Sec. 122. Range improvements.

Sec. 123. Water rights.

Sec. 124. Management of grazing on land under the jurisdiction of other de-
 partments and agencies.

Subtitle D—Authorization of Grazing Use

Sec. 131. Applications.

Sec. 132. Grazing permits or grazing leases.

Sec. 133. Free-use grazing permits.

Sec. 134. Other grazing authorizations.

Sec. 135. Ownership and identification of livestock.

Sec. 136. Terms and conditions.

Sec. 137. Fees and charges.

Sec. 138. Pledge of grazing permits or grazing leases as security for loans.

Subtitle E—Civil Violations and Failures of Compliance

Sec. 141. Civil violations and failures of compliance.

Subtitle F—Unauthorized Grazing Use

- Sec. 151. Liability for damages.
- Sec. 152. Notice and order to remove.
- Sec. 153. Settlement.
- Sec. 154. Impoundment and sale.

Subtitle G—Procedure

- Sec. 161. Proposed decisions.
- Sec. 162. Protests.
- Sec. 163. Final decisions.
- Sec. 164. Appeals.

Subtitle H—Advisory Committees

- Sec. 171. Purpose.
- Sec. 172. Objective.
- Sec. 173. Relation to other law.
- Sec. 174. Policy.
- Sec. 175. General provisions.
- Sec. 176. Resource advisory councils.
- Sec. 177. Grazing advisory councils.
- Sec. 178. Meetings.
- Sec. 179. Conforming amendment and repeal.

Subtitle I—Reports

- Sec. 181. Reports.

TITLE II—GRASSLAND

- Sec. 201. Removal of grasslands from National Forest system.

1 **SEC. 2. EFFECTIVE DATE.**

2 (a) ~~IN GENERAL.~~—This Act and the amendments
3 and repeals made by this Act shall become effective on
4 March 1, 1996.

5 (b) ~~INTERIM PROVISION.~~—Until the effective date
6 specified in subsection (a), management of livestock graz-
7 ing on Federal land shall be conducted in accordance with
8 the law (including regulations) in effect on May 18, 1995.

1 **TITLE I—MANAGEMENT OF GRAZING ON**
2 **FEDERAL LAND**

3 **Subtitle A—General Provisions**

4 **SEC. 101. FINDINGS.**

5 (a) FINDINGS.—Congress finds that—

6 (1) through the cooperative and concerted ef-
7 forts of the Federal rangeland livestock industry,
8 Federal and State land management agencies, and
9 the general public, the Federal rangelands are in the
10 best condition they have been in during this century,
11 and their condition continues to improve;

12 (2) as a further consequence of those efforts,
13 populations of big game and wildlife are increasing
14 and stabilizing across vast areas of the West;

15 (3) further efforts to assist in developing and
16 nurturing that cooperation at all levels of govern-
17 ment are important, and those efforts will provide
18 long-term benefits to the Nation's rangelands and
19 their related resources;

20 (4) to promote the economic, cultural, and so-
21 cial well being of western States, rural communities
22 in the western States, and the western livestock in-
23 dustry, it is in the public interest to charge a fee for
24 livestock grazing permits and grazing leases on Fed-
25 eral land that is based on a formula that—

1 (A) reflects a fair return to the Federal
2 Government and the true costs to the permittee
3 or lessee; and

4 (B) promotes continuing cooperative stew-
5 ardship efforts;

6 (5) opportunities exist for improving efficiency
7 in the administration of the range programs on Fed-
8 eral land, and those opportunities should be pursued
9 with goals of—

10 (A) reducing planning and analysis costs
11 and their associated paperwork, procedural, and
12 clerical burdens; and

13 (B) refocusing efforts to the direct man-
14 agement of the resources themselves;

15 (6) in order to provide meaningful review and
16 oversight of the management of the public range-
17 lands and the grazing allotment on those rangelands,
18 refinement of the reporting of costs of various com-
19 ponents of the land management program is needed;

20 (7) incentives for greater local input into the
21 management of the public rangelands as well as in-
22 centives to encourage private investment in improve-
23 ment of the public rangelands will assist in those ef-
24 forts and are in the best interests of the United
25 States;

1 (8) the western livestock industry that relies on
2 Federal land plays an important and integral role in
3 maintaining and preserving the social, economic, and
4 cultural base of rural communities in the western
5 States and further plays an important and integral
6 role in the economies of the 16 western States in
7 which rangelands managed by the Secretary are sit-
8 uated;

9 (9) maintaining the economic viability of the
10 western livestock industry is essential to maintaining
11 open space and habitat for big game, wildlife, and
12 fish, but currently there are pressures to sell the
13 base property of the Federal land ranches for sub-
14 division or other development, which would reduce or
15 remove the available open space and fish and wildlife
16 habitat; and

17 (10) since the enactment of the Federal Land
18 Policy and Management Act of 1976 (43 U.S.C.
19 1701 et seq.), the Secretary has been charged with
20 developing land use plans that are consistent with
21 land use plans adopted by State, local, and tribal
22 governments, but to date the planning efforts have
23 not produced land use plans for Federal land that
24 is in fact consistent with State, local, or tribal plan-
25 ning.

1 (b) ~~REPEAL OF EARLIER FINDINGS.~~—Section 2(a) of
 2 the Public Rangelands Improvement Act of 1978 (43
 3 U.S.C. 1901(a)) is amended—

4 (1) by striking paragraphs (1), (2), (3), and
 5 (4);

6 (2) by redesignating paragraphs (5) and (6) as
 7 paragraphs (1) and (2), respectively;

8 (3) in paragraph (1) (as so redesignated), by
 9 adding “and” at the end; and

10 (4) in paragraph (2) (as so redesignated)—

11 (A) by striking “harrassment” and insert-
 12 ing “harassment”; and

13 (B) by striking the semicolon at the end
 14 and inserting a period.

15 **SEC. 102. APPLICATION OF ACT.**

16 Except as provided in section 137(d), this Act applies
 17 to—

18 (1) the management of grazing on Federal land
 19 by the Secretary of the Interior under—

20 (A) the Act of June 28, 1934 (commonly
 21 known as the “Taylor Grazing Act”) (48 Stat.
 22 1269, chapter 865; 43 U.S.C. 315 et seq.);

23 (B) the Act of August 28, 1937 (commonly
 24 known as the “Oregon and California Railroad
 25 and Coos Bay Wagon Road Grant Lands Act of

1 1937”) (50 Stat. 874, chapter 876; 43 U.S.C.
2 1181a et seq.);

3 (C) the Federal Land Policy and Manage-
4 ment Act of 1976 (43 U.S.C. 1701 et seq.);

5 (D) title III of the Bankhead-Jones Farm
6 Tenant Act (7 U.S.C. 1010 et seq.); and

7 (E) any other law; and

8 (2) the Secretary on behalf of the head of an-
9 other department or agency under a memorandum
10 of understanding under section 124.

11 **SEC. 103. OBJECTIVE.**

12 The objective of this Act is to achieve—

13 (1) orderly use, improvement, and development
14 of Federal land;

15 (2) enhancement of productivity of Federal land
16 by conservation of forage resources and reduction of
17 soil erosion and by proper management of other re-
18 sources such as by control of woody species invasion;

19 (3) stabilization of the livestock industry de-
20 pendent on the public rangeland;

21 (4) performance of an inventory and categoriza-
22 tion of public rangelands on the basis of range con-
23 ditions and trends; and

24 (5) consideration of wildlife populations and
25 habitat;

1 consistent with land-use plans, multiple-use, sustained
 2 yield, environmental values, and economic and other objec-
 3 tives stated in the Acts cited in section 102.

4 **SEC. 104. DEFINITIONS.**

5 (a) IN GENERAL.—In this Act:

6 (1) ACTIVE USE.—The term “active use”
 7 means the amount of authorized livestock grazing
 8 use that is being made at any time.

9 (2) ACTUAL USE.—The term “actual use”
 10 means the places at which, the number and kinds or
 11 classes of, and the length of time that livestock
 12 graze on an allotment.

13 (3) ACTUAL USE REPORT.—The term “actual
 14 use report” means a report of the actual livestock
 15 grazing use submitted by a permittee or lessee.

16 (4) AFFECTED INTEREST.—The term “affected
 17 interest” means an individual or organization that—

18 (A) has expressed in writing to an author-
 19 ized officer concern for the management of live-
 20 stock grazing on a specific grazing allotment
 21 and has provided substantiated evidence that
 22 the management of the public lands will affect
 23 the individual or organization; and

24 (B) has been determined by an authorized
 25 officer to be an affected interest.

1 (5) ALLOTMENT.—The term “allotment” means
2 an area of designated Federal land that includes
3 management for grazing of livestock.

4 (6) ALLOTMENT MANAGEMENT PLAN.—The
5 term “allotment management plan”—

6 (A) means a documented program that ap-
7 plies to livestock grazing on an allotment; and

8 (B) includes such a documented plan that
9 is included in an activity plan that governs
10 grazing as well as other activities on Federal
11 land.

12 (7) ANIMAL UNIT MONTH.—

13 (A) STATE DEFINITION.—With respect to
14 grazing on Federal land in a State that charges
15 a fee for grazing on State land based on a for-
16 mula in which one of the factors is an animal
17 unit month, the term “animal unit month” has
18 the meaning established under State law.

19 (B) NO STATE DEFINITION.—

20 (i) IN GENERAL.—Subject to clause
21 (ii), with respect to grazing on Federal
22 land in a State other than a State de-
23 scribed in subparagraph (A), the term
24 “animal unit month” means 1 month’s use
25 and occupancy of range by—

1 (I) 1 cow, bull, steer, heifer,
2 horse, burro, or mule, 7 sheep, or 7
3 goats, each of which is 6 months of
4 age or older on the date on which the
5 animal begins grazing on Federal
6 land;

7 (II) any such animal regardless
8 of age if the animal is weaned on the
9 date on which the animal begins graz-
10 ing on Federal land; and

11 (III) any such animal that will
12 become 12 months of age during the
13 period of use authorized under a graz-
14 ing permit or grazing lease.

15 (ii) LIVESTOCK NOT COUNTED.—

16 There shall not be counted as an animal
17 unit month the use of Federal land for
18 grazing by—

19 (I) an animal that is less than 6
20 months of age on the date on which
21 the animal begins grazing on Federal
22 land and is the natural progeny of an
23 animal on which a grazing fee is paid
24 if the animal is removed from the

1 Federal land before becoming 12
2 months of age; or

3 (II) an animal that is progeny,
4 born during the period of use author-
5 ized under a grazing permit or graz-
6 ing lease, of an animal on which a
7 grazing fee is paid.

8 (8) AUTHORIZED OFFICER.—The term “author-
9 ized officer” means a person authorized by the Sec-
10 retary to administer this title, the Acts cited in sec-
11 tion 102, and regulations issued under this title and
12 those Acts.

13 (9) BASE PROPERTY.—The term “base prop-
14 erty” means—

15 (A) land that has the capability of produc-
16 ing crops or forage that can be used to support
17 authorized livestock for a specified period of the
18 year; and

19 (B) water that is suitable for consumption
20 by livestock and is available to and accessible by
21 authorized livestock when the land is used for
22 livestock grazing.

23 (10) CANCEL; CANCELLATION.—The terms
24 “cancel” and “cancellation” refer to a permanent
25 termination, in whole or in part, of—

1 (A) a grazing permit or grazing lease and
2 grazing preference; or

3 (B) a free-use grazing permit or other
4 grazing authorization.

5 (11) CLASS.—The term “class”, in reference to
6 livestock, refers to the age and sex of a group of
7 livestock.

8 (12) CONSULTATION, COOPERATION, AND CO-
9 ORDINATION.—The term “consultation, cooperation,
10 and coordination” has the meaning stated in section
11 402(d) of the Federal Land Policy and Management
12 Act of 1976 (43 U.S.C. 1752(d)), as amended.

13 (13) CONTROL.—The term “control”, in ref-
14 erence to base property or livestock, means respon-
15 sibility for providing care and management of base
16 property or livestock.

17 (14) FEDERAL LAND.—The term “Federal
18 land”—

19 (A) means land or an interest in land out-
20 side the State of Alaska that is owned by the
21 United States and administered by the Sec-
22 retary of the Interior, acting through the Direc-
23 tor of the Bureau of Land Management; but

24 (B) does not include land held for the ben-
25 efit of Indians.

1 (15) GRAZING DISTRICT.—The term “grazing
2 district” means the specific area within which Fed-
3 eral land is administered under section 3 of the Act
4 of June 28, 1934 (commonly known as the “Taylor
5 Grazing Act”) (48 Stat. 1270, chapter 865; 43
6 U.S.C. 315b).

7 (16) GRAZING FEE YEAR.—The term “grazing
8 fee year”, for billing purposes, means a 12-month
9 period that begins on March 1 of a year and ends
10 on the last day of February of the following year.

11 (17) GRAZING LEASE.—The term “grazing
12 lease” means a document authorizing use of Federal
13 land outside grazing districts under section 15 of the
14 Act of June 28, 1934 (commonly known as the
15 “Taylor Grazing Act”) (48 Stat. 1275, chapter 865;
16 43 U.S.C. 315m) for the purpose of grazing live-
17 stock.

18 (18) GRAZING PERMIT.—The term “grazing
19 permit” means a document authorizing use of the
20 Federal land within a grazing district under section
21 3 of the Act of June 28, 1934 (commonly known as
22 the “Taylor Grazing Act”) (48 Stat. 1270, chapter
23 865; 43 U.S.C. 315b), for the purpose of grazing
24 livestock.

1 ~~(19)~~ GRAZING PREFERENCE.—The term “graz-
 2 ing preference” means the number of animal unit
 3 months of livestock grazing on Federal land as adju-
 4 dicated or apportioned and attached to base prop-
 5 erty owned or controlled by a permittee or lessee.

6 ~~(20)~~ LAND BASE PROPERTY.—The term “land
 7 base property” means base property described in
 8 paragraph (9)(A).

9 ~~(21)~~ LAND USE PLAN.—The term “land use
 10 plan” means—

11 (A) a resource management plan; or

12 (B) a management framework plan that is
 13 in effect pending completion of a resource man-
 14 agement plan,
 15 developed in accordance with the Federal Land Pol-
 16 icy and Management Act of 1976 (43 U.S.C. 1701
 17 et seq.).

18 ~~(22)~~ LIVESTOCK.—The term “livestock”
 19 means—

20 (A) a species of domestic livestock, includ-
 21 ing cattle, sheep, horses, burros, and goats; and

22 (B) a member of such a species.

23 ~~(23)~~ LIVESTOCK CARRYING CAPACITY.—The
 24 term “livestock carrying capacity” means the maxi-
 25 mum sustainable stocking rate that is possible with-

1 out inducing permanent damage to vegetation or re-
2 lated resources.

3 ~~(24) MONITORING.~~—The term “monitoring”
4 means the periodic observation and orderly collection
5 of data to evaluate—

6 ~~(A)~~ effects of management actions; and

7 ~~(B)~~ effectiveness of actions in meeting
8 management objectives.

9 ~~(25) RANGE IMPROVEMENT.~~—The term “range
10 improvement”—

11 ~~(A)~~ means an authorized activity or pro-
12 gram on or relating to rangeland that is de-
13 signed to—

14 ~~(i)~~ improve production of forage;

15 ~~(ii)~~ change vegetative composition;

16 ~~(iii)~~ control patterns of use;

17 ~~(iv)~~ provide water;

18 ~~(v)~~ stabilize soil and water conditions;

19 or

20 ~~(vi)~~ provide habitat for livestock, wild
21 horses and burros, and wildlife; and

22 ~~(B)~~ includes structures, treatment projects,
23 and use of mechanical means to accomplish the
24 goals described in subparagraph (A).

1 ~~(26)~~ RANGELAND STUDY.—The term “range-
2 land study” means a method of study for collecting
3 data on actual use, utilization, climatic conditions,
4 other special events, production trend, and range-
5 land condition and trend to determine whether man-
6 agement objectives are being met, that—

7 ~~(A)~~ uses physical examination of measure-
8 ments of range attributes and does not rely on
9 a cursory visual scanning of land unless the
10 condition to be assessed is patently obvious and
11 requires no physical examination; and

12 ~~(B)~~ is accepted by an authorized officer.

13 ~~(27)~~ SECRETARY.—The term “Secretary”
14 means the Secretary of the Interior.

15 ~~(28)~~ SERVICE AREA.—The term “service area”
16 means the area that can be properly grazed by live-
17 stock watering at a certain water.

18 ~~(29)~~ STOCKING RATE.—The term “stocking
19 rate” means the number of animal unit months au-
20 thorized under a grazing permit or grazing lease
21 from year to year.

22 ~~(30)~~ SUBLEASE.—The term “sublease” means
23 an agreement by a permittee or lessee that—

24 ~~(A)~~ allows a person other than the permit-
25 tee or lessee to graze livestock on Federal land

1 without controlling the base property support-
2 ing the grazing permit or grazing lease; or

3 (B) allows grazing on Federal land by live-
4 stock not owned or controlled by the permittee
5 or lessee.

6 (31) SUPPLEMENTAL FEED.—The term “sup-
7 plemental feed” means a feed that supplements the
8 forage available from Federal land and is provided
9 to improve livestock nutrition or rangeland manage-
10 ment.

11 (32) SUSPEND; SUSPENSION.—The terms “sus-
12 pend” and “suspension” refer to a temporary with-
13 holding, in whole or in part, of a grazing preference
14 from active use, ordered by the Secretary or done
15 voluntarily by a permittee or lessee.

16 (33) TREND.—The term “trend” means the di-
17 rection of change, over time, toward or away from
18 a desired management objective.

19 (34) UTILIZATION.—The term “utilization”
20 means the percentage of a year’s herbage production
21 consumed or destroyed by herbivores.

22 (35) WATER BASE PROPERTY.—The term
23 “water base property” means base property de-
24 scribed in paragraph (9)(B).

1 ~~(b) CONSULTATION, COOPERATION, AND COORDINA-~~
 2 ~~TION.—Section 402(d) of the Federal Land Policy and~~
 3 ~~Management Act of 1976 (43 U.S.C. 1752(d)) is~~
 4 ~~amended—~~

5 (1) by inserting a comma after “cooperation”
 6 each place it appears; and

7 (2) by adding at the end the following: “As
 8 used in this subsection, the term ‘consultation, co-
 9 operation, and coordination’ means engagement in a
 10 good faith effort to reach consensus on issues, plans,
 11 or management actions from—

12 “(1) other agencies, permittees, or lessees, and
 13 affected interests involved in an activity with respect
 14 to which consultation, cooperation, and coordination
 15 are required under this title;

16 “(2) resource advisory councils established
 17 under section 177 of the Livestock Grazing Act;

18 “(3) any State having land within the area to
 19 be covered by an allotment management plan; and

20 “(4) additional affected interests (as defined in
 21 section 104(a)(4) of the Livestock Grazing Act).”.

22 **SEC. 105. FUNDAMENTALS OF RANGELAND HEALTH.**

23 ~~(a) STANDARDS AND GUIDELINES.—The Secretary~~
 24 shall establish standards and guidelines on a State or re-
 25 gional level in conjunction with the State department of

1 agriculture or other appropriate agency and the land grant
 2 university or other appropriate institution of higher edu-
 3 cation of each interested State.

4 (b) RULE OF CONSTRUCTION.—Nothing in this Act
 5 or any other law implies that a minimum national stand-
 6 ard or guideline is necessary.

7 **SEC. 106. LAND USE PLANS.**

8 (a) PRINCIPLE OF MULTIPLE USE AND SUSTAINED
 9 YIELD.—An authorized officer shall manage livestock
 10 grazing on Federal land under the principle of multiple
 11 use and sustained yield and in accordance with applicable
 12 land use plans.

13 (b) CONTENTS OF LAND USE PLAN.—A land use
 14 plan shall—

15 (1) establish allowable resource uses (singly or
 16 in combination), related levels of production or use
 17 to be maintained, areas of use, and resource condi-
 18 tion goals and objectives to be obtained; and

19 (2) set forth programs and general manage-
 20 ment practices needed to achieve management objec-
 21 tives.

22 (c) APPLICATION OF NEPA.—A land use plan shall
 23 be developed in conformance with the requirements of the
 24 National Environmental Policy Act of 1969 (42 U.S.C.
 25 4321 et seq.).

1 ~~(d) CONFORMANCE WITH LAND USE PLAN.—Live-~~
 2 stock grazing activities and management actions approved
 3 by the authorized officer—

4 (1) may include any such activities as are not
 5 clearly prohibited by a land use plan; and

6 ~~(2) shall not require any consideration under~~
 7 the National Environmental Policy Act of 1969 ~~(42~~
 8 U.S.C. 4321 et seq.) in addition to the studies sup-
 9 porting the land use plan.

10 **SEC. 107. RULE OF CONSTRUCTION.**

11 Nothing in this title shall be construed to reduce or
 12 otherwise limit the levels of livestock grazing that were
 13 authorized to be permitted as of August 1, 1993.

14 **Subtitle B—Qualifications and Grazing**
 15 **Preferences**

16 **SEC. 111. MANDATORY QUALIFICATIONS.**

17 Except as provided under sections 112, 114, and
 18 ~~134(c)~~, to qualify for grazing use on Federal land an ap-
 19 plicant shall—

20 (1) be engaged in the livestock business;

21 ~~(2) own or control base property; and~~

22 ~~(3) be—~~

23 (A) a citizen of the United States or a per-
 24 son who has properly filed a valid declaration of

1 intention to become a citizen or a valid petition
2 for naturalization;

3 ~~(B)~~ a group or association authorized to
4 conduct business in the State in which the graz-
5 ing use is sought, all members of which are per-
6 sons described in subparagraph (A); or

7 ~~(C)~~ a corporation authorized to conduct
8 business in the State in which the grazing use
9 is sought.

10 **SEC. 112. ACQUIRED LAND.**

11 With respect to land acquired by the Secretary
12 through purchase, exchange, Act of Congress, or Execu-
13 tive order under the terms of which the Secretary is re-
14 quired to honor an existing grazing permit or grazing
15 lease, the permittee or lessee shall be considered qualified
16 for grazing use on that land.

17 **SEC. 113. GRAZING PREFERENCES.**

18 ~~(a)~~ BASE PROPERTY.—

19 ~~(1)~~ CRITERIA.—An authorized officer shall find
20 land or water owned or controlled by an applicant
21 for a grazing permit or grazing lease to be base
22 property if the land or water—

23 ~~(A)~~ serves as a base for a livestock oper-
24 ation that utilizes Federal land within a grazing
25 district; or

1 ~~(B)~~ is contiguous land, or noncontiguous
 2 land if no applicant for the grazing permit or
 3 grazing lease owns or controls contiguous land,
 4 used in conjunction with a livestock operation
 5 that utilizes Federal land outside a grazing dis-
 6 trict.

7 ~~(2) SPECIFICATION OF LENGTH OF TIME.—~~
 8 After appropriate consultation, cooperation, and co-
 9 ordination with the applicant only, an authorized of-
 10 ficer shall specify the length of time for which land
 11 base property shall be considered to be capable of
 12 supporting authorized livestock during the year, rel-
 13 ative to the multiple use management objective of
 14 Federal land.

15 ~~(3) SUBMISSION BY APPLICANT.—~~An applicant
 16 shall—

17 ~~(A)~~ provide a legal description, or plat, of
 18 the base property; and

19 ~~(B)~~ certify to the authorized officer that
 20 the base property meets the requirements under
 21 paragraphs ~~(1)~~ and ~~(2)~~.

22 ~~(4) LOSS OF OWNERSHIP OR CONTROL.—~~

23 ~~(A) IN GENERAL.—~~Except as provided in
 24 subparagraph ~~(B)~~, if a permittee or lessee loses
 25 ownership or control of all or part of the base

1 property, the grazing permit or grazing lease, to
2 the extent it was based on the lost property,
3 shall terminate immediately, without notice
4 from the authorized officer.

5 (B) EXTENSION OF TERMINATION DATE.—

6 If, prior to losing ownership or control of the
7 base property, the permittee or lessee requests
8 in writing that the grazing permit or grazing
9 lease be extended to the end of the grazing sea-
10 son or grazing year, the authorized officer, after
11 consultation with the new owner or person in
12 control, may grant the request.

13 (C) AVAILABILITY FOR TRANSFER.—When

14 a grazing permit or grazing lease terminates be-
15 cause of a loss of ownership or control of a base
16 property, the grazing preference shall remain
17 with the base property and be available for
18 transfer under subsection (c) to the new owner
19 or person in control of the base property.

20 (5) ISOLATED OR DISCONNECTED FEDERAL

21 LAND.—An applicant that owns or controls base
22 property contiguous to or cornering on a tract of
23 Federal land outside a grazing district that consists
24 of an isolated or disconnected tract embracing 760
25 acres or less shall, for a period of 90 days after the

1 tract has been offered for grazing lease, have a pref-
 2 erence right to graze the tract.

3 ~~(b) SPECIFYING GRAZING PREFERENCE.—~~

4 ~~(1) IN GENERAL.—~~A grazing permit or grazing
 5 lease shall specify a grazing preference that in-
 6 cludes—

7 ~~(A) a historical grazing preference right;~~

8 ~~(B) active use, based on the amount of for-~~
 9 ~~age available for livestock grazing established in~~
 10 ~~the land use plan;~~

11 ~~(C) suspended use; and~~

12 ~~(D) voluntary and temporary nonuse.~~

13 ~~(2) ATTACHMENT OF GRAZING PREFERENCE.—~~

14 A grazing preference identified in a grazing permit
 15 or grazing lease shall attach to the base property
 16 supporting the grazing permit or grazing lease.

17 ~~(3) ATTACHMENT OF ANIMAL UNIT MONTHS.—~~

18 The animal unit months of a grazing preference
 19 shall attach to—

20 ~~(A) the acreage of land base property on a~~
 21 ~~pro rata basis; or~~

22 ~~(B) water base property on the basis of~~
 23 ~~livestock forage production within the service~~
 24 ~~area of the water.~~

25 ~~(c) TRANSFER OF GRAZING PREFERENCE.—~~

1 (1) IN GENERAL.—A transfer of a grazing pref-
2 erence, in whole or in part, may be made in accord-
3 ance with this subsection.

4 (2) QUALIFICATION OF TRANSFeree.—A trans-
5 feree shall meet all necessary qualifications for a
6 grazing preference under this title.

7 (3) APPLICATION.—An application to transfer a
8 grazing preference shall evidence assignment of in-
9 terest and obligation in range improvements author-
10 ized on Federal land under section 122 and main-
11 tained in conjunction with the transferred pref-
12 erence.

13 (4) ACCEPTANCE OR REJECTION OF TERMS AND
14 CONDITIONS.—A transferee of a grazing preference
15 may elect to accept or reject the terms and condi-
16 tions of the terminating grazing permit or grazing
17 lease and of any related cooperative agreement or
18 range improvement permit or to accept those terms
19 and conditions with such modifications as the trans-
20 feree may request and the authorized officer approve
21 or with such modifications as the authorized officer
22 may require.

23 (5) APPLICATION FOR GRAZING PERMIT OR
24 GRAZING LEASE.—A proposed transferee shall file
25 an application for a grazing permit or grazing lease

1 to the extent of the transferred grazing preference
 2 simultaneously with the filing of a transfer applica-
 3 tion.

4 (6) TRANSFERS.—

5 (A) TRANSFERS ON SALE OR GRAZING
 6 LEASE OF BASE PROPERTY.—If base property is
 7 sold or leased, the transferee, not later than 90
 8 days after the date of sale or grazing lease,
 9 shall file with the authorized officer a properly
 10 executed transfer application that—

11 (i) identifies the base property; and

12 (ii) states the amount of grazing pref-
 13 erence being transferred in animal unit
 14 months.

15 (B) TRANSFER FROM BASE PROPERTY TO
 16 BASE PROPERTY.—

17 (i) IN GENERAL.—If a grazing pref-
 18 erence is being transferred from 1 base
 19 property to another base property, the
 20 transferor shall own or control the base
 21 property from which the grazing preference
 22 is being transferred and file with the au-
 23 thorized officer a properly completed trans-
 24 fer application for approval.

1 (ii) ~~CONSENT OF OWNER OR LEASED~~
 2 BASE PROPERTY.—If the transferor leases
 3 the base property, no transfer shall be al-
 4 lowed without the written consent of the
 5 owner and of any person or entity holding
 6 an encumbrance of the base property from
 7 which the transfer is to be made unless the
 8 transferor is a lessee without whose live-
 9 stock operations the grazing preference
 10 would not have been established.

11 (7) ~~TERMINATION.~~—On the date of approval of
 12 a transfer, the existing grazing permit or grazing
 13 lease shall terminate automatically and without no-
 14 tice to the extent of the transfer.

15 (8) ~~ACQUISITION OF BASE PROPERTY BY PER-~~
 16 SON NOT QUALIFIED.—

17 (A) ~~NO EFFECT FOR 2 YEARS.~~—For a pe-
 18 riod of 2 years after an unqualified transferee
 19 acquires rights in base property through oper-
 20 ation of law or testamentary disposition, the
 21 transfer shall not—

22 (i) affect the grazing preference or
 23 any outstanding grazing permit or grazing
 24 lease; or

1 (ii) preclude the issuance or renewal
2 of a grazing permit or grazing lease based
3 on the base property.

4 (B) CANCELLATION.—If an unqualified
5 transferee fails to qualify for a transfer under
6 this section within the 2-year period described
7 in subparagraph (A), the grazing preference
8 shall be subject to cancellation, but the author-
9 ized officer may grant extensions of the 2-year
10 period if there have been delays solely attrib-
11 utable to probate proceedings.

12 (9) FAILURE TO COMPLY.—Failure of a trans-
13 feree or transferor to comply with this subsection
14 may result in rejection of the transfer application or
15 cancellation of the grazing preference.

16 (d) ALLOTMENTS.—After consultation, cooperation,
17 and coordination with permittees or lessees, an authorized
18 officer may designate and adjust allotment boundaries.

19 **SEC. 114. CHANGES IN GRAZING PREFERENCE STATUS.**

20 (a) IN GENERAL.—An authorized officer shall peri-
21 odically review the stocking rate specified in a grazing per-
22 mit or grazing lease and may make changes in the status
23 of the stocking rate.

24 (b) SUPPORT.—A change in a stock rate shall be sup-
25 ported by monitoring, as evidenced by rangeland studies

1 conducted over time, and as is specified in an applicable
2 land use plan or as is necessary to manage, maintain, or
3 improve rangeland productivity.

4 ~~(c) INCREASE IN ACTIVE USE.—~~

5 ~~(1) IN GENERAL.—~~Any additional forage that
6 becomes available may be apportioned to a qualified
7 applicant for livestock grazing use, consistent with
8 multiple-use management objectives.

9 ~~(2) TEMPORARY AVAILABILITY.—~~Any additional
10 forage that becomes temporarily available for live-
11 stock grazing use (including forage that is tempo-
12 rarily available within an allotment because of a
13 change in grazing use under section 131(b)) may be
14 apportioned on a nonrenewable basis.

15 ~~(3) AVAILABILITY ON SUSTAINED USE BASIS.—~~

16 ~~(A) IN GENERAL.—~~Any additional forage
17 that becomes available on a sustained yield
18 basis for livestock grazing use shall be appor-
19 tioned in satisfaction of grazing preferences to
20 the permittees and lessees authorized to graze
21 in the allotment in which the forage is available
22 before being apportioned to other persons under
23 subparagraph (B).

24 ~~(B) APPORTIONMENT TO OTHERS.—~~After
25 consultation, cooperation, and coordination, ad-

ditional forage on a sustained yield basis available for livestock grazing use exceeding the amount of grazing preferences of the permittees and lessees in an allotment may be apportioned in the following priority to—

(i) permittees and lessees in proportion to their contribution or efforts that resulted in increased forage production;

(ii) permittees or lessees in proportion to the amount of their grazing preferences; and

(iii) other qualified applicants under section 131.

~~(d) DECREASE IN AUTHORIZED GRAZING USE.—~~

~~(1) TEMPORARY SUSPENSION.—~~

~~(1) IN GENERAL.—~~Active use may be suspended in whole or in part on a temporary basis to facilitate—

(i) recovery from drought, fire, or another natural event; or

(ii) installation, maintenance, or modification of range improvements.

~~(B) IMPLEMENTATION.—~~If an authorized officer determines that the soil, vegetation, or other resources on Federal land require tem-

porary protection because of conditions such as drought, fire, flood, or insect infestation, after consultation, cooperation, and coordination with affected permittees or lessees and other affected interests, action shall be taken to close allotments or portions of allotments to grazing by any kind of livestock or to modify authorized grazing use.

(2) PERMANENT SUSPENSION.—When monitoring shows that active use is causing an unacceptable level or pattern of utilization or exceeds the livestock carrying capacity, as determined through monitoring, an authorized officer, after evaluating and implementing all reasonable and viable management practices or alternatives, shall reduce active use if necessary to maintain or improve rangeland productivity only if the authorized officer determines that a change in management practices would not achieve the management objectives.

(3) PERIOD OF SUSPENSION.—When active use is reduced, the active use shall be held in suspension or in nonuse for conservation and protection purposes until the authorized officer determines that active use may resume.

1 ~~(e) IMPLEMENTATION OF CHANGES IN AVAILABLE~~
2 ~~FORAGE.—~~

3 ~~(1) PHASING IN.—~~A change in active use in ex-
4 cess of 10 percent shall be implemented over a 5-
5 year period, unless, after consultation with the af-
6 fected permittees or lessees and other affected inter-
7 ests, an agreement is reached to implement the in-
8 crease or decrease over less than a 5-year period.

9 ~~(2) SUSPENSION OF GRAZING PREFERENCE.—~~

10 ~~(A) IN GENERAL.—~~After consultation, co-
11 operation, and coordination, a suspension of a
12 grazing preference shall be implemented
13 through a documented agreement or by decision
14 of an authorized officer.

15 ~~(B) DATA AVAILABLE.—~~If acceptable
16 range analysis data are properly gathered, ana-
17 lyzed, and reviewed by the authorized officer,
18 an initial decrease shall be taken on the effec-
19 tive date of the agreement or decision and the
20 balance taken in the third and fifth year follow-
21 ing that effective date, except as provided in
22 paragraph (1).

23 ~~(C) DATA NOT AVAILABLE.—~~If data ac-
24 ceptable to the authorized officer to support an
25 initial decrease are not available—

1 (i) additional data shall be collected
 2 through monitoring and in coordination
 3 with the land-grant university (or other ap-
 4 propriate institution of higher education)
 5 and department of agriculture of the State;
 6 and

7 (ii) adjustments based on the addi-
 8 tional data shall be implemented by agree-
 9 ment or decision that will initiate the 5-
 10 year implementation period.

11 **SEC. 115. CHANGES IN FEDERAL LAND ACREAGE.**

12 (a) INCREASES IN LAND ACREAGE.—If land outside
 13 a designated allotment becomes available for livestock
 14 grazing—

15 (1) the forage available for livestock shall be
 16 made available to a qualified applicant at the discre-
 17 tion of the authorized officer; and

18 (2) grazing use shall be apportioned under sec-
 19 tion 131.

20 (b) DECREASE IN LAND ACREAGE.—

21 (1) IN GENERAL.—If there is a decrease in
 22 Federal land acreage available for livestock grazing
 23 within an allotment—

1 (A) grazing permits or grazing leases may
2 be canceled, suspended, or modified as appro-
3 priate to reflect the changed area of use; and

4 (B) grazing preferences may be canceled or
5 suspended in whole or in part.

6 (2) ~~EQUITABLE APPORTIONMENT.~~—A cancella-
7 tion or suspension determined by the authorized offi-
8 cer to be necessary to protect Federal land—

9 (A) shall be apportioned as agreed among
10 the authorized users and the authorized officer;
11 or

12 (B) if no agreement is reached, shall be eq-
13 uitably apportioned by the authorized officer
14 based on the level of available forage and mag-
15 nitude of the change in Federal land acreage
16 available.

17 (3) ~~DISPOSITION OR USE FOR PUBLIC PUR-~~
18 ~~POSE.~~—

19 (A) ~~IN GENERAL.~~—If Federal land is dis-
20 posed of or devoted to a public purpose so as
21 to preclude livestock grazing, the Secretary
22 shall, except in a case of emergency such as
23 need to satisfy a national defense requirement
24 in time of war or a natural disaster, provide
25 permittees and lessees 2 years' notice prior to

1 cancellation of grazing permits, grazing leases,
2 and grazing preferences.

3 ~~(B) WAIVER.~~—A permittee or lessee may
4 unconditionally waive the 2-year prior notifica-
5 tion required by subparagraph (A).

6 ~~(C) RIGHT TO COMPENSATION.~~—A waiver
7 under subparagraph (B) shall not prejudice a
8 permittee's or lessee's right to reasonable com-
9 pensation at (but not in excess of) the fair mar-
10 ket value of the permittee's or lessee's interest
11 in authorized permanent range improvements
12 located on Federal land.

13 **Subtitle C—Grazing Management**

14 **SEC. 121. ALLOTMENT MANAGEMENT PLANS.**

15 ~~(a) IN GENERAL.~~—An allotment management plan
16 shall be prepared in careful and considered consultation,
17 cooperation, and coordination with permittees and lessees,
18 landowners, the grazing advisory council for the grazing
19 district, and any State having land within the area to be
20 covered by the allotment management plan.

21 ~~(b) CONTENTS.~~—An allotment management plan
22 shall—

23 (1) include the terms and conditions described
24 in section 136;

1 (2) prescribe the livestock grazing practices
2 necessary to meet specific multiple-use management
3 objectives;

4 (3) specify the limits of flexibility within which
5 the permittee or lessee may adjust operations with-
6 out prior approval of the authorized officer; and

7 (4) provide for monitoring to evaluate the effec-
8 tiveness of management actions in achieving the spe-
9 cific multiple-use management objectives of the plan.

10 (c) PRIVATE AND STATE LAND.—Private and State
11 land shall be included in an allotment management plan
12 with the consent or at the request of the person that owns
13 or controls the land.

14 (d) INCORPORATION IN GRAZING PERMITS AND
15 GRAZING LEASES.—An allotment management plan shall
16 be incorporated into the affected grazing permits and
17 grazing leases.

18 (e) SATISFACTION OF REQUIREMENTS OF OTHER
19 LAWS.—The issuance of a grazing permit or grazing lease
20 that is consistent with a land use plan shall not be consid-
21 ered to be a Federal action requiring the conduct of any
22 study or assessment under the National Environmental
23 Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other
24 law.

1 **SEC. 122. RANGE IMPROVEMENTS.**

2 (a) RANGE IMPROVEMENT COOPERATIVE AGREE-
3 MENTS.—

4 (1) IN GENERAL.—The Secretary may enter
5 into a cooperative agreement with a permittee or les-
6 see for the construction, installation, modification,
7 maintenance, or use of a permanent range improve-
8 ment or development of a rangeland to achieve a
9 management or resource condition objective.

10 (2) COST-SHARING.—A range improvement co-
11 operative agreement shall specify how the costs or
12 labor, or both, shall be shared between the United
13 States and the other parties to the agreement.

14 (3) TITLE.—

15 (A) IN GENERAL.—Subject to valid exist-
16 ing rights, title to an authorized permanent
17 range improvement under a range improvement
18 cooperative agreement shall be in the name of
19 the permittee or lessee and of the United
20 States, respectively, in proportion to the value
21 of the contributions (funding, material, and
22 labor) toward the initial cost of construction by
23 the United States and the permittee or lessee,
24 respectively.

25 (B) VALUE OF FEDERAL LAND.—For the
26 purpose of subparagraph (A), only a contribu-

tion to the construction, installation, modification, or maintenance of a permanent rangeland improvement itself, and not the value of Federal land on which the improvement is placed, shall be taken into account.

(C) MAINTENANCE.—Maintenance of range improvements in the form of time as labor or monetary expenditures shall be applied to the value and percentage of ownership proportionate to the value of the contribution by a party to the cooperative agreement.

(4) NONSTRUCTURAL RANGE IMPROVEMENTS.—A range improvement cooperative agreement shall ensure that the respective parties enjoy the benefits of any nonstructural range improvement, such as seeding, spraying, and chaining, in proportion to each party's contribution to the improvement.

(5) INCENTIVE.—A range improvement cooperative agreement shall contain terms and conditions that are designed to provide a permittee or lessee an incentive for investing in range improvements.

(b) RANGE IMPROVEMENT PERMITS.—

(1) APPLICATION.—A permittee or lessee may apply for a range improvement permit to construct,

1 install, modify, maintain, or use a range improve-
2 ment that is needed to achieve management objec-
3 tives within the permittee's or lessee's allotment.

4 (2) FUNDING.—A permittee or lessee shall
5 agree to provide full funding for construction, instal-
6 lation, modification, or maintenance of a range im-
7 provement covered by a range improvement permit.

8 (3) AUTHORIZED OFFICER TO ISSUE.—A range
9 improvement permit shall be issued at the discretion
10 of the authorized officer.

11 (4) TITLE.—Title to an authorized permanent
12 range improvement under a range improvement per-
13 mit shall be in the name of the permittee or lessee.

14 (5) CONTROL.—The use by livestock of stock
15 ponds or wells authorized by a range improvement
16 permit shall be controlled by the permittee or lessee
17 holding a range improvement permit.

18 (c) STANDARDS, DESIGN, AND STIPULATIONS.—A
19 range improvement cooperative agreement under sub-
20 section (a) and a range improvement permit under sub-
21 section (b) shall specify the standards and design, con-
22 struction, and maintenance criteria for the range improve-
23 ments.

24 (d) ASSIGNMENT OF RANGE IMPROVEMENTS.—An
25 authorized officer shall not approve the transfer of a graz-

1 ing preference under section 113(c) or approve use by the
 2 transferee of existing range improvements unless the
 3 transferee has agreed to compensate the transferor for the
 4 transferor's interest in the authorized improvements with-
 5 in the allotment as of the date of the transfer.

6 ~~(c) REMOVAL AND COMPENSATION FOR LOSS OF~~
 7 ~~RANGE IMPROVEMENTS.—~~

8 (1) PROHIBITION OF REMOVAL.—A person shall
 9 not remove a range improvement from Federal land
 10 without authorization by the authorized officer.

11 (2) REQUIREMENT TO REMOVE.—The author-
 12 ized officer may require a permittee or lessee to re-
 13 move a range improvement on Federal land that the
 14 permittee or lessee owns if the improvement is no
 15 longer helping to achieve land use plan or allotment
 16 goals and objectives or if the improvement fails to
 17 meet the standards and criteria of subsection (c).

18 ~~(3) CANCELLATION OF GRAZING PERMIT OR~~
 19 ~~GRAZING LEASE.—~~

20 (A) IN GENERAL.—If a grazing permit or
 21 grazing lease is canceled in order to devote Fed-
 22 eral land covered by the grazing permit or graz-
 23 ing lease to another public purpose, including
 24 disposal, the permittee or lessee shall be enti-
 25 tled to receive from the United States reason-

1 able compensation for the value of the permit-
2 tee's or lessee's interest in authorized perma-
3 nent range improvements purchased by the per-
4 mittee or lessee or placed or constructed by the
5 permittee or lessee on Federal land covered by
6 the canceled grazing permit or grazing lease.

7 (B) FAIR MARKET VALUE.—The value of a
8 permittee's or lessee's interest under subpara-
9 graph (A) shall be equal to the fair market
10 value of the terminated portion of the permit-
11 tee's or lessee's interest in the permanent range
12 improvements.

13 (C) SALVAGE AND REHABILITATION.—In a
14 case in which a range improvement is author-
15 ized by a range improvement permit or range
16 improvement cooperative agreement, the per-
17 mittee or lessee may elect to salvage materials
18 and perform rehabilitation measures rather
19 than accept compensation for the fair market
20 value.

21 (4) CANCELLATION OF RANGE IMPROVEMENT
22 PERMIT OR COOPERATIVE AGREEMENT.—If a range
23 improvement permit or range improvement coopera-
24 tive agreement is canceled, the permittee or lessee
25 shall be allowed 180 days after the date of cancella-

1 tion in which to salvage material owned by the lessee
2 or permittee and perform rehabilitation measures
3 necessitated by the salvage.

4 (i) CONTRIBUTIONS.—An authorized officer may ac-
5 cept contributions of labor, material, equipment, or money
6 for administration, protection, and improvement of Fed-
7 eral land necessary to achieve the objectives of this title.

8 (j) TRANSFER OF OWNERSHIP OF IMPROVEMENTS.—

9 (1) MEDIATION.—An authorized officer may—

10 (A) mediate a dispute regarding reasonable
11 compensation in connection with a transfer of
12 ownership of a range improvement; and

13 (B) following consultation with the inter-
14 ested parties, make a determination concerning
15 the fair and reasonable share of operation and
16 maintenance expenses and compensation for use
17 of authorized range improvements.

18 (2) NO AGREEMENT.—If an agreement on the
19 amount of compensation cannot be reached, the au-
20 thorized officer shall issue a temporary grazing au-
21 thorization, including appropriate terms and condi-
22 tions and the requirement to compensate the permit-
23 tee or lessee for the fair share of operation and
24 maintenance, as determined by the authorized offi-
25 cer.

1 **SEC. 123. WATER RIGHTS.**

2 (a) ~~IN GENERAL.~~—No water rights shall be acquired,
3 perfected, owned, controlled, maintained, administered, or
4 transferred in connection with livestock grazing manage-
5 ment unless authorized in accordance with State law con-
6 cerning the use and appropriation of water within the
7 State.

8 (b) ~~STATE LAW.~~—In managing livestock grazing on
9 Federal land, the Secretary shall follow State law with re-
10 gard to water ownership.

11 (c) ~~RULE OF CONSTRUCTION.~~—Nothing in this title
12 shall be construed to create an expressed or implied res-
13 ervation of water rights in the United States.

14 **SEC. 124. MANAGEMENT OF GRAZING ON LAND UNDER THE**
15 **JURISDICTION OF OTHER DEPARTMENTS**
16 **AND AGENCIES.**

17 (a) ~~IN GENERAL.~~—In the case of land under the ad-
18 ministrative jurisdiction of the head of another entity in
19 the department or of another department or agency on
20 which grazing is managed by the Secretary on behalf of
21 the head of that entity, department, or agency, the Sec-
22 retary shall enter into a memorandum of understanding
23 setting out the terms and conditions under which grazing
24 will be managed on that land.

25 (b) ~~APPLICATION OF TITLE.~~—This title shall apply
26 to management of grazing under subsection (a) except to

1 the extent that the Secretary, in consultation with the
 2 head of the department or agency with jurisdiction over
 3 the land, in view of the needs of the other department
 4 or agency or the applicability of other law, requires appli-
 5 cation of different rules.

6 **Subtitle D—Authorization of Grazing Use**

7 **SEC. 131. APPLICATIONS.**

8 (a) IN GENERAL.—An application for a grazing per-
 9 mit or grazing lease authorizing active use and nonuse,
 10 a free-use grazing permit, or other grazing authorization
 11 shall be filed with the authorized officer at the local Bu-
 12 reau of Land Management office having jurisdiction over
 13 the Federal land that is the subject of the application.

14 (b) CHANGES IN GRAZING USE.—

15 (1) IN GENERAL.—In the case of any grazing
 16 fee year, an application for a change in grazing use
 17 should be filed with the authorized officer before the
 18 billing notice for the affected grazing use has been
 19 issued for the grazing fee year.

20 (2) LATE FILING.—An application for a change
 21 in grazing use filed after a billing notice for the af-
 22 fected grazing use has been issued that requires the
 23 issuance of a replacement or supplemental billing no-
 24 tice shall be subject to a service charge under section
 25 137(d).

1 (3) ~~AUTHORITY TO GRANT.~~—An authorized of-
 2 ficer may grant an application for a change in graz-
 3 ing use.

4 ~~(c) CONFLICTING APPLICATIONS.~~—

5 (1) ~~FACTORS TO BE CONSIDERED.~~—If more
 6 than 1 qualified applicant applies for livestock graz-
 7 ing use of the same Federal land or if additional for-
 8 age for livestock or additional acreage becomes avail-
 9 able, an authorized officer may authorize grazing
 10 use of the Federal land or use of forage—

11 (A) as provided in section 114(c); or

12 (B) on the basis of any of the following
 13 factors:

14 (i) Historical use of Federal land.

15 (ii) Proper range management and
 16 use of water for livestock.

17 (iii) General needs of the applicants'
 18 livestock operations.

19 (iv) Topography.

20 (v) Other land use requirements
 21 unique to the situation.

22 (2) ~~FACTOR NOT TO BE CONSIDERED.~~—In au-
 23 thorizing grazing use or use of forage under para-
 24 graph (1), an authorized officer shall not take into
 25 consideration the past practice or present willingness

1 of an applicant to allow public access to Federal
2 land over private land.

3 **SEC. 132. GRAZING PERMITS OR GRAZING LEASES.**

4 (a) SPECIFICATION OF TERMS AND CONDITIONS.—

5 A grazing permit or grazing lease shall specify terms and
6 conditions as required by section 136.

7 (b) TERM.—A grazing permit or grazing lease shall
8 be issued for a term of 15 years unless—

9 (1) the land is pending disposal;

10 (2) the land will be devoted to a public purpose
11 that precludes grazing prior to the end of 15 years;
12 or

13 (3) the Secretary determines that it would be in
14 the best interest of sound land management to speci-
15 fy a shorter term, if the decision to specify a shorter
16 term is supported by appropriate and accepted re-
17 source analysis and evaluation.

18 (c) RENEWAL.—A permittee or lessee holding a graz-
19 ing permit or grazing lease shall be given first priority
20 at the end of the term for renewal of the grazing permit
21 or grazing lease if—

22 (1) the land for which the grazing permit or
23 grazing lease is issued remains available for domes-
24 tic livestock grazing;

1 (2) the permittee or lessee is in compliance with
 2 this title and the terms and conditions of the grazing
 3 permit or grazing lease; and

4 (3) the permittee or lessee accepts the terms
 5 and conditions included by the authorized officer in
 6 the new grazing permit or grazing lease.

7 **SEC. 133. FREE-USE GRAZING PERMITS.**

8 (a) IN GENERAL.—A free-use grazing permit may be
 9 issued, consistent with the Act, cited in section 102, to
 10 an applicant—

11 (1) whose residence is adjacent to Federal land
 12 within a grazing district;

13 (2) who needs Federal land to support domestic
 14 livestock owned by the applicant; and

15 (3) whose products or work related to livestock
 16 grazing are used directly and exclusively by the ap-
 17 plicant and the applicant's family.

18 (b) CONFLICTING APPLICATIONS.—The issuance of a
 19 free-use grazing permit is subject to section 131(c).

20 (c) TERM.—A free-use grazing permit shall be issued
 21 for a term of 1 year.

22 (d) NO TRANSFER OR ASSIGNMENT.—A free-use
 23 grazing permit may not be transferred or assigned.

24 **SEC. 134. OTHER GRAZING AUTHORIZATIONS.**

25 (a) EXCHANGE-OF-USE GRAZING AGREEMENTS.—

1 (1) ~~IN GENERAL.~~—An exchange-of-use grazing
2 agreement may be issued to any applicant that owns
3 or controls land that is unfenced and intermingled
4 with Federal land when use under such an agree-
5 ment would be in harmony with the management ob-
6 jectives for the allotment.

7 (2) ~~EXTENT OF USE.~~—An exchange-of-use
8 grazing agreement may authorize use of Federal
9 land to the extent of the livestock carrying capacity
10 of the land offered in exchange-of-use.

11 (3) ~~NO FEE.~~—No fee shall be charged for graz-
12 ing use under an exchange-of-use agreement.

13 (b) ~~NONRENEWABLE GRAZING PERMITS AND GRAZ-~~
14 ~~ING LEASES.~~—A nonrenewable grazing permit or grazing
15 lease may be issued on an annual basis to a qualified ap-
16 plicant when forage is temporarily available if grazing use
17 under the grazing permit or grazing lease—

18 (1) is consistent with multiple-use objectives;
19 and

20 (2) does not interfere with other livestock oper-
21 ations on the Federal land concerned.

22 (c) ~~CROSSING PERMITS.~~—An applicant showing the
23 necessity for crossing Federal land or other land under
24 control of the Secretary with livestock for proper and law-
25 ful purposes may be issued a crossing permit on such

1 terms and conditions as the authorized officer considers
 2 necessary to achieve the objectives of this title.

3 ~~(d) SPECIAL GRAZING PERMITS OR GRAZING~~
 4 ~~LEASES.—~~

5 (1) IN GENERAL.—A special grazing permit or
 6 grazing lease authorizing grazing use by privately
 7 owned or controlled indigenous animals may be is-
 8 sued at the discretion of the authorized officer, con-
 9 sistent with multiple-use objectives.

10 (2) TERM.—A special grazing permit or grazing
 11 lease shall be issued for such a term as the author-
 12 ized officer considers to be appropriate, not to ex-
 13 ceed 10 years.

14 ~~(e) NO PRIORITY; NO TRANSFER OR ASSIGNMENT.—~~
 15 ~~An exchange-of-use grazing agreement, nonrenewable~~
 16 ~~grazing permit or grazing lease, crossing permit, or special~~
 17 ~~grazing permit or grazing lease shall have no priority for~~
 18 ~~renewal and may not be transferred or assigned.~~

19 **SEC. 135. OWNERSHIP AND IDENTIFICATION OF LIVE-**
 20 **STOCK.**

21 ~~(a) IN GENERAL.—A permittee or lessee shall own~~
 22 ~~or control and be responsible for the management of the~~
 23 ~~livestock that graze the Federal land under a grazing per-~~
 24 ~~mit or grazing lease.~~

1 ~~(b) COMPLIANCE WITH STATE REQUIREMENTS.—An~~
 2 authorized user shall comply with the requirements of the
 3 State in which Federal land is located relating to brand-
 4 ing, marking, or tagging of livestock, breed, grade, and
 5 number of bulls, health, and sanitation.

6 ~~(c) MARKING OR TAGGING.—An authorized officer~~
 7 shall not impose any marking or tagging requirement in
 8 addition to the requirement under State law.

9 ~~(d) FILING OF CONTROL AGREEMENT AND~~
 10 BRAND.—A permittee or lessee that controls but does not
 11 own the livestock that graze Federal land shall file with
 12 the authorized officer—

13 (1) the agreement that gives the permittee or
 14 lessee control of the livestock; and

15 (2) the brand and other identifying marks on
 16 the livestock.

17 **SEC. 136. TERMS AND CONDITIONS.**

18 ~~(a) IN GENERAL.—~~

19 (1) SPECIFICATIONS.—An authorized officer
 20 shall specify in a grazing permit or grazing lease the
 21 kind and number of livestock, the periods of use, the
 22 allotments to be used, and the amount of use (stated
 23 in animal unit months) for each grazing permit or
 24 grazing lease.

1 (2) AMOUNT OF USE.—The amount of livestock
 2 grazing use that is authorized in a grazing permit
 3 or grazing lease shall not exceed the livestock carry-
 4 ing capacity of the Federal land concerned, as deter-
 5 mined through monitoring and adjusted as necessary
 6 under section 114.

7 (3) CANCELLATION, SUSPENSION, OR MODI-
 8 FICATION.—A grazing permit or grazing lease shall
 9 be subject to cancellation, suspension, or modifica-
 10 tion for any violation of this title or of any term or
 11 condition of the grazing permit or grazing lease.

12 (b) NO SPECIAL TERMS AND CONDITIONS.—An au-
 13 thorized officer shall not impose any term or condition in
 14 a grazing permit or grazing lease other than a term or
 15 condition described in subsection (a).

16 (c) MODIFICATION.—Following careful and consid-
 17 ered consultation, cooperation, and coordination with per-
 18 mittees, lessees, and other affected interests, an author-
 19 ized officer may modify the terms and conditions of a
 20 grazing permit or grazing lease if monitoring data show
 21 that the grazing use is not meeting the land use plan or
 22 management objectives.

23 **SEC. 137. FEES AND CHARGES.**

24 (a) GRAZING FEES.—

1 (1) BASIC FEE.—The basic fee for each animal
 2 unit month in a grazing fee year shall be equal to
 3 the 3-year average of the total gross value of pro-
 4 duction for livestock, as determined by the National
 5 Agricultural Statistics Service of the Department of
 6 Agriculture in accordance with paragraph (2) on the
 7 basis of economic data published by the Service in
 8 the June Agricultural Survey for the 3 years preced-
 9 ing the grazing fee year, multiplied by .06 and di-
 10 vided by 12.

11 (2) CRITERIA.—

12 (A) IN GENERAL.—The National Agricul-
 13 tural Statistics Service of the Department of
 14 Agriculture shall make a determination under
 15 paragraph (1) based on the following informa-
 16 tion gathered from livestock grazing operators,
 17 with respect to the largest single grazing lease
 18 of each operator (in terms of dollars):

19 (i) Whether the operator charged—

20 (I) per acre;

21 (II) per head per month;

22 (III) per pound of gain;

23 (IV) per hundredweight of gain;

24 or

1 (V) by another measure, and the
2 rate charged.

3 (ii)(I) The estimated average pounds
4 gained per season for the grazing lease.

5 (II) The total dollar amount estimated
6 to be realized from the grazing lease.

7 (III) Grazing lease acreage.

8 (IV) The State and county where the
9 grazing lease is located.

10 (iii) The classes of livestock grazed.

11 (iv) The term of the grazing lease.

12 (v)(I) Whether grazing lease payments
13 are paid if no grazing occurred.

14 (II) Whether the grazing lease con-
15 tains a take or pay provision.

16 (vi) Whether responsibility for the
17 grazing lease is ensured by daily livestock
18 care, water supply, or other factors.

19 (B) PRIVATE NATIVE RANGELAND.—For
20 the purpose of determining rates for grazing
21 leases of private native rangeland, rates for irri-
22 gated pasture, crop aftermath, and dryland win-
23 ter wheat shall be excluded.

1 ~~(3) SURCHARGE.—~~

2 ~~(A) IN GENERAL.—~~A surcharge shall be
3 added to the grazing fee billings for authorized
4 grazing of livestock owned by a person other
5 than a permittee or lessee unless—

6 ~~(i)~~ the grazing use is made by live-
7 stock owned by a spouse, son, daughter,
8 grandson, or granddaughter of the permit-
9 tee and lessee; or

10 ~~(ii)~~ the operator is unable to make full
11 grazing use, as authorized by a grazing
12 permit or grazing lease, due to the age or
13 death of the primary operator.

14 ~~(B) PAYMENT IN ADVANCE.—~~A surcharge
15 shall be paid prior to grazing use.

16 ~~(C) LIVESTOCK OWNED BY OTHERS.—~~A
17 surcharge for authorized pasturing of livestock
18 owned by a person other than a permittee or
19 lessee shall be equal to 25 percent of the dif-
20 ference between the current year's Federal
21 grazing fee and the prior year's private grazing
22 land lease rate per year for the appropriate
23 State, as determined by the National Agricul-
24 tural Statistics Service in accordance with para-
25 graph (2).

1 (4) PAYMENT.—

2 (A) DUE DATE.—A grazing fee shall be
3 due on the due date specified in the billing no-
4 tice.

5 (B) PAYMENT PRIOR TO USE.—A grazing
6 fee shall be paid prior to grazing use.

7 (C) BILLING AFTER GRAZING SEASON.—If
8 an allotment management plan provides for bill-
9 ing after the grazing season, a grazing fee shall
10 be based on actual grazing use and shall be due
11 upon issuance.

12 (5) REFUNDS.—

13 (A) IN GENERAL.—A grazing fee may be
14 refunded if an application for change in grazing
15 use and related refund is filed prior to the pe-
16 riod of use for which the refund is requested.

17 (B) FAILURE TO MAKE GRAZING USE.—

18 (i) IN GENERAL.—Except as provided
19 in subparagraph (B), no refund shall be
20 made for failure to make grazing use.

21 (ii) RANGE DEPLETION OR DIS-
22 EASE.—During a period of range depletion
23 due to drought, fire, or other natural
24 cause, or in case of a general spread of dis-
25 ease among the livestock that occurs dur-

1 ing the term of a grazing permit or graz-
2 ing lease, an authorized officer may credit
3 or refund a grazing fee in whole or in part
4 or postpone fee payment for as long as the
5 emergency exists.

6 ~~(b) OTHER FEES AND CHARGES.—~~

7 ~~(1) CROSSING PERMITS, TRANSFERS, AND BILL-~~
8 ~~ING NOTICES.—~~A service charge shall be assessed
9 for each crossing permit, transfer of grazing pref-
10 erence, and replacement or supplemental billing no-
11 tice except in a case in which the action is initiated
12 by the authorized officer.

13 ~~(2) AMOUNT OF FLPMA FEES AND CHARGES.—~~

14 The fees and charges under section 304(a) of the
15 Federal Land Policy and Management Act of 1976
16 ~~(43 U.S.C. 1734(a))~~ shall reflect processing costs
17 and shall be adjusted periodically as costs change.

18 ~~(3) NOTICE OF CHANGE.—~~Notice of a change
19 in a service charge shall be published in the Federal
20 Register.

21 ~~(c) REPEAL AND SUPERSEDITION.—~~

22 ~~(1) REPEAL.—~~Section 6(a) of the Public
23 Rangelands Improvement Act of 1978 (43 U.S.C.
24 1905) is repealed.

1 (2) SUPERSEDURE.—This section supersedes
 2 Executive Order 12548 (43 U.S.C. 1905 note) effective
 3 March 1, 1996.

4 (d) APPLICATION OF SECTION.—This section applies
 5 to the management of livestock grazing on Federal land
 6 by the Secretary of Agriculture, acting through the Chief
 7 of the Forest Service, as well as to the Secretary.

8 **SEC. 138. PLEDGE OF GRAZING PERMITS OR GRAZING**
 9 **LEASES AS SECURITY FOR LOANS.**

10 (a) RENEWAL.—A grazing permit or grazing lease
 11 that has been pledged as security for a loan from a lending
 12 agency shall be renewed by the authorized officer for a
 13 period of not to exceed 15 years if—

14 (1) the loan is for the purpose of furthering the
 15 permittee's or lessee's livestock operation;

16 (2) the permittee or lessee has complied with
 17 this title; and

18 (3) renewal would be in accordance with other
 19 applicable laws.

20 (b) EFFECT OF PLEDGE.—The pledging of a grazing
 21 permit or grazing lease as security for a loan from a lend-
 22 ing agency shall not exempt the grazing permit or grazing
 23 lease from this title.

1 **Subtitle E—Civil Violations and Failures of**
2 **Compliance**

3 ~~SEC. 141. CIVIL VIOLATIONS AND FAILURES OF COMPLI-~~
4 ~~ANCE.~~

5 ~~(a) SCOPE OF SECTION.—~~

6 ~~(1) IN GENERAL.—~~This section states all of the
7 violations and failures of compliance that pertain
8 specifically to livestock grazing on Federal land that
9 may result in imposition of a sanction described in
10 subsection ~~(c)~~ against a person in the person's ca-
11 pacity as a permittee, lessee, or applicant for a graz-
12 ing permit or grazing lease.

13 ~~(2) OTHER VIOLATIONS.—~~A permittee, lessee,
14 or applicant for a grazing permit or grazing lease
15 that commits a violation relating to Federal land
16 under a law that applies to all persons generally
17 shall be subject to penalty under that law.

18 ~~(b) IN GENERAL.—~~A person that does 1 of the fol-
19 lowing shall be subject to a civil sanction under subsection
20 ~~(c)~~:

21 ~~(1) Fails to make substantial grazing use as au-~~
22 thorized by a grazing permit or grazing lease for 2
23 consecutive fee years.

1 (2) Places supplemental feed on land covered by
2 a grazing permit or grazing lease without authoriza-
3 tion.

4 (3) Fails to comply with a term, condition, or
5 stipulation of a range improvement cooperative
6 agreement or range improvement permit.

7 (4) Enters into an unauthorized sublease.

8 (5) Allows livestock or another privately owned
9 or controlled animal to graze on or be driven across
10 Federal land—

11 (A) without a grazing permit, grazing
12 lease, or other grazing use authorization;

13 (B) in violation of a term or condition of
14 a grazing permit, grazing lease, or other graz-
15 ing use authorization, including a provision
16 stating the number of livestock covered by the
17 authorization;

18 (C) in an area or at a time different from
19 that authorized; or

20 (D) if the livestock is not identified in
21 compliance with section 135.

22 (6) Installs, uses, modifies, or removes a range
23 improvement on Federal land without authorization.

24 (7) Damages or removes Federal Government
25 property from Federal land without authorization.

1 ~~(8) Molests livestock authorized to graze on~~
2 ~~Federal land.~~

3 ~~(9) Interferes with a lawful grazing use or law-~~
4 ~~ful user.~~

5 ~~(10) Knowingly or willfully makes a false state-~~
6 ~~ment or representation in a base property certifi-~~
7 ~~cation, grazing application, range improvement per-~~
8 ~~mit application, cooperative agreement, or actual use~~
9 ~~report, or an amendment thereto.~~

10 ~~(11) Grazes livestock on Federal land not sub-~~
11 ~~stantially in compliance with State livestock require-~~
12 ~~ments relating to—~~

13 ~~(A) branding, marking, or tagging of live-~~
14 ~~stock;~~

15 ~~(B) breed, grade, or number of bulls; or~~

16 ~~(C) health or sanitation.~~

17 ~~(c) PENALTIES.—~~

18 ~~(1) IN GENERAL.—In a case of a violation or~~
19 ~~failure of compliance described in subsection (b), an~~
20 ~~authorized officer may—~~

21 ~~(A) withhold issuance of a grazing permit~~
22 ~~or grazing lease for a period of time;~~

23 ~~(B) suspend the grazing use authorized~~
24 ~~under a grazing permit or grazing lease for a~~
25 ~~period of time, in whole or in part; or~~

1 ~~(C) cancel a grazing permit or grazing~~
2 ~~lease and grazing preference, or a free-use graz-~~
3 ~~ing permit or other grazing authorization, in~~
4 ~~whole or in part.~~

5 ~~(2) SECOND OR SUBSEQUENT WILLFUL VIOLA-~~
6 ~~TION.—In a case of a second or subsequent willful~~
7 ~~civil violation described in subsection (a), an author-~~
8 ~~ized officer shall—~~

9 ~~(A) suspend the grazing use authorized~~
10 ~~under a grazing permit for a period of time, in~~
11 ~~whole or in part; or~~

12 ~~(B) cancel a grazing permit or grazing~~
13 ~~lease and grazing preference, in whole or in~~
14 ~~part.~~

15 ~~(3) CONSIDERATION OF SEVERITY.—A deter-~~
16 ~~mination of the length of time that a grazing permit~~
17 ~~or grazing lease will be withheld or suspended or~~
18 ~~that a grazing permit or grazing lease will be can-~~
19 ~~celed shall reflect the severity of the violation or fail-~~
20 ~~ure of compliance.~~

21 ~~(4) REFERRAL FOR ACTION UNDER SUBTITLE~~
22 ~~F.—If a person other than a permittee or lessee vio-~~
23 ~~lates subsection (a)(5), and the person has not made~~
24 ~~satisfactory settlement under section 153, the au-~~
25 ~~thorized officer shall refer the matter to proper au-~~

1 thorities for appropriate legal action by the United
2 States against the violator under subtitle F.

3 ~~(5) SUBLEASES.—~~

4 ~~(A) IN GENERAL.—~~A person who violates
5 subsection ~~(b)(4)~~ shall be required to pay to the
6 United States the dollar equivalent value, as de-
7 termined by the authorized officer, of all com-
8 pensation received for the sublease that is in ex-
9 cess of the sum of the established grazing fee
10 and the cost incurred by the person for the in-
11 stallation and maintenance of authorized range
12 improvements.

13 ~~(B) FAILURE TO PAY.—~~If the dollar equiv-
14 alent value is not received by the authorized of-
15 ficer within 30 days of receipt of a final deci-
16 sion, the grazing permit or grazing lease shall
17 be canceled.

18 ~~(C) ADDITIONAL PENALTY.—~~Payment
19 under this paragraph shall be in addition to any
20 other penalties the authorized officer may im-
21 pose under this subsection.

22 ~~(6) FAILURE TO USE.—~~After consultation, co-
23 operation, and coordination, the authorized officer
24 may cancel a grazing preference to the extent of fail-
25 ure to use when a permittee or lessee has failed to

1 make substantial grazing use as authorized for 2
 2 consecutive years.

3 **Subtitle F—Unauthorized Grazing Use**

4 **SEC. 151. LIABILITY FOR DAMAGES.**

5 (a) IN GENERAL.—A person who commits a violation
 6 described in section 141(a)(5) shall be liable in damages
 7 to the United States for—

8 (1) the value of forage consumed by the live-
 9 stock of the person;

10 (2) injury to Federal property caused by unau-
 11 thorized grazing use; and

12 (3) expenses incurred in impoundment and sale
 13 of the person's livestock.

14 (b) NO LIABILITY.—In no circumstances shall a per-
 15 son be liable for damages to the United States for ex-
 16 penses incurred in impoundment or sale of the person's
 17 livestock if the person did not commit a violation of section
 18 141(a)(5) or if the impoundment or sale was not con-
 19 ducted in accordance with State law.

20 **SEC. 152. NOTICE AND ORDER TO REMOVE.**

21 (a) KNOWN OWNER.—

22 (1) SERVICE.—When it appears that a violation
 23 described in section 151 has occurred or is occurring
 24 and the owner of the unauthorized livestock is
 25 known, an authorized officer shall serve written no-

1 tice of unauthorized use and an order to remove live-
2 stock by a specified date on the owner (or the own-
3 er's agent of record) by certified mail or personal de-
4 livery.

5 (2) OPPORTUNITY TO RESPOND.—Written no-
6 tice under paragraph (1) shall allow a specified time
7 from receipt of notice for the livestock owner to—

8 (A) show that there has been no violation;
9 or

10 (B) make settlement under section 153.

11 (b) UNKNOWN OWNER.—When it appears that a vio-
12 lation described in section 151 has occurred or is occur-
13 ring and neither the owner or the unauthorized livestock
14 nor an agent of the owner is known, an authorized officer
15 may immediately proceed to impound the livestock under
16 section 154.

17 **SEC. 153. SETTLEMENT.**

18 (a) DETERMINATION OF WILLFULNESS.—An author-
19 ized officer shall determine whether a violation described
20 in section 151 is a nonwillful, willful, or second or subse-
21 quent willful violation.

22 (b) SECOND OR SUBSEQUENT WILLFUL VIOLA-
23 TIONS.—In the case of a second or subsequent willful vio-
24 lation, the authorized officer shall—

1 (1) suspend the grazing use authorized under a
 2 grazing permit or grazing lease, in whole or in part;
 3 or

4 (2) cancel a grazing permit or grazing lease and
 5 grazing preference, or a free-use grazing permit or
 6 other grazing authorization, in whole or in part.

7 (c) SETTLEMENT AMOUNT.—Except as provided in
 8 subsection (e), the settlement amount in the case of a vio-
 9 lation described in section 151 shall include—

10 (1) the value of forage consumed as determined
 11 under subsection (d);

12 (2) the full value for all damage to Federal land
 13 and other property of the United States resulting
 14 from the violation; and

15 (3) all reasonable expenses incurred by the
 16 United States in detecting, investigating, and resolv-
 17 ing the violation, and livestock impoundment costs.

18 (d) VALUE OF FORAGE.—

19 (1) NONWILLFUL VIOLATION.—In the case of a
 20 nonwillful violation, the value of forage consumed
 21 shall be the product of—

22 (A) average monthly rate per animal unit
 23 month for pasturing livestock on privately
 24 owned land (excluding irrigated land) for the 16

1 western States as published annually by the De-
 2 partment of Agriculture; and

3 ~~(B) the period of the violation.~~

4 ~~(2) WILLFUL VIOLATIONS.~~—In the case of a
 5 willful violation, the value of forage consumed shall
 6 be twice the value determined under paragraph ~~(1)~~.

7 ~~(3) SECOND OR SUBSEQUENT WILLFUL VIOLA-~~
 8 ~~TIONS.~~—In the case of a second or subsequent will-
 9 ful violation, the value of forage consumed shall be
 10 3 times the value determined under paragraph ~~(1)~~.

11 ~~(e) NONMONETARY SETTLEMENT.~~—An authorized
 12 officer may approve a nonmonetary settlement of a case
 13 of a violation described in section 151 if the authorized
 14 officer determines that each of the following conditions is
 15 satisfied:

16 ~~(1) NO FAULT.~~—Evidence shows that the unau-
 17 thorized use occurred through no fault of the live-
 18 stock operator.

19 ~~(2) INSIGNIFICANCE.~~—The forage use is insig-
 20 nificant.

21 ~~(3) NO DAMAGE.~~—Federal land has not been
 22 damaged.

23 ~~(4) BEST INTERESTS.~~—Nonmonetary settle-
 24 ment is in the best interests of the United States.

1 (f) EFFECT OF SETTLEMENT.—Payment of a settle-
 2 ment amount under this section shall not relieve the viola-
 3 tor of any criminal liability under Federal or State law.

4 (g) NO GRAZING USE.—A person who is found to
 5 have committed a violation described in section 151 shall
 6 not be authorized to make grazing use until any settle-
 7 ment amount found to be due under this section has been
 8 paid.

9 (h) OTHER SANCTIONS.—An authorized officer may
 10 cancel or suspend a grazing authorization or deny ap-
 11 proval of an application for grazing use until a settlement
 12 amount found to be due under this section has been paid.

13 **SEC. 154. IMPOUNDMENT AND SALE.**

14 (a) IN GENERAL.—Subject to section 152(b), unau-
 15 thorized livestock remaining on Federal land after the date
 16 specified in a notice and order under section 152(a) may
 17 be impounded and sold by the authorized officer, acting
 18 in conjunction with the State Livestock Board.

19 (b) NOTICE OF INTENT TO IMPOUND.—

20 (1) KNOWN OWNER.—

21 (A) SERVICE.—A written notice of intent
 22 to impound shall be sent by certified mail or
 23 personally delivered to the livestock owner (or
 24 the owner's agent).

1 ~~(B) CONTENTS.—~~The written notice shall
2 state that unauthorized livestock on specified
3 Federal land may be impounded any time after
4 10 days following delivery of the notice.

5 ~~(2) UNKNOWN OWNER.—~~

6 ~~(A) PUBLICATION AND POSTING.—~~If the
7 livestock owner and owner's agent are unknown,
8 or if both a known owner and the owner's agent
9 refuse to accept delivery of notice, a notice of
10 intent to impound shall be published in a local
11 newspaper and posted at the county courthouse
12 and a post office near the Federal land con-
13 cerned.

14 ~~(B) CONTENTS.—~~The notice shall state
15 that unauthorized livestock on specified Federal
16 land may be impounded any time after 10 days
17 following publication and posting of the notice.

18 ~~(c) IMPOUNDMENT.—~~After 10 days following delivery
19 or publication and posting of a notice under subsection
20 (b), the notice shall become effective, and unauthorized
21 livestock may be impounded without further notice any
22 time with the 12-month period following the effective date
23 of the notice.

24 ~~(d) NOTICE OF PUBLIC SALE.—~~

1 (1) ~~IN GENERAL.~~—Following the impoundment
 2 of livestock under this section, the livestock may be
 3 sold by the authorized officer ~~or, if a suitable agree-~~
 4 ment is in effect, turned over to the State for sale,
 5 in accordance with subsection (f).

6 ~~(2)~~ NOTIFICATION.—Any known livestock
 7 owner (or owner's agent) shall be notified in writing
 8 by certified mail or by personal delivery of the sale
 9 and the procedure by which the impounded livestock
 10 may be redeemed prior to the sale.

11 ~~(e)~~ REDEMPTION.—An owner (or owner's agent) or
 12 lienholder of record of impounded livestock may redeem
 13 the livestock in accordance with State law, prior to the
 14 time of sale upon settlement with the United States under
 15 section 153 or adequate showing that there has been no
 16 violation.

17 ~~(f)~~ SALE.—If livestock are not redeemed on or before
 18 the date and time fixed for sale, the livestock shall be of-
 19 fered at public sale to the highest bidder by the authorized
 20 officer under State law, or by the State.

21 **Subtitle G—Procedure**

22 **SEC. 161. PROPOSED DECISIONS.**

23 ~~(a)~~ PROPOSED DECISIONS ON GRAZING PERMITS OR
 24 GRAZING LEASES.—

1 ~~(1) SERVICE ON APPLICANTS, PERMITTEES,~~
 2 ~~LESSEES, AND LIENHOLDERS.—~~In the absence of a
 3 ~~written agreement between an authorized officer and~~
 4 ~~any applicant, grazing permittee, lessee, or~~
 5 ~~lienholder, the authorized officer shall serve, by cer-~~
 6 ~~tified mail or personal delivery, a proposed decision~~
 7 ~~on any applicant, permittee, lessee, or lienholder (or~~
 8 ~~agent of record of the applicant, permittee, lessee, or~~
 9 ~~lienholder) that is affected by—~~

10 ~~(A) a proposed action on an application for~~
 11 ~~a grazing permit, grazing lease, or range im-~~
 12 ~~provement permit; or~~

13 ~~(B) a proposed action relating to a term or~~
 14 ~~condition of a grazing permit, grazing lease, or~~
 15 ~~range improvement permit.~~

16 ~~(2) CONTENTS.—~~A proposed decision described
 17 ~~in paragraph (1) shall—~~

18 ~~(A) state reasons for the action, including~~
 19 ~~reference to pertinent provision of this title or~~
 20 ~~other applicable law (including regulations); and~~

21 ~~(B) state that any protest to the proposed~~
 22 ~~decision must be filed not later than 15 days~~
 23 ~~after service.~~

24 ~~(b) PROPOSED DECISIONS ON ALLEGED VIOLA-~~
 25 ~~TIONS.—~~

1 (1) SERVICE.—If the authorized officer deter-
 2 mines that a permittee or lessee appears to have vio-
 3 lated any provision of this title, the authorized offi-
 4 cer shall serve a proposed decision on the permittee
 5 or lessee (or permittee's or lessee's agent) by cer-
 6 tified mail or personal delivery.

7 (2) CONTENTS.—A proposed decision shall—

8 (A) state—

9 (i) the alleged violation and refer to
 10 the specific provision of this title that is al-
 11 leged to have been violated;

12 (ii) the reasons for the proposed deci-
 13 sion;

14 (iii) the fee due under section 137(a)
 15 or settlement amount due under section
 16 153; and

17 (iv) any civil penalty to be imposed
 18 under section 141; and

19 (B) state that any protest to the proposed
 20 decision must be filed not later than 15 days
 21 after service.

22 **SEC. 172. PROTESTS.**

23 An applicant, permittee, lessee, or other affected in-
 24 terest may protest a proposed decision under section 161

1 in person or in writing to the authorized officer within
2 15 days after service of the proposed decision.

3 **SEC. 163. FINAL DECISIONS.**

4 (a) NO PROTEST.—In the absence of a timely filed
5 protest, a proposed decision shall become the final decision
6 of the authorized officer without further notice.

7 (b) RECONSIDERATION.—If a protest is timely filed,
8 the authorized officer shall reconsider the proposed deci-
9 sion in light of the protestant's statement of reasons for
10 protest and in light of other information pertinent to the
11 case.

12 (c) SERVICE.—After reviewing the protest, the au-
13 thorized officer shall serve a final decision on the parties
14 to the proceeding.

15 **SEC. 164. APPEALS.**

16 (a) IN GENERAL.—In the case of a final decision of
17 an authorized officer with respect to which a protest under
18 section 162 was timely filed, a permittee, lessee, or af-
19 fected interest may appeal the final decision for the pur-
20 pose of a hearing before an administrative law judge by
21 filing a notice of appeal in the office of the authorized
22 officer within 30 days after the service of the final deci-
23 sion.

24 (b) SUSPENSION PENDING APPEAL.—

1 (1) IN GENERAL.—An appeal of a final decision
 2 shall suspend the effect of the decision pending final
 3 action on the appeal unless the decision is made ef-
 4 fective pending appeal under paragraph (2).

5 (2) EFFECTIVENESS PENDING APPEAL.—

6 (A) IN GENERAL.—A District Manager of
 7 the Bureau of Land Management may order
 8 that a decision on a grazing permit application
 9 shall remain in effect during an appeal of the
 10 decision if it is determined that imminent and
 11 irreversible damage to land resources would be
 12 likely to result from delay of effectiveness of the
 13 decision.

14 (B) BASIS OF ORDER.—An order under
 15 subparagraph (A) shall be made in accordance
 16 with—

17 (i) state-of-the-art science;

18 (ii) information and opinions offered
 19 by State land grant universities; and

20 (iii) the preponderance of evidence
 21 gathered in the proceeding.

22 (c) EXPEDITIOUS DISMISSAL OF NONMERITORIOUS
 23 APPEALS.—The District Manager shall—

24 (1) examine each appeal as soon as practicable
 25 after it is filed; and

1 (2) expeditiously dismiss an appeal that does
2 not raise a substantially meritorious issue.

3 (d) ~~AUTHORITY.~~—A final decision of an appeal shall
4 be issued by a District Manager.

5 **Subtitle H—Advisory Committees**

6 **SEC. 171. PURPOSE.**

7 This subtitle contains standards and procedures for
8 the establishment, operation, and termination of advisory
9 committees to advise the Secretary on matters relating to
10 grazing on Federal land and resources under the adminis-
11 trative jurisdiction of the Bureau of Land Management.

12 **SEC. 172. OBJECTIVE.**

13 The objective of an advisory committee established
14 under this subtitle is to provide to the Secretary expert
15 recommendations of concerned, knowledgeable citizens
16 and public officials regarding—

17 (1) the formulation of operating guidelines; and

18 (2) the preparation and execution of plans and
19 programs for the use and management of Federal
20 land, the natural and cultural resources on Federal
21 land, and the environment.

22 **SEC. 173. RELATION TO OTHER LAW.**

23 Except to the extent that the following laws may be
24 inconsistent with this subtitle, the following laws shall

1 apply to an advisory committee established under this sub-
2 title:

3 (1) The Federal Advisory Committee Act (~~5~~
4 U.S.C. App.).

5 (2) The Federal Land Policy and Management
6 Act of 1976 (~~43 U.S.C. 1701 et seq.~~).

7 (3) Section ~~2~~ of Reorganization Plan No. ~~3~~ of
8 1950 (~~5 U.S.C. App.~~).

9 **SEC. 174. POLICY.**

10 ~~(a) IN GENERAL.~~—After consultation, cooperation,
11 and coordination with State and local government officials,
12 the Secretary shall establish advisory committees rep-
13 resentative of major citizens' interests to advise the Sec-
14 retary regarding policy formulation, program planning,
15 decisionmaking, attainment of program objectives, and
16 achievement of improved program coordination and econo-
17 mies in the management of Federal land and resources.

18 ~~(b) OPTIMAL EMPLOYMENT.~~—The Secretary shall
19 ensure that—

20 (1) advisory committees are optimally utilized;
21 and

22 (2) the number of advisory committees is lim-
23 ited to the number that is essential to the conduct
24 of the public's business.

1 **SEC. 175. GENERAL PROVISIONS.**

2 ~~(a) CHARTERS.—~~

3 ~~(1) IN GENERAL.—~~For each advisory committee
4 established by the Secretary, the Secretary shall—

5 ~~(A)~~ prepare a charter describing the advisory
6 committee's structure and functions; and

7 ~~(B)~~ file the charter with the Committee on
8 Energy and Natural Resources of the Senate
9 and the Committee on Resources of the House
10 of Representatives.

11 ~~(2) AMENDMENT.—~~Except for the correction of
12 errors and other minor changes, a charter filed
13 under paragraph (1) shall not be amended without
14 authorization by an Act of Congress.

15 ~~(b) CALLS FOR NOMINATIONS.—~~Candidates for ap-
16 pointment to an advisory committee shall be sought
17 through public calls for nominations made through publi-
18 cation in the Federal Register and through media releases
19 and systematic contacts with State and local government
20 officials and individuals and organizations interested in
21 the use and management of Federal land and resources.

22 ~~(c) COMPOSITION.—~~

23 ~~(1) STRUCTURE.—~~An advisory committee shall
24 be structured—

25 ~~(A)~~ to provide fair membership balance
26 ~~(geographic and interest-specific)~~ in terms of

1 the functions to be performed and points of
2 view to be represented, as prescribed by the ad-
3 visory committee's charter; and

4 (B) to provide representative advice about
5 Federal land and resource planning, retention,
6 management, and disposal.

7 (2) NO DISCRIMINATION.—No person shall be
8 denied an opportunity to serve on an advisory com-
9 mittee because of race, age, sex, religion, or national
10 origin.

11 (3) QUALIFICATIONS.—A person shall be quali-
12 fied to serve on an advisory committee if—

13 (A) the person's education, training, or ex-
14 perience enables the person to give informed
15 and objective advice regarding an industry, dis-
16 cipline, or interest specified in the committee's
17 charter;

18 (B) the person has demonstrated experi-
19 ence or knowledge of the geographical area
20 under the purview of the advisory committee;
21 and

22 (C) the person has demonstrated a com-
23 mitment to seeking consensus solutions to re-
24 source management issues.

25 (d) AVOIDANCE OF CONFLICTS OF INTEREST.—

1 (1) PARTICIPATION IN DELIBERATIONS.—An
 2 advisory committee member shall not participate in
 3 deliberations or vote on any matter if the decision of
 4 the matter would, on its face or as applied, affect
 5 only an interest held by that member and not the in-
 6 terests of permittees, lessees, or other affected inter-
 7 ests generally.

8 (2) DISCLOSURE OF INTERESTS.—

9 (A) IN GENERAL.—Each member of an ad-
 10 visory committee shall be required to disclose
 11 the member's direct or indirect interest in graz-
 12 ing leases, licenses, permits, contracts, or
 13 claims and related litigation that involve lands
 14 or resources administered by the Secretary.

15 (B) DEFINITION.—In this paragraph, the
 16 term “indirect interest” includes holdings of a
 17 spouse or dependent children of a member.

18 (c) TERMINATION OF SERVICE.—The Secretary may,
 19 after written notice, terminate the service of a member
 20 of an advisory committee if—

21 (1) the member—

22 (A) no longer meets the requirements
 23 under which elected or appointed;

24 (B) fails or is unable to participate regu-
 25 larly in committee work; or

1 (C) has violated Federal law (including a
2 regulation); or

3 (2) in the judgment of the Secretary, termi-
4 nation is in the public interest.

5 (f) COMPENSATION AND REIMBURSEMENT OF EX-
6 PENSES.—A member of an advisory committee shall not
7 receive any compensation or reimbursement of expenses
8 in connection with the performance of the member's duties
9 as a member of the advisory committee.

10 **SEC. 176. RESOURCE ADVISORY COUNCILS.**

11 (a) RESOURCE ADVISORY COUNCIL FOR EACH GRAZ-
12 ING DISTRICT.—The Secretary, after consultation, co-
13 operation, and coordination with the State and affected
14 counties, shall appoint not fewer than 9 nor more than
15 15 persons to serve on a resource advisory council for each
16 grazing district.

17 (b) MEMBERSHIP.—

18 (1) REPRESENTATION OF INTERESTS.—The
19 members of a resource advisory council shall be se-
20 lected from among persons that represent historical
21 use, multiple uses, affected landowners, county social
22 and economic interests, elected State and county of-
23 ficers, and the public at large.

1 (2) ~~PERMITTEES AND LESSEES.~~—Permittees
2 and lessees may be appointed to serve on a resource
3 advisory council.

4 (3) ~~RESIDENCY.~~—Members of a resource advi-
5 sory council shall be residents of the State in which
6 the grazing district is situated.

7 (4) ~~TERMS.~~—

8 (A) ~~IN GENERAL.~~—A member of a re-
9 source advisory council shall serve a 3-year
10 term, except that as nearly as possible one-third
11 of the initial members shall be appointed for a
12 1-year term and one-third of the initial mem-
13 bers shall be appointed for a 2-year term.

14 (B) ~~MEMBERS EX OFFICIO.~~—On the de-
15 parture from elective office of a member of a
16 resource advisory council who was appointed on
17 the basis of the member's status as an elected
18 official of general purpose government serving
19 the people of the grazing district for which the
20 resource advisory council is established prior to
21 the end of the member's term, the newly elected
22 official shall serve the remainder of the mem-
23 ber's term.

24 (C) ~~VACANCIES.~~—A vacancy occurring by
25 reason of removal, resignation, or death of a

1 member of a resource advisory council shall be
2 filled for the balance of the member's term
3 using the same method by which the member
4 was appointed.

5 (D) REAPPOINTMENT.—

6 (i) SECOND CONSECUTIVE TERM.—A
7 member of a resource advisory council who
8 has served a 3-year term on a resource ad-
9 visory council may be reappointed to a sec-
10 ond consecutive 3-year term.

11 (ii) SUBSEQUENT TERM.—A member
12 of a resource advisory council who has
13 served 2 consecutive 3-year terms may be
14 subsequently reappointed no earlier than 3
15 years after the member's last date of mem-
16 bership on that resource advisory council,
17 except that the Secretary may reappoint
18 the member to a 1-year term if the Sec-
19 retary determines that the member's con-
20 tinued or renewed service on the resource
21 advisory council is in the public interest
22 and is critical to the effective functioning
23 of the resource advisory council.

24 (E) DATE OF APPOINTMENT.—For the
25 purpose of eligibility for reappointment under

1 subparagraph (C) or (D), an appointment shall
 2 be considered to be made on January 1 of the
 3 first year of the term to which a member is ap-
 4 pointed regardless of the date on which the ap-
 5 pointment is actually made.

6 ~~(c) RESPONSIBILITIES.—~~

7 ~~(1) IN GENERAL.—~~A resource advisory council
 8 shall have the responsibility of advising the Sec-
 9 retary and appropriate State officials on major man-
 10 agement decisions while working within the broad
 11 management goals established for the grazing
 12 district.

13 ~~(2) LAND USE PLANS.—~~A resource advisory
 14 council shall advise the Secretary regarding the
 15 preparation, amendment, and implementation of
 16 land use plans for Federal land and resources within
 17 the grazing district.

18 ~~(3) ALLOCATION AND EXPENDITURE OF~~
 19 ~~FUNDS.—~~Except for the purposes of long-range
 20 planning and the establishment of resource manage-
 21 ment priorities, a resource advisory council shall not
 22 provide the Secretary advice regarding—

23 ~~(A) the allocation or expenditure of funds;~~

24 or

25 ~~(B) personnel actions.~~

1 ~~(d) DISREGARD OF ADVICE.—~~

2 ~~(1) REQUEST FOR RESPONSE.—~~If a resource
3 advisory council becomes concerned that its advice is
4 being arbitrarily disregarded, the resource advisory
5 council may, by unanimous vote of its members, re-
6 quest that the Secretary respond directly to the re-
7 source advisory council's concerns within 60 days
8 after the Secretary receives the request.

9 ~~(2) EFFECT OF RESPONSE.—~~The response of
10 the Secretary to a request under paragraph ~~(1)~~ shall
11 not—

12 ~~(A)~~ constitute a decision on the merits of
13 any issue that is or might become the subject
14 of an administrative appeal; or

15 ~~(B)~~ be subject to appeal.

16 ~~(e) ADMINISTRATIVE SUPPORT.—~~Administrative sup-
17 port for a resource advisory council shall be provided by
18 the office of the authorized officer.

19 **SEC. 177. GRAZING ADVISORY COUNCILS.**

20 ~~(a) GRAZING ADVISORY COUNCIL FOR EACH GRAZ-~~
21 ~~ING DISTRICT.—~~The Secretary, in consultation with the
22 State and affected counties, shall appoint not fewer than
23 5 nor more than 9 persons to serve on a grazing advisory
24 council for each grazing district.

25 ~~(b) MEMBERSHIP.—~~

1 (1) REPRESENTATION OF INTERESTS.—The
2 members of a grazing advisory council shall be se-
3 lected from among persons that represent permit-
4 tees, lessees, affected landowners, county social and
5 economic interests, and elected State and county
6 officers.

7 (2) PERMITTEES AND LESSEES.—Permittees
8 and lessees shall constitute the majority of the mem-
9 bership of a grazing advisory council.

10 (3) RESIDENCY.—Members of a grazing advi-
11 sory council shall be residents of a community within
12 or adjacent to the grazing district.

13 (4) TERMS.—An appointment to a grazing ad-
14 visory council shall be for a 2-year term.

15 (5) REAPPOINTMENT.—A member of a grazing
16 advisory council may be appointed to additional
17 terms.

18 (c) RESPONSIBILITIES.—A grazing advisory council
19 shall set range improvement objectives, advise on the ex-
20 penditure of range improvement funds under the Public
21 Rangelands Improvement Act of 1978 (43 U.S.C. 1901
22 et seq.), advise on grazing management programs and im-
23 plementation, and address range management decisions
24 and actions at the allotment management plan level or
25 permit management plan level.

1 ~~(d) DISREGARD OF ADVICE.—~~

2 ~~(1) REQUEST FOR RESPONSE.—~~If a grazing ad-
 3 visory council becomes concerned that its advice is
 4 being arbitrarily disregarded, the grazing advisory
 5 council may, by unanimous vote of its members, re-
 6 quest that the Secretary respond directly to the
 7 grazing advisory council's concerns within 60 days
 8 after the Secretary receives the request.

9 ~~(2) EFFECT OF RESPONSE.—~~The response of
 10 the Secretary to a request under paragraph ~~(1)~~ shall
 11 not—

12 ~~(A)~~ constitute a decision on the merits of
 13 any issue that is or might become the subject
 14 of an administrative appeal; or

15 ~~(B)~~ be subject to appeal.

16 **SEC. 178. MEETINGS.**

17 ~~(a) IN GENERAL.—~~All meetings of an advisory com-
 18 mittee and associated field examinations shall be open to
 19 the public and news media.

20 ~~(b) NOTICE OF MEETINGS.—~~

21 ~~(1) IN GENERAL.—~~A notice of a meeting of an
 22 advisory committee shall be published in the Federal
 23 Register and distributed to the news media at least
 24 30 days in advance of the meeting.

1 (2) URGENT MATTERS.—If an urgent matter
2 arises, a notice of a meeting of an advisory commit-
3 tee shall be published in the Federal Register and
4 distributed to the news media at least 15 days in ad-
5 vance of the meeting.

6 (3) CONTENTS.—A notice of a meeting of an
7 advisory committee shall state the date, time, and
8 place of the meeting and describe the topics or is-
9 sues to be discussed at the meeting.

10 (c) APPEARANCES.—Any person may appear before
11 or file a statement with an advisory committee regarding
12 matters on the meeting agenda.

13 (d) SCHEDULING.—The scheduling of meetings of an
14 advisory committee and the preparation of agenda shall
15 be done in a manner that encourages and facilitates public
16 attendance and participation.

17 (e) EXTENSION OF TIME.—The amount of time
18 scheduled for a meeting of an advisory committee may be
19 extended if an authorized officer considers it necessary to
20 accommodate all who seek to be heard regarding matters
21 on the agenda.

22 (f) AUTHORITY TO SCHEDULE.—An advisory com-
23 mittee shall meet only at the call of the Secretary or of
24 an authorized officer.

1 ~~(g)~~ ATTENDANCE BY AUTHORIZED OFFICER.—No
 2 meeting of an advisory committee shall be held in the ab-
 3 sence of an authorized officer or designee of an authorized
 4 officer.

5 ~~(h)~~ AGENDA.—A meeting of an advisory committee
 6 shall be conducted with close adherence to the agenda ap-
 7 proved in advance by an authorized officer.

8 ~~(i)~~ ADJOURNMENT.—An authorized officer may ad-
 9 journ a meeting of an advisory committee at any time if—
 10 ~~(1)~~ continuance would be inconsistent with the
 11 purpose for which the meeting was called or with the
 12 rules established for the conduct of the advisory
 13 committee; or

14 ~~(2)~~ adjournment is determined to be in the pub-
 15 lic interest.

16 ~~(j)~~ RECORDS.—

17 ~~(1)~~ IN GENERAL.—Detailed records shall be
 18 kept of each meeting of an advisory committee.

19 ~~(2)~~ REQUIREMENTS.—The records of a meeting
 20 of an advisory committee shall include, at a mini-
 21 mum—

22 ~~(A)~~ the time and place of the meeting;

23 ~~(B)~~ copies of the Federal Register and
 24 other public notices announcing the meeting;

1 ~~(C)~~ a list of members of the advisory com-
2 mittee and of Federal employees (in the capac-
3 ity of Federal employee) present;

4 ~~(D)~~ a list of members of the public
5 present, and a description of the interest rep-
6 resented by each member;

7 ~~(E)~~ the meeting agenda;

8 ~~(F)~~ a complete summary description of
9 matters discussed and conclusions reached;

10 ~~(G)~~ a list of recommendations made by the
11 advisory committee;

12 ~~(H)~~ copies of all reports received, issued,
13 or approved by the advisory committee; and

14 ~~(I)~~ a description of the nature of public
15 participation.

16 ~~(3) CERTIFICATION BY CHAIRPERSON.—~~The
17 Chairperson of an advisory committee shall certify
18 the accuracy of the records of the advisory commit-
19 tee.

20 ~~(4) AVAILABILITY FOR INSPECTION AND COPY-~~
21 ~~ING.—~~All records, reports, transcripts, minutes, rec-
22 ommendations, studies, working papers, and other
23 documents prepared by or submitted to an advisory
24 committee shall be available for public inspection

1 and copying in the Federal office responsible for
 2 support of the advisory committee.

3 ~~(k) SUBCOMMITTEES.—Each of the requirements of~~
 4 ~~this section that applies to an advisory committee applies~~
 5 ~~to any subcommittee of an advisory committee.~~

6 **SEC. 179. CONFORMING AMENDMENT AND REPEAL.**

7 ~~(a) AMENDMENT.—The third sentence of section~~
 8 ~~402(d) of the Federal Land Policy and Management Act~~
 9 ~~of 1976 (43 U.S.C. 1752(d)) is amended by striking “dis-~~
 10 ~~trict grazing advisory boards established pursuant to sec-~~
 11 ~~tion 403 of the Federal Land Policy and Management Act~~
 12 ~~(43 U.S.C. 1753)” and inserting “grazing advisory coun-~~
 13 ~~cils established under section 177 of the Livestock Grazing~~
 14 ~~Act”.~~

15 ~~(b) REPEAL.—Section 403 of the Federal Land Pol-~~
 16 ~~icy and Management Act of 1976 (43 U.S.C. 1753) is re-~~
 17 ~~pealed.~~

18 **Subtitle I—Reports**

19 **SEC. 181. REPORTS.**

20 ~~(a) IN GENERAL.—Not later than March 1, 1997,~~
 21 ~~and annually thereafter, the Secretary shall submit to~~
 22 ~~Congress a report that contains—~~

23 ~~(1) an itemization of revenues received and~~
 24 ~~costs incurred directly in connection with the man-~~
 25 ~~agement of grazing on Federal land; and~~

1 ~~(2)~~ recommendations for reducing administra-
2 tive costs and improving the overall efficiency of
3 Federal rangeland management.

4 ~~(b)~~ ITEMIZATION.—If the itemization of costs under
5 subsection ~~(a)~~(1) includes any costs incurred in connection
6 with the implementation of any law other than a statute
7 cited in section 102, the Secretary shall indicate with spec-
8 ificity the costs associated with implementation of each
9 such statute.

10 ~~(c)~~ SUSPENSION OF IMPLEMENTATION OF OTHER
11 LAW IN ABSENCE OF REPORT.—During any period in
12 which a report due to be submitted under subsection ~~(a)~~
13 has not been submitted in accordance with the require-
14 ments of this section, the Secretary shall conduct livestock
15 grazing management on Federal land without regard to
16 any law other than a statute cited in section 102.

17 **TITLE II—GRASSLAND**

18 **SEC. 201. REMOVAL OF GRASSLANDS FROM NATIONAL FOR-**
19 **EST SYSTEM.**

20 ~~(a)~~ FINDINGS.—Congress finds that the inclusion of
21 the National Grasslands (and land utilization projects ad-
22 ministered under title III of the Bankhead-Jones Farm
23 Tenant Act) within the National Forest System constrains
24 the Secretary of Agriculture in managing the National

1 Grasslands as intended under title III of the Bankhead-
 2 Jones Farm Tenant Act (7 U.S.C. 1010 et seq.).

3 (b) ~~AMENDMENT OF THE FOREST AND RANGELAND~~
 4 ~~RENEWABLE RESOURCES PLANNING ACT OF 1974.~~—Sec-
 5 tion 11(a) of the Forest and Rangeland Renewable Re-
 6 sources Planning Act of 1974 (16 U.S.C. 1609(a)) is
 7 amended in the second sentence by striking “the national
 8 grasslands and land utilization projects administered
 9 under title III of the Bankhead-Jones Farm Tenant Act
 10 (50 Stat. 525, 7 U.S.C. 1010–1012),”.

11 (c) ~~AMENDMENT OF THE BANKHEAD-JONES FARM~~
 12 ~~TENANT ACT.~~—Section 31 of the Bankhead-Jones Farm
 13 Tenant Act (7 U.S.C. 1010) is amended by adding the
 14 following:

15 **“SEC. 31. LAND CONSERVATION AND LAND UTILIZATION.**

16 “(a) PROGRAM.

17 “(1) IN GENERAL.—To accomplish the purposes
 18 of the Livestock Grazing Act, the Secretary shall de-
 19 velop a program of land conservation and utilization
 20 as a basis for grassland agriculture, to promote se-
 21 cure occupancy and economic stability of farms, and
 22 thus assist in controlling soil erosion, preserving nat-
 23 ural resources, protecting fish and wildlife, develop-
 24 ing and protecting recreational facilities, mitigating
 25 flood damage, preventing impairment of dams and

1 reservoirs, developing energy resources, protecting
 2 the watersheds of navigable streams, conserving sur-
 3 face and subsurface moisture, and protecting public
 4 land, health, safety and welfare.

5 “(2) LIMITATION.—In carrying out paragraph
 6 (1), the Secretary shall not build an industrial park
 7 or establish a private industrial or commercial enter-
 8 prise.

9 “(b) LIVESTOCK GRAZING LEASES.—The Secretary,
 10 in cooperation and coordination with grazing associations,
 11 shall issue renewable livestock grazing leases to achieve
 12 the land conservation and utilization goals of this sec-
 13 tion.”.

14 “(d) CONSERVATION PROGRAMS.—In managing live-
 15 stock grazing on National Grasslands under title I, the
 16 Secretary of the Interior may continue to establish and
 17 implement conservation programs authorized by title III
 18 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010
 19 et seq.)

20 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

21 “(a) SHORT TITLE.—This title may be cited as the
 22 “Public Rangelands Management Act of 1995”.

23 “(b) TABLE OF CONTENTS.—The table of contents of this
 24 Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Effective date.

TITLE I—MANAGEMENT OF GRAZING ON FEDERAL LAND

SUBTITLE A—GENERAL PROVISIONS

- Sec. 101. Findings.*
- Sec. 102. Application of title.*
- Sec. 103. Objective.*
- Sec. 104. Definitions.*
- Sec. 105. Fundamentals of rangeland health.*
- Sec. 106. Land use plans.*
- Sec. 107. Rule of construction.*

SUBTITLE B—QUALIFICATIONS AND GRAZING PREFERENCES

- Sec. 111. Mandatory qualifications.*
- Sec. 112. Acquired land.*
- Sec. 113. Grazing preferences.*
- Sec. 114. Changes in grazing preference status.*
- Sec. 115. Changes in Federal land acreage.*

SUBTITLE C—GRAZING MANAGEMENT

- Sec. 121. Allotment management plans.*
- Sec. 122. Range improvements.*
- Sec. 123. Water rights.*
- Sec. 124. Management of grazing on land under the jurisdiction of other departments and agencies.*

SUBTITLE D—AUTHORIZATION OF GRAZING USE

- Sec. 131. Applications.*
- Sec. 132. Grazing permits or grazing leases.*
- Sec. 133. Free-use grazing permits.*
- Sec. 134. Other grazing authorizations.*
- Sec. 135. Ownership and identification of livestock.*
- Sec. 136. Terms and conditions.*
- Sec. 137. Fees and charges.*
- Sec. 138. Pledge of grazing permits or grazing leases as security for loans.*

SUBTITLE E—CIVIL VIOLATIONS AND FAILURES OF COMPLIANCE

- Sec. 141. Civil violations and failures of compliance.*

SUBTITLE F—UNAUTHORIZED GRAZING USE

- Sec. 151. Liability for damages.*
- Sec. 152. Notice and order to remove.*
- Sec. 153. Settlement.*
- Sec. 154. Impoundment and sale.*

SUBTITLE G—PROCEDURE

- Sec. 161. Proposed decisions.*
- Sec. 162. Protests.*
- Sec. 163. Final decisions.*
- Sec. 164. Appeals.*

SUBTITLE H—ADVISORY COMMITTEES

- Sec. 171. Purpose.*
- Sec. 172. Objective.*
- Sec. 173. Relation to other law.*
- Sec. 174. Policy.*
- Sec. 175. General provisions.*
- Sec. 176. Resource advisory councils.*
- Sec. 177. Grazing advisory boards.*
- Sec. 178. Meetings.*
- Sec. 179. Conforming amendment and repeal.*

SUBTITLE I—REPORTS

- Sec. 181. Reports.*

TITLE II—GRASSLAND

- Sec. 201. Removal of grasslands from National Forest System.*

1 **SEC. 2. EFFECTIVE DATE.**

2 (a) *IN GENERAL.*—This title and the amendments and
 3 repeals made by this Act shall become effective on March
 4 1, 1996.

5 (b) *INTERIM PROVISION.*—Until the effective date spec-
 6 ified in subsection (a), management of livestock grazing on
 7 Federal land shall be conducted in accordance with the law
 8 (including regulations) in effect on May 18, 1995.

9 **TITLE I—MANAGEMENT OF GRAZING ON**
 10 **FEDERAL LAND**

11 **Subtitle A—General Provisions**

12 **SEC. 101. FINDINGS.**

13 (a) *FINDINGS.*—Congress finds that—

14 (1) *through the cooperative and concerted efforts*
 15 *of the Federal rangeland livestock industry, Federal*
 16 *and State land management agencies, and the general*
 17 *public, the Federal rangelands are in the best condi-*

1 *tion they have been in during this century, and their*
2 *condition continues to improve;*

3 *(2) as a further consequence of those efforts, pop-*
4 *ulations of big game and wildlife are increasing and*
5 *stabilizing across vast areas of the West;*

6 *(3) further efforts to assist in developing and*
7 *nurturing that cooperation at all levels of government*
8 *are important, and those efforts will provide long-*
9 *term benefits to the Nation's rangeland and their re-*
10 *lated resources;*

11 *(4) grazing preferences must continue to be ade-*
12 *quately safeguarded in order to promote the economic*
13 *stability of the western livestock industry;*

14 *(5) to promote the economic, cultural, and social*
15 *well being of western States, rural communities in the*
16 *western States, and the western livestock industry, it*
17 *is in the public interest to charge a fee for livestock*
18 *grazing permits and grazing leases on Federal land*
19 *that is based on a formula that—*

20 *(A) reflects a fair return to the Federal Gov-*
21 *ernment and the true costs to the permittee or*
22 *lessee; and*

23 *(B) promotes continuing cooperative stew-*
24 *ardship efforts;*

1 (6) opportunities exist for improving efficiency
2 in the administration of the range programs on Fed-
3 eral land, and those opportunities should be pursued
4 with goals of—

5 (A) reducing planning and analysis costs
6 and their associated paperwork, procedural, and
7 clerical burdens; and

8 (B) refocusing efforts to the direct manage-
9 ment of the resources themselves;

10 (7) in order to provide meaningful review and
11 oversight of the management of the public rangelands
12 and the grazing allotment on those rangelands, refine-
13 ment of the reporting of costs of various components
14 of the land management program is needed;

15 (8) incentives for greater local input into the
16 management of the public rangelands as well as in-
17 centives to encourage private investment in improve-
18 ment of the public rangelands will assist in those ef-
19 forts and are in the best interests of the United States;

20 (9) the western livestock industry that relies on
21 Federal land plays an important and integral role in
22 maintaining and preserving the social, economic, and
23 cultural base of rural communities in the western
24 States and further plays an important and integral
25 role in the economies of the 16 western States in

1 *which rangelands managed by the Secretary of the In-*
2 *terior and the Secretary of Agriculture are situated;*

3 *(10) maintaining the economic viability of the*
4 *western livestock industry is essential to maintaining*
5 *open space and habitat for big game, wildlife, and*
6 *fish, but currently there are pressures to sell the base*
7 *property of the Federal land ranches for subdivision*
8 *or other development, which would reduce or remove*
9 *the available open space and fish and wildlife habitat;*

10 *(11) since the enactment of the Federal Land*
11 *Policy and Management Act of 1976 (43 U.S.C. 1701*
12 *et seq.) and the amendment of section 6 of the Forest*
13 *and Rangeland Renewable Resources Planning Act of*
14 *1974 (16 U.S.C. 1604) by the National Forest Man-*
15 *agement Act of 1976 (16 U.S.C. 472a et seq.), the Sec-*
16 *retary of the Interior and the Secretary of Agriculture*
17 *have been charged with developing land use plans*
18 *that are consistent with land use plans adopted by*
19 *State, local, and tribal governments, but to date the*
20 *planning efforts have not produced land use plans for*
21 *Federal land that are in fact consistent with State,*
22 *local, or tribal planning;*

23 *(12) the levels of livestock grazing that were au-*
24 *thorized to be permitted as of August 1, 1993 are con-*

1 *sistent with this title and may be increased or de-*
 2 *creased, as appropriate, consistent with this title;*

3 *(13) it is a goal of this title to maintain and im-*
 4 *prove the condition of riparian areas which are criti-*
 5 *cal to wildlife habitat and water quality; and*

6 *(14) multiple use, as set forth in current law,*
 7 *has been and continues to be a guiding principle in*
 8 *the management of public lands and national forests.*

9 *(b) REPEAL OF EARLIER FINDINGS.—Section 2(a) of*
 10 *the Public Rangelands Improvement Act of 1978 (43 U.S.C.*
 11 *1901(a)) is amended—*

12 *(1) by striking paragraphs (1), (2), (3), and (4);*

13 *(2) by redesignating paragraphs (5) and (6) as*
 14 *paragraphs (1) and (2), respectively;*

15 *(3) in paragraph (1) (as so redesignated), by*
 16 *adding “and” at the end; and*

17 *(4) in paragraph (2) (as so redesignated)—*

18 *(A) by striking “harrassment” and insert-*
 19 *ing “harassment”; and*

20 *(B) by striking the semicolon at the end and*
 21 *inserting a period.*

22 **SEC. 102. APPLICATION OF ACT.**

23 *This title applies to—*

24 *(1) the management of grazing on Federal land*
 25 *by the Secretary of the Interior under—*

1 (A) the Act of June 28, 1934 (commonly
2 known as the “Taylor Grazing Act”) (48 Stat.
3 1269, chapter 865; 43 U.S.C. 315 et seq.);

4 (B) the Act of August 28, 1937 (commonly
5 known as the “Oregon and California Railroad
6 and Coos Bay Wagon Road Grant Lands Act of
7 1937”) (50 Stat. 874, chapter 876; 43 U.S.C.
8 1181 et seq.);

9 (C) the Federal Land Policy and Manage-
10 ment Act of 1976 (43 U.S.C. 1701 et seq.);

11 (2) the management of grazing on Federal land
12 by the Secretary of Agriculture under—

13 (A) the 12th undesignated paragraph under
14 the heading “SURVEYING THE PUBLIC LANDS.”
15 under the heading “UNDER THE DEPARTMENT OF
16 THE INTERIOR.” in the first section of the Act of
17 June 4, 1897 (commonly known as the “Organic
18 Administration Act of 1897”) (30 Stat. 11, 35,
19 chapter 2; 16 U.S.C. 551);

20 (B) the Multiple-Use Sustained Yield Act of
21 1960 (16 U.S.C. 528 et seq.);

22 (C) the Forest and Rangeland Renewable
23 Resources Planning Act of 1974 (16 U.S.C. 1600
24 et seq.);

1 (D) the National Forest Management Act of
2 1976 (16 U.S.C. 472a et seq.);

3 (E) the Federal Land Policy and Manage-
4 ment Act of 1976 (43 U.S.C. 1701 et seq.); and

5 (F) the Public Rangelands Improvement
6 Act of 1978 (43 U.S.C. 1901 et seq.);

7 (3) management of grazing by the Secretary on
8 behalf of the head of another department or agency
9 under a memorandum of understanding under section
10 125.

11 Nothing in this title authorizes grazing in any unit of the
12 National Park System, National Wildlife Refuge System,
13 or on any other Federal lands where such use is prohibited
14 by statute, nor supersedes or amends any limitation on the
15 levels of use for grazing that may be specified in other Fed-
16 eral law, nor expands or enlarges any such prohibition or
17 limitation.

18 **SEC. 103. OBJECTIVE.**

19 *The objective of this title is to achieve—*

20 (1) orderly use, improvement, and development
21 of Federal land;

22 (2) enhancement of productivity of Federal land
23 by conservation of forage resources and reduction of
24 soil erosion and by proper management of other re-
25 sources such as by control of woody species invasion;

1 (3) *stabilization of livestock industry dependent*
2 *on the public rangeland;*

3 (4) *performance of an inventory and categoriza-*
4 *tion of public rangelands on the basis of proven sci-*
5 *entific monitoring of range conditions and trends;*

6 (5) *consideration of wildlife populations and*
7 *habitat, consistent with land-use plans, multiple-use,*
8 *sustained yield, environmental values, and economic*
9 *and other objectives stated in the Acts cited in section*
10 *102; and*

11 (6) *promotion of healthy, sustained rangeland.*

12 **SEC. 104. DEFINITIONS.**

13 (a) *IN GENERAL.—In this title:*

14 (1) *ACTIVE USE.—The term “active use” means*
15 *the amount of authorized livestock grazing use made*
16 *at any time.*

17 (2) *ACTUAL USE.—The term “actual use” means*
18 *the number of kinds of classes of, and the length of*
19 *time that livestock graze on, an allotment.*

20 (3) *ACTUAL USE REPORT.—The term “actual use*
21 *report” means a report of the actual use submitted by*
22 *a permittee or lessee.*

23 (4) *ALLOTMENT.—The term “allotment” means*
24 *an area of designated Federal land that includes*
25 *management for grazing of livestock.*

1 (5) *ALLOTMENT MANAGEMENT PLAN*.—The term
2 “allotment management plan”—

3 (A) means a documented program that ap-
4 plies to livestock grazing on an allotment; and

5 (B) includes such a documented plan that is
6 included in an activity plan that governs graz-
7 ing as well as other activities on Federal land.

8 (6) *AUTHORIZED OFFICER*.—The term “author-
9 ized officer” means a person authorized by the Sec-
10 retary to administer this title, the Acts cited in sec-
11 tion 102, and regulations issued under this title and
12 those Acts.

13 (7) *BASE PROPERTY*.—The term “base property”
14 means—

15 (A) private land that has the capability of
16 producing crops or forage that can be used to
17 support authorized livestock for a specified pe-
18 riod of the year; or

19 (B) water that is suitable for consumption
20 by livestock and is available to and accessible by
21 authorized livestock when the land is used for
22 livestock grazing.

23 (8) *CANCEL; CANCELLATION*.—The term “cancel”
24 and “cancellation” refer to a permanent termination,
25 in whole or in part, of—

1 (A) a grazing permit or grazing lease and
2 grazing preference; or

3 (B) a free-use grazing permit or other graz-
4 ing authorization.

5 (9) *CLASS.*—The term “class”, in reference to
6 livestock, refers to the age and sex of a group of live-
7 stock.

8 (10) *CONSULTATION, COOPERATION, AND CO-*
9 *ORDINATION.*—The term “Consultation, cooperation,
10 and coordination” means, for the purposes of this title
11 and section 402(d) of the Federal Land Policy and
12 Management Act of 1976 (43 U.S.C. 1752(d)), engage-
13 ment in good faith efforts to reach consensus.

14 (11) *CONTROL.*—The term “control”, in reference
15 to base property or livestock, means responsibility for
16 providing care and management of base property or
17 livestock.

18 (12) *FEDERAL LAND.*—The term “Federal
19 land”—

20 (A) means land outside the State of Alaska
21 that is owned by the United States and adminis-
22 tered by—

23 (i) the Secretary of the Interior, acting
24 through the Director of the Bureau of Land
25 Management; or

1 (ii) the Secretary of Agriculture, acting
2 through the Chief of the Forest Service; but
3 (B) does not include land held in trust for
4 the benefit of Indians.

5 (13) GRAZING DISTRICT.—The term “grazing
6 district”—

7 (A) with respect to land administered by
8 the Secretary of the Interior, means the specific
9 area within which Federal land is administered
10 under section 3 of the Act of June 28, 1934
11 (commonly known as the “Taylor Grazing Act”)
12 (48 Stat. 1270, chapter 865; 43 U.S.C. 315b), in-
13 cluding lands outside grazing districts but eligi-
14 ble for grazing pursuant to section 15 of such
15 Act; and

16 (B) with respect to grazing on Federal land
17 administered by the Secretary of Agriculture,
18 means a national forest.

19 (14) GRAZING FEE YEAR.—The term “grazing fee
20 year”, for billing purposes, means a 12-month period
21 that begins on March 1 of a year and ends on the last
22 day of February of the following year.

23 (15) GRAZING LEASE.—The term “grazing lease”
24 means a document authorizing use of Federal land
25 outside grazing districts under section 15 of the Act

1 of June 28, 1934 (commonly known as the “Taylor
2 Grazing Act”) (48 Stat. 1275, chapter 865; 43 U.S.C.
3 315m), for the purpose of grazing livestock.

4 (16) *GRAZING PERMIT*.—The term “grazing per-
5 mit” means a document authorizing use of the Fed-
6 eral land within a grazing district under section 3 of
7 the Act of June 28, 1934 (commonly known as the
8 “Taylor Grazing Act”) (48 Stat. 1270, chapter 865;
9 43 U.S.C. 315b), for the purpose of grazing livestock.

10 (17) *GRAZING PREFERENCE*.—The term “grazing
11 preference” means the number of animal unit months
12 of livestock grazing on Federal land as adjudicated or
13 apportioned and attached to base property owned or
14 controlled by a permittee or lessee.

15 (18) *LAND BASE PROPERTY*.—The term “land
16 base property” means base property described in
17 paragraph (7)(A).

18 (19) *LAND USE PLAN*.—The term “land use
19 plan” means—

20 (A) with respect to Federal land adminis-
21 tered by the Bureau of Land Management—

22 (i) a resource management plan; or

23 (ii) a management framework plan
24 that is in effect pending completion of a re-
25 source management plan, developed in ac-

1 *cordance with the Federal Land Policy and*
2 *Management Act of 1976 (43 U.S.C. 1701 et*
3 *seq.); and*

4 *(B) with respect to Federal Land adminis-*
5 *tered by the Forest Service, a land and resource*
6 *management plan developed in accordance with*
7 *section 6 of the Forest and Rangeland Resources*
8 *Planning Act of 1974 (16 U.S.C. 1604).*

9 *(20) LIVESTOCK.—The term “livestock” means—*

10 *(A) a species of domestic livestock, including*
11 *cattle, sheep, horses, burros, and goats; and*

12 *(B) a member of such a species.*

13 *(21) LIVESTOCK CARRYING CAPACITY.—The term*
14 *“livestock carrying capacity” means the maximum*
15 *sustainable stocking rate that is possible without in-*
16 *ducing permanent damage to vegetation or related re-*
17 *sources as determined by monitoring.*

18 *(22) MONITORING.—The term “monitoring”*
19 *means the periodic observation and orderly collection*
20 *of data to evaluate—*

21 *(A) effects of ecological changes and man-*
22 *agement actions; and*

23 *(B) effectiveness of actions in meeting man-*
24 *agement objectives.*

1 (23) *RANGE IMPROVEMENT*.—The term “range
2 improvement” means—

3 (A) an authorized activity or program on
4 or relating to rangeland that is designed to—

5 (i) improve production of forage;

6 (ii) change vegetative composition;

7 (iii) control patterns of use;

8 (iv) provide water;

9 (v) stabilize soil and water conditions;

10 or

11 (vi) provide habitat for livestock, wild
12 horses and burros, and wildlife; and

13 (B) includes structures, treatment projects,
14 and use of mechanical means to accomplish the
15 goals described in subparagraph (A).

16 (24) *RANGELAND STUDY*.—The term “rangeland
17 study” means a method of study for collecting data on
18 actual use, utilization, climatic conditions, other spe-
19 cial events, production trend, and rangeland condi-
20 tion and trend to determine whether management ob-
21 jectives are being met, that—

22 (A) uses physical examination of measure-
23 ments of range attributes and does not rely on
24 a cursory visual scanning of land unless the con-

1 *dition to be assessed is patently obvious and re-*
2 *quires no physical examination; and*

3 *(B) is accepted by an authorized officer.*

4 (25) *SECRETARY.*—*The term “Secretary”*
5 *means—*

6 *(A) the Secretary of the Interior, in ref-*
7 *erence to livestock grazing on Federal land ad-*
8 *ministered by the Director of the Bureau of*
9 *Land Management; and*

10 *(B) the Secretary of Agriculture, in ref-*
11 *erence to livestock grazing on Federal land ad-*
12 *ministered by the Chief of the Forest Service.*

13 (26) *SERVICE AREA.*—*The term “service area”*
14 *means the area that can be properly grazed by live-*
15 *stock watering at a certain water.*

16 (27) *STOCKING RATE.*—*The term “stocking rate”*
17 *means the number of animal unit months authorized*
18 *under a grazing permit or grazing lease from year to*
19 *year.*

20 (28) *SUBLEASE.*—*The term “sublease” means an*
21 *agreement by a permittee or lessee that—*

22 *(A) allows a person other than the permittee*
23 *or lessee to graze livestock on Federal land with-*
24 *out controlling the base property supporting the*
25 *grazing permit or grazing lease; or*

1 (B) allows grazing on Federal land by live-
 2 stock not owned or controlled by the permittee or
 3 lessee.

4 (29) *SUPPLEMENTAL FEED*.—The term “supple-
 5 mental feed” means a feed that supplements the forage
 6 available from Federal land and is provided to im-
 7 prove livestock nutrition or rangeland management.

8 (30) *SUSPEND; SUSPENSION*.—The terms “sus-
 9 pend” and “suspension” refer to a temporary with-
 10 holding, in whole or in part, of a grazing preference
 11 from active use, ordered by the Secretary or done vol-
 12 untarily by a permittee or lessee.

13 (31) *UTILIZATION*.—The term “utilization”
 14 means the percentage of a year’s herbage production
 15 consumed or destroyed by herbivores.

16 (32) *WATER BASE PROPERTY*.—The term “water
 17 base property” means base property described in
 18 paragraph (7)(B).

19 (b) *CONSULTATION, COOPERATION, AND COORDINA-*
 20 *TION*.—Section 402(d) of the Federal Land Policy and
 21 Management Act of 1976 (43 U.S.C. 1752(d)) is amended—

22 (1) by inserting comma after “cooperation” each
 23 place it appears; and

24 (2) by adding at the end the following: “As used
 25 in this subsection, the term ‘consultation, cooperation,

1 *and coordination' means engagement in a good faith*
 2 *effort to reach consensus on issues, plans, or manage-*
 3 *ment actions from—*

4 “(1)(A) other agencies, permittees, or lessees, and
 5 *affected interests involved in an activity respect to*
 6 *which consultation, cooperation, and coordination are*
 7 *required under this title;*

8 “(2)(B) resource advisory councils established
 9 *under section 177 of the Livestock Grazing Act;*

10 “(3)(C) any State having land within the area
 11 *to be covered by an allotment management plan; and*

12 “(4) additional affected interests (as defined in
 13 *section 104(a)(4) of the Livestock Grazing Act).”.*

14 **SEC. 105. FUNDAMENTALS OF RANGELAND HEALTH.**

15 (a) *STANDARDS AND GUIDELINES.*—The Secretary
 16 *shall establish standards and guidelines on a State or re-*
 17 *gional level in cooperation with the State department of ag-*
 18 *riculture or other appropriate State agency and the land-*
 19 *grant university or other appropriate institution of higher*
 20 *education of each interested State.*

21 (b) *NONTRADITIONAL MANAGEMENT.*—The Secretary
 22 *shall, where appropriate, authorize and encourage the use*
 23 *of non-traditional grazing management practices that are*
 24 *scientifically based on research conducted by land-grant*
 25 *universities.*

1 (c) *RULE OF CONSTRUCTION.*—*Nothing in this title or*
2 *any other law implies that a minimum national standard*
3 *or guideline is necessary.*

4 ***SEC. 106. LAND USE PLANS.***

5 (a) *PRINCIPAL OF MULTIPLE USE AND SUSTAINED*
6 *YIELD.*—*An authorized officer shall manage livestock graz-*
7 *ing on Federal land under the principle of multiple use and*
8 *sustained yield and in accordance with applicable land use*
9 *plans.*

10 (b) *CONTENTS OF LAND USE PLAN.*—*A land use plan*
11 *shall—*

12 (1) *establish allowable resource uses (single or in*
13 *combination), related levels of production or use to be*
14 *maintained, areas of use, and resource condition goals*
15 *and objectives to be obtained; and*

16 (2) *set forth programs and general management*
17 *practices needed to achieve management objectives.*

18 (c) *APPLICATION OF NEPA.*—*A land use plan shall*
19 *be developed in conformance with the requirements of the*
20 *National Environmental Policy Act of 1969 (42 U.S.C.*
21 *4321 et seq.).*

22 (d) *CONFORMANCE WITH LAND USE PLAN.*—*Livestock*
23 *grazing activities and management actions approved by the*
24 *authorized officer—*

1 (1) may include any such activities as are not
2 clearly prohibited by a land use plan;

3 (2) shall not require any consideration under the
4 National Environmental Policy Act of 1969 (42
5 U.S.C. 4321 et seq.) in addition to the studies sup-
6 porting the land use plan.

7 (e) SATISFACTION OF REQUIREMENTS OF OTHER
8 LAWS.—The issuance of a grazing permit or grazing lease
9 that is consistent with a land use plan shall not be consid-
10 ered to be a Federal action requiring the conduct of any
11 study or assessment under the National Environmental Pol-
12 icy Act of 1969 (42 U.S.C. 4321 et seq.).

13 (f) Nothing in this section is intended to override the
14 planning and public involvement processes of other Federal
15 law pertaining to Federal lands.

16 **Subtitle B—Qualifications and Grazing**
17 **Preferences**

18 **SEC. 111. MANDATORY QUALIFICATIONS.**

19 Except as provided under sections 112, 114, and
20 134(d), to qualify for grazing use on Federal land an appli-
21 cant shall—

22 (1) be engaged in the livestock business;

23 (2) own or control base property; and

24 (3) be—

1 (A) a citizen of the United States or a per-
 2 son who has properly filed a valid declaration of
 3 intention to become a citizen or a valid petition
 4 for naturalization;

5 (B) a group or association authorized to
 6 conduct business in the State in which the graz-
 7 ing use is sought, all members of which are per-
 8 sons described in subparagraph (A); or

9 (C) a corporation authorized to conduct
 10 business in the State in which the grazing use is
 11 sought.

12 **SEC. 112. ACQUIRED LAND.**

13 With respect to land acquired by the Secretary through
 14 purchase, exchange, Act of Congress, or Executive order
 15 under the terms of which the Secretary is required to honor
 16 an existing grazing permit or grazing lease, the permittee
 17 or lessee shall be considered qualified for grazing use on that
 18 land.

19 **SEC. 113. GRAZING PREFERENCES.**

20 (a) *BASE PROPERTY.*—

21 (1) *CRITERIA.*—An authorized officer shall find
 22 land or water owned or controlled by an applicant for
 23 a grazing permit or grazing lease to be base property
 24 if the land or water—

1 (A) serves as a base for a livestock operation
2 that utilizes Federal land within a grazing dis-
3 trict; or

4 (B) is contiguous land, or noncontiguous
5 land if no applicant for the grazing permit or
6 grazing lease owns or controls contiguous land,
7 used in conjunction with a livestock operation
8 that utilizes Federal land outside a grazing dis-
9 trict.

10 (2) SPECIFICATION OF LENGTH OF TIME.—After
11 appropriate consultation, cooperation, and coordina-
12 tion with the applicant only, an authorized officer
13 shall specify the length of time for which land base
14 property shall be considered to be capable of support-
15 ing authorized livestock during the year, relative to
16 the multiple use management objective of Federal
17 land.

18 (3) SUBMISSION BY APPLICANT.—An applicant
19 shall—

20 (A) provide a legal description, or plat, of
21 the base property; and

22 (B) certify to the authorized officer that the
23 base property meets the requirements under
24 paragraphs (1) and (2).

25 (4) LOSS OF OWNERSHIP OR CONTROL.—

1 (A) *IN GENERAL.*—*Except as provided in*
2 *subparagraph (B), if a permittee or lessee loses*
3 *ownership or control of all or part of the base*
4 *property, the grazing permit or grazing lease, to*
5 *the extent it was based on the lost property, shall*
6 *terminate immediately, without notice from the*
7 *authorized officer.*

8 (B) *EXTENSION OF TERMINATION DATE.*—
9 *If, prior to losing ownership or control of the*
10 *base property, the permittee or lessee requests in*
11 *writing that the grazing permit or grazing lease*
12 *be extended to the end of the grazing season or*
13 *grazing year, the authorized officer, after con-*
14 *sultation with the new owner or person in con-*
15 *trol, may grant the request.*

16 (C) *AVAILABILITY FOR TRANSFER.*—*When a*
17 *grazing permit or grazing lease terminates be-*
18 *cause of a loss of ownership or control of a base*
19 *property, the grazing preference shall remain*
20 *with the base property and be available for*
21 *transfer under subsection (c) to the new owner or*
22 *person in control of the base property.*

23 (5) *ISOLATED OR DISCONNECTED FEDERAL*
24 *LAND.*—*An applicant that owns or controls base*
25 *property contiguous to or cornering on a tract of Fed-*

1 *eral land outside a grazing district that consists of an*
 2 *isolated or disconnected tract embracing 760 acres or*
 3 *less shall, for a period of 90 days after the tract has*
 4 *been offered for grazing lease, have a preference right*
 5 *to graze the tract.*

6 *(b) SPECIFYING GRAZING PREFERENCE.—*

7 *(1) IN GENERAL.—A grazing permit or grazing*
 8 *lease shall specify a grazing preference that in-*
 9 *cludes—*

10 *(A) a historical grazing preference;*

11 *(B) active use, based on the amount of for-*
 12 *age available for livestock grazing established in*
 13 *the land use plan;*

14 *(C) suspended use; and*

15 *(D) voluntary and temporary nonuse.*

16 *(2) ATTACHMENT OF GRAZING PREFERENCE.—A*
 17 *grazing preference identified in a grazing permit or*
 18 *grazing lease shall attach to the base property sup-*
 19 *porting the grazing permit or grazing lease.*

20 *(3) ATTACHMENT OF ANIMAL UNIT MONTHS.—*

21 *The animal unit months of a grazing preference shall*
 22 *attach to—*

23 *(A) the acreage of land base property on a*
 24 *pro rata basis; or*

1 (B) water base property on the basis of live-
2 stock forage production within the service area of
3 the water.

4 (c) *TRANSFER OF GRAZING PREFERENCE.*—

5 (1) *IN GENERAL.*—A transfer of a grazing pref-
6 erence, in whole or in part, may be made in accord-
7 ance with this subsection.

8 (2) *QUALIFICATION OF TRANSFEREE.*—A trans-
9 feree shall meet all necessary qualifications for a graz-
10 ing preference under this title.

11 (3) *APPLICATION.*—An application to transfer a
12 grazing preference shall evidence assignment of inter-
13 est and obligation in range improvements authorized
14 on Federal land under section 122 and maintained in
15 conjunction with the transferred preference.

16 (4) *ACCEPTANCE OR REJECTION OF TERMS AND*
17 *CONDITIONS.*—A transferee of a grazing preference
18 may elect to accept or reject the terms and conditions
19 of the terminating grazing permit or grazing lease
20 and of any related cooperative agreement or range
21 improvement permit or to accept those terms and con-
22 ditions with such modifications as the transferee may
23 request and the authorized officer approve or with
24 such modifications as the authorized officer may re-
25 quire.

1 (5) *APPLICATION FOR GRAZING PERMIT OR*
2 *GRAZING LEASE.*—A proposed transferee shall file an
3 application for a grazing permit or grazing lease to
4 the extent of the transferred grazing preference simul-
5 taneously with the filing of a transfer application.

6 (6) *TRANSFERS.*—

7 (A) *TRANSFERS ON SALES OR GRAZING*
8 *LEASE OF BASE PROPERTY.*—If base property is
9 sold or leased, the transferee, not later than 90
10 days after the date of sale or grazing lease, shall
11 file with the authorized officer a properly exe-
12 cuted transfer application that—

13 (i) identifies the base property; and

14 (ii) states the amount of grazing pref-
15 erence being transferred in animal unit
16 months.

17 (B) *TRANSFER FROM BASE PROPERTY TO*
18 *BASE PROPERTY.*—

19 (i) *IN GENERAL.*—If a grazing pref-
20 erence is being transferred from one base
21 property to another base property, the
22 transferor shall own or control the base
23 property from which the grazing preference
24 is being transferred and file with the au-

1 *thorized officer a properly completed trans-*
 2 *fer application for approval.*

3 *(ii) CONSENT OF OWNER OF LEASED*
 4 *BASE PROPERTY.—If the transferor leases*
 5 *the base property, no transfer shall be al-*
 6 *lowed without the written consent of the*
 7 *owner and of any person or entity holding*
 8 *an encumbrance of the base property from*
 9 *which the transfer is to be made unless the*
 10 *transferor is a lessee without whose livestock*
 11 *operations the grazing preference would not*
 12 *have been established.*

13 *(7) TERMINATION.—On the date of approval of a*
 14 *transfer, the existing grazing permit or grazing lease*
 15 *shall terminate automatically and without notice to*
 16 *the extent of the transfer.*

17 *(8) ACQUISITION OF BASE PROPERTY BY PERSON*
 18 *NOT QUALIFIED.—*

19 *(A) NO EFFECT FOR TWO YEARS.—For a*
 20 *period of two years after an unqualified trans-*
 21 *feree acquires rights in base property through op-*
 22 *eration of law or testamentary disposition, the*
 23 *transfer shall not—*

1 (i) affect the grazing preference or any
2 outstanding grazing permit or grazing
3 lease; or

4 (ii) preclude the issuance or renewal of
5 a grazing permit or grazing lease based on
6 the base property.

7 (B) CANCELLATION.—If an unqualified
8 transferee fails to qualify for a transfer under
9 this section within the two-year period described
10 in subparagraph (A), the grazing preference shall
11 be subject to cancellation, but the authorized offi-
12 cer may grant extensions of the two-year period
13 if there have been delays solely attributable to
14 probate proceedings.

15 (9) FAILURE TO COMPLY.—Failure of a trans-
16 feree or transferor to comply with this subsection may
17 result in rejection of the transfer application or can-
18 cellation of the grazing preference.

19 (d) ALLOTMENTS.—After consultation, cooperation,
20 and coordination with permittees or lessees, an authorized
21 officer may designate and adjust allotment boundaries.

22 **SEC. 114. CHANGES IN GRAZING PREFERENCE STATUS.**

23 (a) IN GENERAL.—An authorized officer shall periodi-
24 cally review the stocking rate specified in a grazing permit

1 or grazing lease and may make changes in the status of
2 the stocking rate.

3 (b) *SUPPORT.*—A change in a stocking rate shall be
4 supported by monitoring, as evidenced by rangeland studies
5 conducted over time, and as is specified in an applicable
6 land use plan or as is necessary to manage, maintain, or
7 improve rangeland productivity.

8 (c) *INCREASE IN ACTIVE USE.*—

9 (1) *IN GENERAL.*—Any additional forage that
10 becomes available may be apportioned to a qualified
11 applicant for livestock grazing use, consistent with
12 multiple-use management objectives.

13 (2) *TEMPORARY AVAILABILITY.*—Any additional
14 forage that becomes temporarily available for livestock
15 grazing use (including forage that is temporarily
16 available within an allotment because of a change in
17 grazing use under section 131(b)) may be apportioned
18 on a nonrenewable basis.

19 (3) *AVAILABILITY ON SUSTAINED USE BASIS.*—

20 (A) *IN GENERAL.*—Any additional forage
21 that becomes available on a sustained yield basis
22 for livestock grazing use shall be apportioned in
23 satisfaction of grazing preferences to the permit-
24 tees and lessees authorized to graze in the allot-
25 ment in which the forage is available before

1 *being apportioned to other persons under sub-*
 2 *paragraph (B).*

3 (B) *APPORTIONMENT TO OTHERS.*—After
 4 *consultation, cooperation, and coordination with*
 5 *the permittees, lessees, and other qualified appli-*
 6 *cants, additional forage on a sustained yield*
 7 *basis available for livestock grazing use exceeding*
 8 *the amount of grazing preferences of the permit-*
 9 *tees and lessees in an allotment may be appor-*
 10 *tioned in the following priority to—*

11 (i) *permittees and lessees in proportion*
 12 *to their contribution or efforts that resulted*
 13 *in increased forage production;*

14 (ii) *permittees or lessees in proportion*
 15 *to the amount of their grazing preferences;*
 16 *and*

17 (iii) *other qualified applicants under*
 18 *section 131.*

19 (d) *DECREASE IN AUTHORIZED GRAZING USE.*—

20 (1) *TEMPORARY SUSPENSION.*—

21 (A) *IN GENERAL.*—Active use may be sus-
 22 *pending in whole or in part on a temporary basis*
 23 *to facilitate—*

24 (i) *recovery from drought, fire, or an-*
 25 *other natural event; or*

1 (ii) installation, maintenance, or
2 modification of range improvements.

3 (B) IMPLEMENTATION.—If an authorized of-
4 ficer determines that the soil, vegetation, or other
5 resources on Federal land require temporary pro-
6 tection because of conditions such as drought,
7 fire, flood, or insect infestation, after consulta-
8 tion, cooperation, and coordination with affected
9 permittees or lessees, action shall be taken to
10 close allotments or portions of allotments to graz-
11 ing by any kind of livestock or to modify author-
12 ized grazing use.

13 (2) PERMANENT SUSPENSION.—When monitor-
14 ing shows that active use is causing an unacceptable
15 level or pattern of utilization or exceeds the livestock
16 carrying capacity, as determined through monitoring,
17 an authorized officer, after evaluating all uses and
18 implementing all reasonable and viable management
19 practices or alternatives, shall reduce active use if
20 necessary to maintain or improve rangeland produc-
21 tivity only if the authorized officer determines that a
22 change in other uses or a change in grazing manage-
23 ment practices would not achieve the management ob-
24 jectives.

1 (3) *PERIOD OF SUSPENSION.*—When active use is
2 *reduced, the active use shall be held in suspension or*
3 *in nonuse for conservation and protection purposes*
4 *until the authorized officer determines that active use*
5 *may resume.*

6 (e) *IMPLEMENTATION OF CHANGES IN AVAILABLE*
7 *FORAGE.*—

8 (1) *PHASING-IN.*—A change in active use in ex-
9 *cess of ten percent shall be implemented over a five-*
10 *year period, unless, after consultation, cooperation,*
11 *and coordination with the affected permittees or les-*
12 *sees, an agreement is reached to implement the in-*
13 *crease or decrease over less than a five-year period.*

14 (2) *SUSPENSION OF GRAZING PREFERENCE.*—

15 (A) *IN GENERAL.*—After consultation, co-
16 *operation, and coordination with the permittee*
17 *or lessee, a suspension of a grazing preference*
18 *shall be implemented through a documented*
19 *agreement or by decision of an authorized officer.*

20 (B) *DATA AVAILABLE.*—If acceptable range
21 *analysis data are poorly gathered, analyzed, and*
22 *reviewed by the authorized officer, an initial de-*
23 *crease shall be taken on the effective date of the*
24 *agreement or decision and the balance taken in*

1 *the third and fifth years following that effective*
 2 *date, except as provided in paragraph (1).*

3 *(C) DATA NOT AVAILABLE.—If data accept-*
 4 *able to the authorized officer to support an ini-*
 5 *tial decrease are not available—*

6 *(i) additional data shall be collected*
 7 *through monitoring and in coordination*
 8 *with the land-grant university (or other ap-*
 9 *propriate institution of higher education)*
 10 *and department of agriculture of the State;*
 11 *and*

12 *(ii) adjustments based on the addi-*
 13 *tional data shall be implemented by agree-*
 14 *ment or decision that will initiate the five-*
 15 *year implementation period.*

16 **SEC. 115. CHANGES IN FEDERAL LAND ACREAGE.**

17 *(a) INCREASES IN LAND ACREAGE.—If land outside*
 18 *a designated allotment becomes available for livestock graz-*
 19 *ing—*

20 *(1) the forage available for livestock shall be*
 21 *made available to a qualified applicant at the discre-*
 22 *tion of the authorized officer; and*

23 *(2) grazing use shall be apportioned under sec-*
 24 *tion 131.*

25 *(b) DECREASE IN LAND ACREAGE.—*

1 (1) *IN GENERAL.*—If there is a decrease in Fed-
2 eral land acreage available for livestock grazing with-
3 in an allotment—

4 (A) grazing permits or grazing leases may
5 be canceled, suspended, or modified as appro-
6 priate to reflect the changed area of use; and

7 (B) grazing preferences may be canceled or
8 suspended in whole or in part.

9 (2) *EQUITABLE APPORTIONMENT.*—A cancella-
10 tion or suspension determined by the authorized offi-
11 cer to be necessary to protect Federal land—

12 (A) shall be apportioned as agreed among
13 the authorized users and the authorized officer;
14 or

15 (B) if no agreement is reached, shall be eq-
16 uitably apportioned by the authorized officer
17 based on the level of available forage and mag-
18 nitude of the change in Federal land acreage
19 available.

20 (3) *DISPOSITION OR USE FOR PUBLIC PUR-*
21 *POSE.*—

22 (A) *IN GENERAL.*—If Federal land is dis-
23 posed of or devoted to a public purpose so as to
24 preclude livestock grazing, the Secretary shall,
25 except in a case of emergency such as need to

1 *satisfy a national defense requirement in time of*
 2 *war or a natural disaster, provide permittees*
 3 *and lessees two years' notice prior to cancellation*
 4 *of grazing permits, grazing leases, and grazing*
 5 *preferences.*

6 (B) *WAIVER.*—A permittee or lessee may
 7 unconditionally waive the two-year prior notifi-
 8 cation required by subparagraph (A).

9 (C) *RIGHT TO COMPENSATION.*—A waiver
 10 under subparagraph (B) shall not prejudice a
 11 permittee's or lessee's right to reasonable com-
 12 pensation at (but not in excess of) the fair mar-
 13 ket value of the permittee's or lessee's interest in
 14 authorized permanent range improvements lo-
 15 cated on Federal land.

16 ***Subtitle C—Grazing Management***

17 ***SEC. 121. ALLOTMENT MANAGEMENT PLANS.***

18 (a) *If the Secretary concerned elects to develop an al-*
 19 *lotment management plan for a given area, he shall do so*
 20 *in careful and considered consultation, cooperation, and co-*
 21 *ordination with the lessees, permittees, and landowners in-*
 22 *volved, the Resource Advisory Councils and the Grazing Ad-*
 23 *visory Boards established pursuant to section 176 and sec-*
 24 *tion 177, and any State or States having lands within the*
 25 *area to be covered by such allotment management plan.*

1 (b) *CONTENTS.—An allotment management plan*
 2 *shall—*

3 (1) *include the terms and conditions described in*
 4 *section 136;*

5 (2) *prescribe the livestock grazing practices nec-*
 6 *essary to meet specific multiple-use management ob-*
 7 *jectives;*

8 (3) *specify the limits of flexibility within which*
 9 *the permittee or lessee may adjust operations without*
 10 *prior approval of the authorized officer; and*

11 (4) *provide for monitoring to evaluate the effec-*
 12 *tiveness of management actions in achieving the spe-*
 13 *cific multiple-use management objectives of the plan.*

14 (c) *PRIVATE AND STATE LAND.—Private and State*
 15 *land shall be included in an allotment management plan*
 16 *with the consent or at the request of the person that owns*
 17 *or controls the land.*

18 (d) *INCORPORATION IN GRAZING PERMITS AND GRAZ-*
 19 *ING LEASES.—An allotment management plan shall be in-*
 20 *corporated into the affected grazing permits and grazing*
 21 *leases.*

22 ***SEC. 122. RANGE IMPROVEMENTS.***

23 (a) *RANGE IMPROVEMENT COOPERATIVE AGREE-*
 24 *MENTS.—*

1 (1) *IN GENERAL.*—*The Secretary may enter into*
2 *a cooperative agreement with a permittee or lessee for*
3 *the construction, installation, modification, mainte-*
4 *nance, or use of a permanent range improvement or*
5 *development of a rangeland to achieve a management*
6 *or resource condition objective.*

7 (2) *COST-SHARING.*—*A range improvement coop-*
8 *erative agreement shall specify how the costs or labor,*
9 *or both, shall be shared between the United States and*
10 *the other parties to the agreement.*

11 (3) *TITLE.*—

12 (A) *IN GENERAL.*—*Subject to valid existing*
13 *rights, title to an authorized permanent range*
14 *improvement under a range improvement coop-*
15 *erative agreement shall be in the name of the*
16 *permittee or lessee and of the United States, re-*
17 *spectively, in proportion to the value of the con-*
18 *tributions (funding, material, and labor) toward*
19 *the initial cost of construction by the United*
20 *States and the permittee or lessee, respectively.*

21 (B) *VALUE OF FEDERAL LAND.*—*For the*
22 *purpose of subparagraph (A), only a contribu-*
23 *tion to the construction, installation, modifica-*
24 *tion, or maintenance of a permanent rangeland*
25 *improvement itself, and not the value of Federal*

1 *land on which the improvement is placed, shall*
 2 *be taken into account.*

3 (C) *MAINTENANCE.*—*Maintenance of range*
 4 *improvements in the form of time as labor or*
 5 *monetary expenditures shall be applied to the*
 6 *value and percentage of ownership proportionate*
 7 *to the value of the contribution by a party to the*
 8 *cooperative agreement.*

9 (4) *NONSTRUCTURAL RANGE IMPROVEMENTS.*—*A*
 10 *range improvement cooperative agreement shall en-*
 11 *sure that the respective parties enjoy the benefits of*
 12 *any nonstructural range improvement, such as seed-*
 13 *ing, spraying, and chaining, in proportion to each*
 14 *party's contribution to the improvement.*

15 (5) *INCENTIVE.*—*A range improvement coopera-*
 16 *tive agreement shall contain terms and conditions*
 17 *that are designed to provide a permittee or lessee an*
 18 *incentive for investing in range improvements.*

19 (b) *RANGE IMPROVEMENTS PERMITS.*—

20 (1) *APPLICATION.*—*A permittee or lessee may*
 21 *apply for a range improvement permit to construct,*
 22 *install, modify, maintain, or use a range improve-*
 23 *ment that is needed to achieve management objectives*
 24 *within the permittee's or lessee's allotment.*

1 (2) *FUNDING.*—A permittee or lessee shall agree
2 to provide full funding for construction, installation,
3 modification, or maintenance of a range improvement
4 covered by a range improvement permit.

5 (3) *AUTHORIZED OFFICER TO ISSUE.*—A range
6 improvement permit shall be issued at the discretion
7 of the authorized officer.

8 (4) *TITLE.*—Title to an authorized permanent
9 range improvement under a range improvement per-
10 mit shall be in the name of the permittee or lessee.

11 (5) *CONTROL.*—The use by livestock of stock
12 ponds or wells authorized by a range improvement
13 permit shall be controlled by the permittee or lessee
14 holding a range improvement permit.

15 (c) *STANDARDS, DESIGN, AND STIPULATIONS.*—A
16 range improvement cooperative agreement under subsection
17 (a) and a range improvement permit under subsection (b)
18 shall specify the standards and design, construction, and
19 maintenance criteria for the range improvements.

20 (d) *ASSIGNMENT OF RANGE IMPROVEMENTS.*—An au-
21 thorized officer shall not approve the transfer of a grazing
22 preference under section 113(c) or approve use by the trans-
23 feree of existing range improvements unless the transferee
24 has agreed to compensate the transferor for the transferor's

1 *interest in the authorized improvements within the allot-*
 2 *ment as of the date of the transfer.*

3 *(e) REMOVAL AND COMPENSATION FOR LOSS OF*
 4 *RANGE IMPROVEMENTS.—*

5 *(1) PROHIBITION OF REMOVAL.—A person shall*
 6 *not remove a range improvement from Federal land*
 7 *without authorization by the authorized officer.*

8 *(2) REQUIREMENT TO REMOVE.—The authorized*
 9 *officer may require a permittee or lessee to remove a*
 10 *range improvement on Federal land that the permit-*
 11 *tee or lessee owns if the improvement is no longer*
 12 *helping to achieve land use plan or allotment goals*
 13 *and objectives or if the improvement fails to meet the*
 14 *standards and criteria of subsection (c).*

15 *(3) CANCELLATION OF GRAZING PERMIT OR*
 16 *GRAZING LEASE.—*

17 *(A) IN GENERAL.—If a grazing permit or*
 18 *grazing lease is canceled in order to devote Fed-*
 19 *eral land covered by the grazing permit or graz-*
 20 *ing lease to another public purpose, including*
 21 *disposal, the permittee or lessee shall be entitled*
 22 *to receive from the United States reasonable com-*
 23 *ensation for the value of the permittee's or les-*
 24 *see's interest in authorized permanent range im-*
 25 *provements purchased by the permittee or lessee*

1 or placed or constructed by the permittee or les-
2 see on Federal land covered by the canceled graz-
3 ing permit or grazing lease.

4 (B) *FAIR MARKET VALUE.*—The value of a
5 permittee's or lessee's interest under subpara-
6 graph (A) shall be equal to the fair market value
7 of the terminated portion of the permittee's or
8 lessee's interest in the permanent range improve-
9 ments.

10 (C) *SALVAGE AND REHABILITATION.*—In a
11 case in which a range improvement is authorized
12 by a range improvement permit or range im-
13 provement cooperative agreement, the permittee
14 or lessee may elect to salvage materials and per-
15 form rehabilitation measures rather than accept
16 compensation for the fair market value.

17 (4) *CANCELLATION OF RANGE IMPROVEMENT*
18 *PERMIT OR COOPERATIVE AGREEMENT.*—If a range
19 improvement permit or range improvement coopera-
20 tive agreement is canceled, the permittee or lessee
21 shall be allowed 180 days after the date of cancella-
22 tion in which to salvage material owned by the lessee
23 or permittee and perform rehabilitation measures ne-
24 cessitated by the salvage.

1 (A) *CONTRIBUTIONS.*—An authorized officer
2 may accept contributions of labor, material,
3 equipment, or money for administration, protec-
4 tion, and improvement of Federal land necessary
5 to achieve the objectives of this title.

6 (B) *TRANSFER OF OWNERSHIP OF IMPROVE-*
7 *MENTS.*—

8 (i) *MEDIATION.*—An authorized officer
9 may—

10 (I) *mediate a dispute regarding*
11 *reasonable compensation in connection*
12 *with a transfer of ownership of a range*
13 *improvement; and*

14 (II) *following consultation with*
15 *the interested parties, make a deter-*
16 *mination concerning the fair and rea-*
17 *sonable share of operation and mainte-*
18 *nance expenses and compensation for*
19 *use of authorized range improvements.*

20 (ii) *NO AGREEMENT.*—If an agreement
21 on the amount of compensation cannot be
22 reached, the authorized officer shall issue a
23 temporary grazing authorization, including
24 appropriate terms and conditions and the
25 requirement to compensate the permittee or

1 lessee for the fair share of operation and
2 maintenance, as determined by the author-
3 ized officer.

4 **SEC. 123. MONITORING.**

5 (a) *IN GENERAL.*—Any monitoring or inspection of al-
6 lotment territory for condition or compliance with grazing
7 rules and regulations and the terms and conditions of graz-
8 ing permits and allotment management plans shall be per-
9 formed only by the permittee, qualified personnel, qualified
10 consultants retained by the United States, or qualified con-
11 sultants retained by the grazing permittee or lessee. An in-
12 dividual is qualified within the meaning of this section if
13 he or she possesses the training, educational credentials or
14 experience necessary to properly perform such monitoring
15 or inspection.

16 (b) *REQUIREMENT OF REQUESTING PERMITTEE OR*
17 *LESSEE PARTICIPATION IN ALLOTMENT MONITORING.*—No
18 inspection or monitoring documentation, data, informa-
19 tion, or reports shall be relied on, or included in the permit-
20 tee's or lessee's allotment file in any form unless the permit-
21 tee or lessee has been invited and allowed to be present at
22 and to participate in the inspection or other activity in
23 which the information or data was gathered or which re-
24 sulted in the report. No invitation to the permittee's or les-
25 see's presence shall be valid for the purposes of this section

1 *unless the qualified personnel carrying out the inspection*
 2 *or monitoring activity made reasonable accommodations to*
 3 *the permittee's or lessee's schedule and circumstances allow*
 4 *the permittee or lessee to be present.*

5 **SEC. 124. WATER RIGHTS.**

6 (a) *IN GENERAL.*—No water rights on Federal land
 7 shall be acquired, perfected, owned, controlled, maintained,
 8 administered, or transferred in connection with livestock
 9 grazing management other than in accordance with State
 10 law concerning the use and appropriation of water within
 11 the State.

12 (b) *STATE LAW.*—In managing livestock grazing on
 13 Federal land, the Secretary shall follow State law with re-
 14 gard to water ownership.

15 (c) *RULE OF CONSTRUCTION.*—Nothing in this title
 16 shall be construed to create an expressed or implied reserva-
 17 tion of water rights in the United States.

18 **SEC. 125. MANAGEMENT OF GRAZING ON LAND UNDER THE**
 19 **JURISDICTION OF OTHER DEPARTMENTS**
 20 **AND AGENCIES.**

21 (a) *IN GENERAL.*—In the case of land under the ad-
 22 ministrative jurisdiction of the head of another entity in
 23 the department or of another department or agency on
 24 which grazing is managed by the Secretary on behalf of the
 25 head of that entity, department, or agency, the Secretary

1 *shall enter into a memorandum of understanding setting*
 2 *out the terms and conditions under which grazing will be*
 3 *managed on that land.*

4 (b) *APPLICATION OF TITLE.*—*This title shall apply to*
 5 *management of grazing under subsection (a) except to the*
 6 *extent that the Secretary, in consultation with the head of*
 7 *the department or agency with jurisdiction over the land,*
 8 *in view of the needs of the other department or agency or*
 9 *the applicability of other law, requires application of dif-*
 10 *ferent rules; Provided, That title II shall govern the man-*
 11 *agement of grazing on national grasslands.*

12 ***Subtitle D—Authorization of Grazing Use***

13 ***SEC. 131. APPLICATIONS.***

14 (a) *IN GENERAL.*—*An application for a grazing per-*
 15 *mit or grazing lease authorizing active use and nonuse, a*
 16 *free-use grazing permit, or other grazing authorization shall*
 17 *be filed with the authorized officer at the local Bureau of*
 18 *Land Management or Forest Service office having jurisdic-*
 19 *tion over the Federal land that is the subject of the applica-*
 20 *tion.*

21 (b) *CHANGES IN GRAZING USE.*—

22 (1) *IN GENERAL.*—*In the case of any grazing fee*
 23 *year, an application for a change in grazing use*
 24 *should be filed with the authorized officer before the*

1 *billing notice for the affected grazing use has been is-*
2 *sued for the grazing fee year.*

3 (2) *LATE FILING.*—*An application for a change*
4 *in grazing use filed after a billing notice for the af-*
5 *ected grazing use has been issued that requires the is-*
6 *suance of a replacement or supplemental billing no-*
7 *tice shall be subject to a service charge under section*
8 *137(d).*

9 (3) *AUTHORITY TO GRANT.*—*An authorized offi-*
10 *cer may grant an application for a change in grazing*
11 *use.*

12 (c) *CONFLICTING APPLICATIONS.*—

13 (1) *FACTORS TO BE CONSIDERED.*—*If more than*
14 *one qualified applicant applies for livestock grazing*
15 *use of the same Federal land or if additional forage*
16 *for livestock or additional acreage becomes available,*
17 *an authorized officer may authorize grazing use of the*
18 *Federal land or use of forage—*

19 (A) *as provided in section 114(c); or*

20 (B) *on the basis of any of the following fac-*

21 *tors:*

22 (i) *Historical use of Federal land.*

23 (ii) *Proper range management and use*
24 *of water for livestock.*

1 (iii) *General needs of the applicants'*
2 *livestock operations.*

3 (iv) *Topography.*

4 (v) *Other land use requirements unique*
5 *to the situation.*

6 (2) *FACTOR NOT TO BE CONSIDERED.—In au-*
7 *thorizing grazing use or use of forage under para-*
8 *graph (1), an authorized officer shall not take into*
9 *consideration the past practice or present willingness*
10 *of an applicant to allow public access to Federal land*
11 *over private land.*

12 **SEC. 132. GRAZING PERMITS OR GRAZING LEASES.**

13 (a) *SPECIFICATION OF TERMS AND CONDITIONS.—A*
14 *grazing permit or grazing lease shall specify terms and con-*
15 *ditions as required by section 136.*

16 (b) *TERM.—A grazing permit or grazing lease shall*
17 *be issued for a term of 15 years unless—*

18 (1) *the land is pending disposal;*

19 (2) *the land will be devoted to a public purpose*
20 *that precludes grazing prior to the end of 15 years;*
21 *or*

22 (3) *the Secretary determines that it would be in*
23 *the best interest of sound land management to specify*
24 *a shorter term, if the decision to specify a shorter*

1 *term is supported by appropriate and accepted re-*
2 *source analysis and evaluation.*

3 *(c) RENEWAL.—A permittee or lessee holding a grazing*
4 *permit or grazing lease shall be given first priority at the*
5 *end of the term for renewal of the grazing permit or grazing*
6 *lease if—*

7 *(1) the land for which the grazing permit or*
8 *grazing lease is issued remains available for domestic*
9 *livestock grazing;*

10 *(2) the permittee or lessee is in compliance with*
11 *this title and the terms and conditions of the grazing*
12 *permit or grazing lease; and*

13 *(3) the permittee or lessee accepts the terms and*
14 *conditions included by the authorized officer in the*
15 *new grazing permit or grazing lease.*

16 **SEC. 133. FREE-USE GRAZING PERMITS.**

17 *(a) IN GENERAL.—A free-use grazing permit may be*
18 *issued, consistent with the title, to an applicant—*

19 *(1) whose residence is adjacent to Federal land*
20 *within a grazing district;*

21 *(2) who needs Federal land to support domestic*
22 *livestock owned by the applicant; and*

23 *(3) whose products or work related to livestock*
24 *grazing are used directly and exclusively by the ap-*
25 *plicant and the applicant's family.*

1 (b) *CONFLICTING APPLICATIONS.*—The issuance of a
2 free-use grazing permit is subject to section 131(c).

3 (c) *TERM.*—A free-use grazing permit shall be issued
4 for a term of one year.

5 (d) *NO TRANSFER OR ASSIGNMENT.*—A free-use graz-
6 ing permit may not be transferred or assigned.

7 **SEC. 134. OTHER GRAZING AUTHORIZATIONS.**

8 (a) *EXCHANGE-OF-USE GRAZING AGREEMENTS.*—

9 (1) *IN GENERAL.*—An exchange-of-use grazing
10 agreement may be issued to any applicant that owns
11 or controls land that is unfenced and intermingled
12 with Federal land when use under such an agreement
13 would be in harmony with the management objectives
14 for the allotment.

15 (2) *EXTENT OF USE.*—An exchange-of-use graz-
16 ing agreement may authorize use of Federal land to
17 the extent of the livestock carrying capacity of the
18 land offered in exchange-of-use.

19 (3) *NO FEE.*—No fee shall be charged for grazing
20 use under an exchange-of-use agreement.

21 (b) *NONRENEWABLE GRAZING PERMITS AND GRAZING*
22 *LEASES.*—A nonrenewable grazing permit or grazing lease
23 maybe issued on an annual basis to a qualified applicant
24 when forage is temporarily available if grazing use under
25 the grazing permit or grazing lease—

1 (1) *is consistent with multiple-use objectives; and*
 2 (2) *does not interfere with other livestock oper-*
 3 *ations on the Federal land concerned.*

4 (c) *CROSSING PERMITS.—An applicant showing the*
 5 *necessity for crossing Federal land or other land under con-*
 6 *trol of the Secretary with livestock for proper and lawful*
 7 *purposes may be issued a crossing permit on such terms*
 8 *and conditions as the authorized officer considers necessary*
 9 *to achieve the objectives of this title.*

10 (d) *SPECIAL GRAZING PERMITS OR GRAZING*
 11 *LEASES.—*

12 (1) *IN GENERAL.—A special grazing permit or*
 13 *grazing lease authorizing grazing use by privately*
 14 *owned or controlled indigenous animals may be is-*
 15 *ssued at the discretion of the authorized officer, con-*
 16 *sistent with multiple-use objectives.*

17 (2) *TERM.—A special grazing permit or grazing*
 18 *lease shall be issued for such a term as the authorized*
 19 *officer considers to be appropriate, not to exceed 10*
 20 *years.*

21 (e) *NO PRIORITY; NO TRANSFER OR ASSIGNMENT.—*
 22 *An exchange-of-use grazing agreement, nonrenewable graz-*
 23 *ing permit or grazing lease, crossing permit, or special*
 24 *grazing permit or grazing lease shall have no priority for*
 25 *renewal and may not be transferred or assigned.*

1 **SEC. 135. OWNERSHIP AND IDENTIFICATION OF LIVESTOCK.**

2 (a) *IN GENERAL.*—A permittee or lessee shall own or
3 control and be responsible for the management of the live-
4 stock that graze the Federal land under a grazing permit
5 or grazing lease.

6 (b) *COMPLIANCE WITH STATE REQUIREMENTS.*—An
7 authorized user shall comply with the requirements of the
8 State in which Federal land is located relating to branding,
9 marking, or tagging of livestock, breed, grade, and number
10 of bulls, health, and sanitation.

11 (c) *MARKING OR TAGGING.*—An authorized officer
12 shall not impose any marking or tagging requirement in
13 addition to the requirement under State law.

14 (d) *FILING OF CONTROL AGREEMENT AND BRAND.*—
15 A permittee or lessee that controls but does not own the live-
16 stock that graze Federal land shall file with the authorized
17 officer—

18 (1) the agreement that gives the permittee or les-
19 see control of the livestock; and

20 (2) the brand and other identifying marks on the
21 livestock.

22 **SEC. 136. TERMS AND CONDITIONS.**

23 (a) *IN GENERAL.*—

24 (1) *SPECIFICATIONS.*—An authorized officer
25 shall specify in a grazing permit or grazing lease the
26 kind and number of livestock, the periods of use, the

1 *allotments to be used, and the amount of use (stated*
2 *in animal unit months) for each grazing permit or*
3 *grazing lease.*

4 (2) *AMOUNT OF USE.*—*The amount of livestock*
5 *grazing use that is authorized in a grazing permit or*
6 *grazing lease shall not exceed the livestock carrying*
7 *capacity of the Federal land concerned, as determined*
8 *through monitoring and adjusted as necessary under*
9 *section 114.*

10 (3) *GENERAL.*—*A grazing lease or permit shall*
11 *be subject to such other reasonable terms or conditions*
12 *as may be required by this Act.*

13 (b) *NO SPECIAL TERMS AND CONDITIONS.*—*An au-*
14 *thorized officer shall not impose any term or condition in*
15 *a grazing permit or grazing lease other than a term or con-*
16 *dition described in subsection (a) or as contained in an al-*
17 *lotment management plan as described in section 121.*

18 (c) *MODIFICATION.*—*Following careful and considered*
19 *consultation, cooperation, and coordination with permittees*
20 *and lessees, an authorized officer may modify the terms and*
21 *conditions of a grazing permit or grazing lease if monitor-*
22 *ing data show that the grazing use is not meeting the land*
23 *use plan or management objectives.*

24 (d) *SUBLEASING.*—*The Secretary shall not permit—*

1 (1) *the lease or sublease of a Federal grazing per-*
 2 *mit or lease, associated with the lease or sublease of*
 3 *base property, to another party without a required*
 4 *transfer approved by the Secretary;*

5 (2) *the lease or sublease of a Federal grazing per-*
 6 *mit or lease to another party without the assignment*
 7 *of the associated base property;*

8 (3) *allowing another party, other than a spouse,*
 9 *child, or grandchild of the permittee or lessee to graze*
 10 *livestock that are not owned or controlled by the per-*
 11 *mittee or lessee on public lands, unless such grazing*
 12 *use is due to the lessee or permittee being unable to*
 13 *make full grazing use due to the ill health or death*
 14 *of the permittee or lessee; or*

15 (4) *allowing another party, other than a spouse,*
 16 *child, or grandchild of the permittee or lessee to graze*
 17 *livestock on public lands under a pasturing agreement*
 18 *without the approval of the Secretary.*

19 **SEC. 137. FEES AND CHARGES.**

20 (a) *DEFINITION.*—Animal unit month. The term “ani-
 21 *mal unit month*” means one month’s use and occupancy
 22 *of range by—*

23 (1) *one cow, bull, steer, heifer, horse, burro, or*
 24 *mule, seven sheep, or seven goats, each of which is six*

1 *months of age or older on the date on which the ani-*
2 *mal begins grazing on Federal land;*

3 (2) *any such animal regardless of age if the ani-*
4 *mal is weaned on the date on which the animal be-*
5 *gins grazing on Federal land; and*

6 (3) *any such animal that will become 12 months*
7 *of age during the period of use authorized under a*
8 *grazing permit or grazing lease.*

9 (b) *LIVESTOCK NOT COUNTED.*—*There shall not be*
10 *counted as an animal unit month the use of Federal land*
11 *for grazing by—*

12 (1) *an animal that is less than six months of age*
13 *on the date on which the animal begins grazing on*
14 *Federal land and is the natural progeny of an animal*
15 *on which a grazing fee is paid if the animal is re-*
16 *moved from the Federal land before becoming 12*
17 *months of age; or*

18 (2) *an animal that is progeny, born during the*
19 *period of use authorized under a grazing permit or*
20 *grazing lease, of an animal on which a grazing fee is*
21 *paid.*

22 (c) *GRAZING FEES.*—

23 (1) *BASIC FEE.*—*The basic fee for each animal*
24 *unit month in a grazing fee year to be determined by*
25 *the Bureau of Land Management and the Forest*

1 *Service shall be equal to the three-year average of the*
 2 *total gross value of production for beef cattle, as com-*
 3 *puted by the Economic Research Service of the De-*
 4 *partment of Agriculture in accordance with para-*
 5 *graph (2) on the basis of economic data published by*
 6 *the Service in the Economic Indicators of the Farm*
 7 *Sector: Cost of Production—Major Field Crops &*
 8 *Livestock and Dairy for the three years preceding the*
 9 *grazing fee year, multiplied by .06 and divided by 12.*

10 (2) *CRITERIA.—*

11 *IN GENERAL.—The Economic Research*
 12 *Service of the Department of Agriculture shall:*
 13 *continue to compile the gross production value of*
 14 *production of beef cattle as reported in a dollar*
 15 *per bred cow basis in the “U.S. Cow-Calf Pro-*
 16 *duction Cash Costs and Returns.”.*

17 (3) *SURCHARGE.—*

18 (A) *A surcharge shall be added to the graz-*
 19 *ing fee billings for authorized grazing of livestock*
 20 *owned by persons other than the permittee or les-*
 21 *see except where—*

22 (1) *such use is made by livestock*
 23 *owned by a spouse, child, or grandchild of*
 24 *the permittee and lessee; or*

1 (2) the permittee or lessee is unable to
2 make full grazing use, as authorized by a
3 grazing permit or lease, due to the informed
4 condition or death of the permittee or lessee.

5 (B) The surcharge shall be over and above
6 any other fees that may be charged for public
7 land forage.

8 (C) Surcharges shall be paid prior to graz-
9 ing use.

10 (D) The surcharge for authorized pasturing
11 of livestock owned by persons other than the per-
12 mittee or lessee will be equal to 25 percentum of
13 the difference between the current year's Federal
14 grazing fee and the prior year's private grazing
15 land lease rate per AUM for the appropriate
16 State as compiled by the national Agricultural
17 Statistics Service.

18 (E) *IN GENERAL.*—The Bureau of Land
19 Management and the Forest Service shall make
20 a determination under paragraph (1) based on
21 the following information gathered by the Na-
22 tional Agriculture Statistics Service of the De-
23 partment of the Agriculture with respect to the
24 largest single grazing lease of each grazing oper-
25 ator (in terms of dollars):

1 (i) *Whether the operator charged—*

2 *(I) per acre;*

3 *(II) per head per month;*

4 *(III) per pound of gain;*

5 *(IV) per hundredweight of gain;*

6 *or*

7 *(V) by another measure, and the*
8 *rate charged.*

9 (ii) *(I) The estimated average pounds*
10 *gained per season for the grazing lease.*

11 *(II) The total dollar amount estimated*
12 *to be realized from the grazing lease.*

13 *(III) Grazing lease acreage.*

14 *(IV) The State and county where the*
15 *grazing lease is located.*

16 (iii) *The classes of livestock grazed.*

17 (iv) *The term of the grazing lease.*

18 (v) *(I) Whether grazing lease payments*
19 *are paid if no grazing occurred.*

20 *(II) Whether the grazing lease contains*
21 *a take or pay provision.*

22 (vi) *Additional information on whether*
23 *the following are provided by the lessor on*
24 *a five-year basis:*

25 *(I) Fencing maintenance;*

- 1 (II) *Animal management and*
2 *oversight;*
3 (III) *Water maintenance;*
4 (IV) *Salt and minerals;*
5 (V) *Other service (specified);*
6 (VI) *No services;*
7 (VII) *Hunting;*
8 (VIII) *Fishing;*
9 (IX) *Other (specified); and*
10 (X) *None.*

11 (F) *PRIVATE NATIVE RANGELAND.*—*For the*
12 *purpose of determining rates for grazing leases of*
13 *private native rangeland, rates for irrigated pas-*
14 *ture, crop aftermath, and dryland winter wheat*
15 *shall be excluded.*

16 (4) *PAYMENT.*—

17 (A) *DUE DATE.*—*A grazing fee shall be due*
18 *on the due date specified in the billing notice.*

19 (B) *PAYMENT PRIOR TO USE.*—*A grazing*
20 *fee shall be paid prior to grazing use.*

21 (C) *BILLING AFTER GRAZING SEASON.*—*If*
22 *an allotment management plan provides for bill-*
23 *ing after the grazing season, a grazing fee shall*
24 *be based on actual grazing use and shall be due*
25 *upon issuance.*

1 (5) *REFUNDS.*—

2 (A) *IN GENERAL.*—A grazing fee may be re-
3 funded if an application for change in grazing
4 use and related refund is filed prior to the period
5 of use for which the refund is requested.

6 (B) *FAILURE TO MAKE GRAZING USE.*—

7 (i) *IN GENERAL.*—Except as provided
8 in subparagraph (B), no refund shall be
9 made for failure to make grazing use.

10 (ii) *RANGE DEPLETION OR DISEASE.*—

11 During a period of range depletion due to
12 drought, fire, or other natural cause, or in
13 case of a general spread of disease among
14 the livestock that occurs during the term of
15 a grazing permit or grazing lease, an au-
16 thorized officer may credit or refund a graz-
17 ing fee in whole or in part or postpone fee
18 payment for as long as the emergency exists.

19 (d) *OTHER FEES AND CHARGES.*—

20 (1) *CROSSING PERMITS, TRANSFERS, AND BILL-*
21 *ING NOTICES.*—A service charge shall be assessed for
22 each crossing permit, transfer of grazing preference,
23 and replacement or supplemental billing notice except
24 in a case in which the action is initiated by the au-
25 thorized officer.

1 (2) AMOUNT OF FLPMA FEES AND CHARGES.—

2 *The fees and charges under section 304(a) of the Fed-*
3 *eral Land Policy and Management Act of 1976 (43*
4 *U.S.C. 1734(a)) shall reflect processing costs and shall*
5 *be adjusted periodically as costs change.*

(3) *NOTICE OF CHANGE.*—Notice of a change in a service shall be published in the Federal Register.

(e) *REPEAL.*—Section 6(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905) is repealed.

(f) APPLICATION OF SECTION.—This section applies to the management of livestock grazing on Western Federal land by the Secretary of Agriculture, acting through the Chief of the Forest Service, as well as to the Secretary.

14 **SEC. 138. PLEDGE OF GRAZING PERMITS OR GRAZING**
15 **LEASES AS SECURITY FOR LOANS.**

(a) *RENEWAL*.—A grazing permit or grazing lease that has been pledged as security for a loan from a lending agency shall be renewed by the authorized officer for a period of not to exceed 15 years if—

20 (1) the loan is for the purpose of furthering the
21 permittee's or lessee's livestock operation;

22 (2) the permittee or lessee has complied with this
23 title; and

24 (3) renewal would be in accordance with other
25 applicable laws.

1 (b) *EFFECT OF PLEDGE.*—The pledging of a grazing
 2 permit or grazing lease as security for a loan from a lend-
 3 ing agency shall not exempt the grazing permit or grazing
 4 lease from this title.

5 ***Subtitle E—Civil Violations and Failures of***
 6 ***Compliance***

7 ***SEC. 141. CIVIL VIOLATIONS AND FAILURES OF COMPLI-***
 8 ***ANCE.***

9 (a) *SCOPE OF SECTION.*—

10 (1) *IN GENERAL.*—This section states all of the
 11 violations and failures of compliance that pertain
 12 specifically to livestock grazing on Federal land that
 13 may result in imposition of a sanction described in
 14 subsection (c) against a person in the person's capac-
 15 ity as a permittee, lessee, or applicant for a grazing
 16 permit or grazing lease.

17 (2) *OTHER VIOLATIONS.*—A permittee, lessee, or
 18 applicant for a grazing permit or grazing lease that
 19 commits a violation relating to Federal land under a
 20 law that applies to all persons generally shall be sub-
 21 ject to penalty under that law.

22 (b) *IN GENERAL.*—A person that knowingly and will-
 23 fully does one of the following shall be subject to a civil
 24 sanction under subsection (c):

1 (1) *Fails to make substantial grazing use as au-*
2 *thorized by a grazing permit or grazing lease for two*
3 *consecutive fee years.*

4 (2) *Places supplemental feed on land covered by*
5 *a grazing permit or grazing lease without authoriza-*
6 *tion.*

7 (3) *Fails to comply with a term, condition, or*
8 *stipulation of a range improvement cooperative agree-*
9 *ment or range improvement permit.*

10 (4) *Enters into an unauthorized sublease.*

11 (5) *Allows livestock or another privately owned*
12 *or controlled animal to graze on or be driven across*
13 *Federal land—*

14 (A) *without a grazing permit, grazing lease,*
15 *or other grazing use authorization;*

16 (B) *in violation of a term or condition of*
17 *a grazing permit, grazing lease, or other grazing*
18 *use authorization, including a provision stating*
19 *the number of livestock covered by the authoriza-*
20 *tion;*

21 (C) *in an area or at a time different from*
22 *that authorized; or*

23 (D) *if the livestock is not identified in com-*
24 *pliance with section 135.*

1 (6) *Installs, uses, modifies, or removes a range*
 2 *improvement on Federal land without authorization.*

3 (7) *Damages or removes Federal Government*
 4 *property from Federal land without authorization.*

5 (8) *Molests livestock authorized to graze on Fed-*
 6 *eral land.*

7 (9) *Interferes with a lawful grazing use or lawful*
 8 *user.*

9 (10) *Makes a false statement or representation in*
 10 *a base property certification, grazing application,*
 11 *range improvement permit application, cooperative*
 12 *agreement, or actual use report, or an amendment*
 13 *thereto.*

14 (11) *Grazes livestock on Federal land not sub-*
 15 *stantially in compliance with State livestock require-*
 16 *ments relating to—*

17 (A) *branding, marking, or tagging of live-*
 18 *stock;*

19 (B) *breed, grade, or number of bulls; or*

20 (C) *health or sanitation.*

21 (c) *PENALTIES.—*

22 (1) *IN GENERAL.—In a case of a violation or*
 23 *failure of compliance described in subsection (b), an*
 24 *authorized officer may—*

1 (A) withhold issuance of a grazing permit
2 or grazing lease for a period of time;

3 (B) suspend the grazing use authorized
4 under a grazing permit or grazing lease for a pe-
5 riod of time, in whole or in part; or

6 (C) cancel a grazing permit or grazing lease
7 and grazing preference, or a free-use grazing per-
8 mit or other grazing authorization, in whole or
9 in part.

10 (2) A grazing lease or permit may be cancelled,
11 suspended, or modified for—

12 (A) any violation of this title, or for

13 (B) any violation of a term or condition of
14 the permit or lease, or for

15 (C) conviction for failure to comply with
16 Federal laws or regulations relating to protection
17 of air, water, soil and vegetation, fish and wild-
18 life, and other environmental values when exer-
19 cising the grazing use authorized by the permit
20 or lease.

21 (3) SECOND OR SUBSEQUENT WILLFUL VIOLA-
22 TION.—In a case of a second or subsequent willful
23 civil violation described in subsection (a), an author-
24 ized officer shall—

1 (A) *suspend the grazing use authorized*
 2 *under a grazing permit for a period of time, in*
 3 *whole or in part; or*

4 (B) *cancel a grazing permit or grazing lease*
 5 *and grazing preference, in whole or in part.*

6 (4) *CONSIDERATION OF SEVERITY.*—A deter-
 7 *mination of the length of time that a grazing permit*
 8 *or grazing lease will be withheld or suspended or that*
 9 *a grazing permit or grazing lease will be canceled*
 10 *shall reflect the severity of the violation or failure of*
 11 *compliance.*

12 (5) *REFERRAL FOR ACTION UNDER SUBTITLE*
 13 *F.*—If a person other than a permittee or lessee vio-
 14 *lates subsection (a)(5), and the person has not made*
 15 *satisfactory settlement under section 153, the author-*
 16 *ized officer shall refer the matter to proper authorities*
 17 *for appropriate legal action by the United States*
 18 *against the violator under subtitle F.*

19 (6) *SUBLEASES.*—

20 (A) *IN GENERAL.*—A person who violates
 21 *subsection (b)(4) shall be required to pay to the*
 22 *United States the dollar equivalent value, as de-*
 23 *termined by the authorized officer, of all com-*
 24 *ensation received for the sublease that is in ex-*
 25 *cess of the sum of the established grazing fee and*

1 the cost incurred by the person for the installa-
 2 tion and maintenance of authorized range im-
 3 provements.

4 (B) *FAILURE TO PAY.*—If the dollar equiva-
 5 lent value is not received by the authorized offi-
 6 cer within 30 days of receipt of a final decision,
 7 the grazing permit or grazing lease shall be can-
 8 celed.

9 (C) *ADDITIONAL PENALTY.*—Payment under
 10 this paragraph shall be in addition to any other
 11 penalties the authorized officer may impose
 12 under this subsection.

13 (7) *FAILURE TO USE.*—After consultation, co-
 14 operation, and coordination, the authorized officer
 15 may cancel a grazing preference to the extent of fail-
 16 ure to use when a permittee or lessee has failed to
 17 make substantial grazing use as authorized for two
 18 consecutive years.

19 ***Subtitle F—Unauthorized Grazing Use***

20 ***SEC. 151. LIABILITY FOR DAMAGES.***

21 (a) *IN GENERAL.*—A person who commits a violation
 22 described in section 141(b)(5) shall be liable in damages to
 23 the United States for—

24 (1) *the value of forage consumed by the livestock*
 25 *of the person;*

1 (2) *injury to Federal property caused by unau-*
 2 *thorized grazing use; and*

3 (3) *expenses incurred in impoundment and sale*
 4 *of the person's livestock.*

5 (b) *No LIABILITY.—In no circumstances shall a person*
 6 *be liable in damages to the United States for expenses in-*
 7 *curred in impoundment or sale of the person's livestock if*
 8 *the person did not commit a violation of section 141(b)(5)*
 9 *or if the impoundment or sale was not conducted in accord-*
 10 *ance with State law.*

11 **SEC. 152. NOTICE AND ORDER TO REMOVE.**

12 (a) *KNOWN OWNER.—*

13 (1) *SERVICE.—When it appears that a violation*
 14 *described in section 151 has occurred or is occurring*
 15 *and the owner of the unauthorized livestock is known,*
 16 *an authorized officer shall serve written notice of un-*
 17 *authorized use and an order to remove livestock by a*
 18 *specified date on the owner (or the owner's agent of*
 19 *record) by certified mail or personal delivery.*

20 (2) *OPPORTUNITY TO RESPOND.—Written notice*
 21 *under paragraph (1) shall allow a specified time from*
 22 *receipt of notice for the livestock owner to—*

23 (A) *show that there has been no violation;*

24 or

25 (B) *make settlement under section 153.*

1 (b) *UNKNOWN OWNER.*—When it appears that a viola-
2 tion described in section 151 has occurred or is occurring
3 and neither the owner of the unauthorized livestock nor an
4 agent of the owner is known, an authorized officer may im-
5 mediately proceed to impound the livestock under section
6 154.

7 **SEC. 153. SETTLEMENT.**

8 (a) *DETERMINATION OF WILLFULNESS.*—An author-
9 ized officer shall determine whether a violation described
10 in section 151 is a nonwillful, willful, or second or subse-
11 quent willful violation.

12 (b) *SECOND OR SUBSEQUENT WILLFUL VIOLATIONS.*—
13 In the case of a second or subsequent willful violation, the
14 authorized officer shall—

15 (1) *suspend the grazing use authorized under a*
16 *grazing permit or grazing lease, in whole or in part;*
17 *or*

18 (2) *cancel a grazing permit or grazing lease and*
19 *grazing preference, or a free-use grazing permit or*
20 *other grazing authorization, in whole or in part.*

21 (c) *SETTLEMENT AMOUNT.*—Except as provided in
22 subsection (e), the settlement amount in the case of a viola-
23 tion described in section 151 shall include—

24 (1) *the value of forage consumed as determined*
25 *under subsection (d);*

1 (2) *the full value for all damage to Federal land*
 2 *and other property of the United States resulting*
 3 *from the violation; and*

4 (3) *all reasonable expenses incurred by the*
 5 *United States in detecting, investigating, and resolv-*
 6 *ing the violation, and livestock impoundment costs.*

7 (d) *VALUE OF FORAGE.—*

8 (1) *NONWILLFUL VIOLATION.—In the case of a*
 9 *nonwillful violation, the value of forage consumed*
 10 *shall be the product of—*

11 (A) *average monthly rate per animal unit*
 12 *month for pasturing livestock on privately owned*
 13 *land (excluding irrigated land) for the 16 West-*
 14 *ern States as published annually by the Depart-*
 15 *ment of Agriculture; and*

16 (B) *the period of the violation.*

17 (2) *WILLFUL VIOLATIONS.—In the case of a will-*
 18 *ful violation, the value of forage consumed shall be*
 19 *twice the value determined under paragraph (1).*

20 (3) *SECOND OR SUBSEQUENT WILLFUL VIOLA-*
 21 *TIONS.—In the case of a second or subsequent willful*
 22 *violation, the value of forage consumed shall be three*
 23 *times the value determined under paragraph (1).*

24 (e) *NONMONETARY SETTLEMENT.—An authorized offi-*
 25 *cer may approve a nonmonetary settlement of a case of a*

1 violation described in section 151 if the authorized officer
 2 determines that each of the following conditions is satisfied:

3 (1) *NO FAULT.*—Evidence shows that the unau-
 4 thorized use occurred through no fault of the livestock
 5 operator.

6 (2) *INSIGNIFICANCE.*—The forage use is insig-
 7 nificant.

8 (3) *NO DAMAGE.*—Federal land has not been
 9 damaged.

10 (4) *BEST INTERESTS.*—Nonmonetary settlement
 11 is in the best interests of the United States.

12 (f) *EFFECT OF SETTLEMENT.*—Payment of a settle-
 13 ment amount under this section shall not relieve the violator
 14 of any criminal liability under Federal or State law.

15 (g) *NO GRAZING USE.*—A person who is found to have
 16 committed a violation described in section 151 shall not be
 17 authorized to make grazing use until any settlement
 18 amount found to be due under this section has been paid.

19 (h) *OTHER SANCTIONS.*—An authorized officer may
 20 cancel or suspend a grazing authorization or deny approval
 21 of an application for grazing use until a settlement amount
 22 found to be due under this section has been paid.

23 **SEC. 154. IMPOUNDMENT AND SALE.**

24 (a) *IN GENERAL.*—Subject to section 152(b), unau-
 25 thorized livestock remaining on Federal land after the date

1 *specified in a notice and order under section 152(a) may*
2 *be impounded and sold by the authorized officer, acting in*
3 *conjunction with the State Livestock Board.*

4 (b) *NOTICE OF INTENT TO IMPOUND.—*

5 (1) *KNOWN OWNER.—*

6 (A) *SERVICE.—A written notice of intent to*
7 *impound shall be sent by certified mail or per-*
8 *sonally delivered to the livestock owner (or the*
9 *owner's agent).*

10 (B) *CONTENTS.—The written notice shall*
11 *state that unauthorized livestock on specified*
12 *Federal land may be impounded any time after*
13 *10 days following delivery of the notice.*

14 (2) *UNKNOWN OWNER.—*

15 (A) *PUBLICATION AND POSTING.—If the*
16 *livestock owner and owner's agent are unknown,*
17 *or if both a known owner and the owner's agent*
18 *refuse to accept delivery of notice, a notice of in-*
19 *tent to impound shall be published in a local*
20 *newspaper and posted at the county courthouse*
21 *and a post office near the Federal land con-*
22 *cerned.*

23 (B) *CONTENTS.—The notice shall state that*
24 *unauthorized livestock on specified Federal land*

1 *may be impounded any time after 10 days fol-*
2 *lowing publication and posting of the notice.*

3 (c) *IMPOUNDMENT.*—*After 10 days following delivery*
4 *or publication and posting of a notice under subsection (b),*
5 *the notice shall become effective, and unauthorized livestock*
6 *may be impounded without further notice any time within*
7 *the 12-month period following the effective date of the no-*
8 *tice.*

9 (d) *NOTICE OF PUBLIC SALE.*—

10 (1) *IN GENERAL.*—*Following the impoundment*
11 *of livestock under this section, the livestock may be*
12 *sold by the authorized officer or, if a suitable agree-*
13 *ment is in effect, turned over to the State for sale, in*
14 *accordance with subsection (f).*

15 (2) *NOTIFICATION.*—*Any known livestock owner*
16 *(or owner's agent) shall be notified in writing by cer-*
17 *tified mail or by personal delivery of the sale and the*
18 *procedure by which the impounded livestock may be*
19 *redeemed prior to the sale.*

20 (e) *REDEMPTION.*—*An owner (or owner's agent) or*
21 *lienholder of record of impounded livestock may redeem the*
22 *livestock in accordance with State law, prior to the time*
23 *of sale upon settlement with the United States under section*
24 *153 or adequate showing that there has been no violation.*

1 (f) *SALE.*—If livestock are not redeemed on or before
 2 the date and time fixed for sale, the livestock shall be offered
 3 at public sale to the highest bidder by the authorized officer
 4 under State law, or by the State.

5 ***Subtitle G—Procedure***

6 ***SEC. 161. PROPOSED DECISIONS.***

7 (a) *PROPOSED DECISIONS ON GRAZING PERMITS OR*
 8 *GRAZING LEASES.*—

9 (1) *SERVICE ON APPLICANTS, PERMITTEES, LES-*
 10 *SEES, AND LIENHOLDERS.*—In the absence of a writ-
 11 ten agreement between an authorized officer and any
 12 applicant, grazing permittee, lessee, or lienholder, the
 13 authorized officer shall serve, by certified mail or per-
 14 sonal delivery, a proposed decision on any applicant,
 15 permittee, lessee, or lienholder (or agent of record of
 16 the applicant, permittee, lessee, or lienholder) that is
 17 affected by—

18 (A) a proposed action on an application for
 19 a grazing permit, grazing lease, or range im-
 20 provement permit; or

21 (B) a proposed action relating to a term or
 22 condition of a grazing permit, grazing lease, or
 23 range improvement permit.

24 (2) *CONTENTS.*—A proposed decision described
 25 in paragraph (1) shall

1 (A) state reasons for the action, including
 2 reference to pertinent provision of this title or
 3 other applicable law (including regulations); and

4 (B) state that any protest to the proposed
 5 decision must be filed not later than 15 days
 6 after service.

7 (b) *PROPOSED DECISIONS ON ALLEGED VIOLA-*
 8 *TIONS.—*

9 (1) *SERVICE.—*If the authorized officer deter-
 10 mines that a permittee or lessee appears to have vio-
 11 lated any provision of this title, the authorized officer
 12 shall serve a proposed decision on the permittee or les-
 13 see (or permittee's or lessee's agent) by certified mail
 14 or personal delivery.

15 (2) *CONTENTS.—*A proposed decision shall—

16 (A) state

17 (i) the alleged violation and refer to
 18 the specific provision of this title that is al-
 19 leged to have been violated;

20 (ii) the reasons for the proposed deci-
 21 sion;

22 (iii) the fee due under section 137(a)
 23 or settlement amount due under section 153;
 24 and

1 (iv) any civil penalty to be imposed
2 under section 141; and
3 (B) state that any protest to the proposed
4 decision must be filed not later than 15 days
5 after service.

6 **SEC. 162. PROTESTS.**

7 An applicant, permittee, or lessee may protest a pro-
8 posed decision under section 161 in person or in writing
9 to the authorized officer within 15 days after service of the
10 proposed decision.

11 **SEC. 163. FINAL DECISIONS.**

12 (a) *NO PROTEST.*—In the absence of a timely filed pro-
13 test, a proposed decision shall become the final decision of
14 the authorized officer without further notice.

15 (b) *RECONSIDERATION.*—If a protest is timely filed,
16 the authorized officer shall reconsider the proposed decision
17 in light of the protestant's statement of reasons for protest
18 and in light of other information pertinent to the case.

19 (c) *SERVICE.*—After reviewing the protest, the author-
20 ized officer shall serve a final decision on the parties to the
21 proceeding.

22 **SEC. 164. APPEALS.**

23 (a)(1) *IN GENERAL.*—After a decision by an author-
24 ized officer has become final, a permittee or lessee may ap-
25 peal the final decision for the purpose of a hearing before

1 *an administrative law judge by filing a notice of appeal*
 2 *in the office of the authorized officer within 30 days after*
 3 *the service of the final decision. A hearing shall be con-*
 4 *ducted pursuant to 5 U.S.C. 554–559. Any person desiring*
 5 *to appear as amicus curiae in any hearing shall make time-*
 6 *ly request stating the grounds for such request. Permission*
 7 *to appear, if granted, will be for such purposes as estab-*
 8 *lished by the Director of the Department of the Interior’s*
 9 *Office of Hearings and appeals or the appropriate officer*
 10 *at the Department of Agriculture.*

11 *(2) When a grazing decision is appealed to an admin-*
 12 *istrative law judge, the burden of proof shall be on the pro-*
 13 *ponent of the rule or order. The standard of proof shall be*
 14 *by a preponderance of the evidence in the record as a whole.*

15 *(b) SUSPENSION PENDING APPEAL.—*

16 *(1) IN GENERAL.—An appeal of a final decision*
 17 *shall suspend the effect of the decision pending final*
 18 *action on the appeal unless the decision is made effec-*
 19 *tive pending appeal under paragraph (2).*

20 *(2) EFFECTIVENESS PENDING APPEAL.—*

21 *(A) IN GENERAL.—A District Manager of*
 22 *the Bureau of Land Management may order that*
 23 *a decision on a grazing permit application shall*
 24 *remain in effect during an appeal of the decision*
 25 *if it is determined that imminent and irrevers-*

1 *ible damage to land resources would be likely to*
2 *result from delay of effectiveness of the decision.*

3 *(B) BASIS OF ORDER.—An order under sub-*
4 *paragraph (A) shall be made in accordance with*

5 *(i) state-of-the-art science;*

6 *(ii) information and opinions offered*
7 *by State land grant universities; and*

8 *(iii) the preponderance of evidence*
9 *gathered in the proceeding.*

10 *(3) DISTRICT MANAGER'S DUTIES CONCERNING*
11 *APPEALS.—In the case of an appeal concerning graz-*
12 *ing on lands administered by the Department of the*
13 *Interior, the District Manager shall, within 30 days,*
14 *forward the appeal, and any pertinent information*
15 *that would be useful in the rendering of a decision on*
16 *such appeal, to the Office of Hearings and Appeals.*
17 *The Office of Hearings and Appeals shall make an ex-*
18 *pedited determination whether the determination of*
19 *the District Manager pursuant to subsection (b) of*
20 *this section to have a decision on a grazing permit*
21 *application take immediate effect is warranted.*

22 *(d) FOREST SERVICE APPEALS.—Appeals regarding*
23 *grazing leases or permits on lands administered by the*
24 *Chief of the Forest Service shall be handled accordingly to*

1 *the regulations codified in 36 CFR 215, 217, or 251, which-*
2 *ever is applicable.*

3 ***Subtitle H—Advisory Committees***

4 ***SEC. 171. PURPOSE.***

5 *This subtitle contains standards and procedures for the*
6 *establishment, operation, and termination of advisory com-*
7 *mittees to advise the Secretary of the Interior and the Sec-*
8 *retary of Agriculture on matters relating to grazing on Fed-*
9 *eral land and resources under the administrative jurisdic-*
10 *tion of the Bureau of Land Management and the Forest*
11 *Service.*

12 ***SEC. 172. OBJECTIVE.***

13 *The objective of an advisory committee established*
14 *under this subtitle is to provide to the Secretary expert rec-*
15 *ommendations of concerned, knowledgeable citizens and*
16 *public officials regarding—*

- 17 (1) *the formulation of operating guidelines; and*
18 (2) *the preparation and execution of plans and*
19 *programs for the use and management of Federal*
20 *land, the natural and cultural resources on Federal*
21 *land, and the environment.*

22 ***SEC. 173. RELATION TO OTHER LAW.***

23 *Except to the extent that the following laws may be*
24 *inconsistent with this subtitle, the following laws shall*

1 *apply to an advisory committee established under this sub-*
 2 *title:*

3 (1) *The Federal Advisory Committee Act (5*
 4 *U.S.C. App.).*

5 (2) *The Federal Land Policy and Management*
 6 *Act of 1976 (43 U.S.C. 1701 et seq.).*

7 (3) *Section 2 of Reorganization Plan No. 3 of*
 8 *1950 (5 U.S.C. App.).*

9 **SEC. 174. POLICY.**

10 (a) *IN GENERAL.*—After consultation, cooperation,
 11 and coordination with State and local government officials,
 12 the Secretary shall establish advisory committees represent-
 13 ative of major citizens' interests to advise the Secretary re-
 14 garding the policies and programs set forth in this Act.

15 (b) *OPTIMAL EMPLOYMENT.*—The Secretary shall en-
 16 sure that—

17 (1) *advisory committees are optimally utilized;*
 18 *and*

19 (2) *the number of advisory committees is limited*
 20 *to the number that is essential to the conduct of the*
 21 *public's business.*

22 **SEC. 175. GENERAL PROVISIONS.**

23 (a) *CHARTERS.*—

1 (1) *IN GENERAL.*—*For each advisory committee*
2 *established by the Secretary pursuant to this Act, the*
3 *Secretary shall—*

4 (A) *prepare a charter describing the advi-*
5 *sory committee's structure and functions; and*

6 (B) *file the charter with the Committee on*
7 *Energy and Natural Resources of the Senate and*
8 *the Committee on Resources of the House of Rep-*
9 *resentatives.*

10 (2) *AMENDMENT.*—*Except for the correction of*
11 *errors and other minor changes, a charter filed under*
12 *paragraph (1) shall not be amended without author-*
13 *ization by an Act of Congress.*

14 (b) *CALLS FOR NOMINATIONS.*—*Candidates for ap-*
15 *pointment to an advisory committee shall be sought through*
16 *public calls for nominations made through publication in*
17 *the Federal Register and through media releases and sys-*
18 *tematic contacts with State and local government officials*
19 *and individuals and organizations interested in the use and*
20 *management of Federal land and resources.*

21 (c) *COMPOSITION.*—

22 (1) *STRUCTURE.*—*An advisory committee shall*
23 *be structured—*

24 (A) *to provide fair membership balance (ge-*
25 *ographic and interest-specific) in terms of the*

1 *functions to be performed and points of view to*
2 *be represented, as prescribed by the advisory*
3 *committee's charter; and*

4 *(B) to provide representative advice about*
5 *Federal land and resource planning, retention,*
6 *management, and disposal.*

7 *(2) NO DISCRIMINATION.—No person shall be de-*
8 *nied an opportunity to serve on an advisory commit-*
9 *tee because of race, age, sex, religion, or national*
10 *origin.*

11 *(3) QUALIFICATIONS.—A person shall be quali-*
12 *fied to serve on an advisory committee if—*

13 *(A) the person's education, training, or ex-*
14 *perience enables the person to give informed and*
15 *objective advice regarding an industry, dis-*
16 *cipline, or interest specified in the committee's*
17 *charter;*

18 *(B) the person has demonstrated experience*
19 *or knowledge of the geographical area under the*
20 *purview of the advisory committee; and*

21 *(C) the person has demonstrated a commit-*
22 *ment to seeking consensus solutions to resource*
23 *management issues.*

24 *(d) AVOIDANCE OF CONFLICTS OF INTEREST.—*

1 (1) *PARTICIPATION IN DELIBERATIONS.*—An ad-
2 visory committee member shall not participate in de-
3 liberations or vote on any matter if the decision of the
4 matter would, on its face or as applied, affect only an
5 interest held by that member and not the interests of
6 permittees or lessees generally.

7 (2) *DISCLOSURE OF INTERESTS.*—IN GEN-
8 ERAL.—Each member of an advisory committee shall
9 be required to disclose the member's direct or indirect
10 interest, including holdings of a spouse or dependent
11 children of a member, in grazing leases, licenses, per-
12 mits, contracts, or claims and related litigation that
13 involve lands or resources administered by the Sec-
14 retary.

15 (e) *TERMINATION OF SERVICE.*—The Secretary may,
16 after written notice, terminate the service of a member of
17 an advisory committee if—

18 (1) *the member—*

19 (A) *no longer meets the requirements under*
20 *which appointed;*

21 (B) *fails or is unable to participate regu-*
22 *larly in committee work; or*

23 (C) *has violated Federal law (including a*
24 *regulation); or*

1 (2) *in the judgment of the Secretary, termination*
 2 *is in the public interest.*

3 (f) *COMPENSATION AND REIMBURSEMENT OF EX-*
 4 *PENSES.*—*A member of an advisory committee shall not re-*
 5 *ceive any compensation or reimbursement of expenses in*
 6 *connection with the performance of the member's duties as*
 7 *a member of the advisory committee.*

8 **SEC. 176. RESOURCE ADVISORY COUNCILS.**

9 (a) *ESTABLISHMENT.*—*The Secretary, in consultation*
 10 *with the Governors of the affected States, shall establish and*
 11 *operate Resource Advisory Councils on a regional, State,*
 12 *or planning area level to provide advice on management*
 13 *issues for all lands administered by the Bureau of Land*
 14 *Management within such State or regional area, except*
 15 *where the Secretary determines that there is insufficient in-*
 16 *terest in participation on a council to ensure that member-*
 17 *ship can be fairly balanced in terms of the points of view*
 18 *represented and the functions to be performed.*

19 (b) *DUTIES.*—*Each Resource Advisory Council shall*
 20 *advise the Secretary and appropriate State officials on—*

21 (1) *matters regarding the preparation, amend-*
 22 *ment, and implementation of land use and activity*
 23 *plans for public lands and resources within its area;*

1 (2) *major management decisions while working*
 2 *within the broad management goals established for the*
 3 *grazing district; and on*

4 (3) *matters relating to the development of and*
 5 *range management decisions and actions taken re-*
 6 *garding allotment management plans prepared pur-*
 7 *suant to section 121.*

8 (c) *DISREGARD OF ADVICE.*—

9 (1) *REQUEST FOR RESPONSE.*—*If a resource ad-*
 10 *visory council becomes concerned that its advice is*
 11 *being arbitrarily disregarded, the resource advisory*
 12 *council may, by majority vote of its members, request*
 13 *that the Secretary respond directly to the resource ad-*
 14 *visory council's concerns within 60 days after the*
 15 *Secretary receives the request.*

16 (2) *EFFECT OF RESPONSE.*—*The response of the*
 17 *Secretary to a request under paragraph (1) shall*
 18 *not—*

19 (A) *constitute a decision on the merits of*
 20 *any issue that is or might become the subject of*
 21 *an administrative appeal; or*

22 (B) *be subject to appeal.*

23 (d) *MEMBERSHIP.*—

24 (1) *The Secretary, in consultation with the Gov-*
 25 *ernor of the affected State or States, shall appoint the*

1 *members of each Resource Advisory Council. A coun-*
2 *cil shall consist of not less than nine members and*
3 *not more than fifteen members.*

4 *(2) In appointing members to a Resource Advi-*
5 *sory Council, the Secretary shall provide for balanced*
6 *and broad representation from among various groups,*
7 *including but not limited to, permittees and lessees,*
8 *other commercial interests, recreational users, rep-*
9 *resentatives of recognized local environmental or con-*
10 *servation organizations, educational, professional, or*
11 *academic interests, representatives of State and local*
12 *government or governmental agencies, Indian tribes,*
13 *and other members of the affected public.*

14 *(3) The Secretary shall appoint at least one*
15 *elected official of general purpose government serving*
16 *the people of the area of each Resource Advisory*
17 *Council.*

18 *(4) No person may serve concurrently on more*
19 *than one Resource Advisory Council.*

20 *(5) Members of a Resource Advisory Council*
21 *must reside in one of the States within the geographic*
22 *jurisdiction of the council.*

23 *(e) SUBGROUPS.—A Resource Advisory Council may*
24 *establish such subgroups as the council deems necessary, in-*

1 *cluding but not limited to working groups, technical review*
 2 *teams, and rangeland resource groups.*

3 *(f) TERMS.—Resource Advisory Council members shall*
 4 *be appointed for two-year terms. Members may be ap-*
 5 *pointed to additional terms at the discretion of the Sec-*
 6 *retary.*

7 *(g) PER DIEM EXPENSES.—Resource Advisory Coun-*
 8 *cil members shall serve without compensation as such, but*
 9 *shall be reimbursed for travel and per diem expenses while*
 10 *on official business, as authorized by section 5703 of title*
 11 *5, United States Code.*

12 *(h) FEDERAL ADVISORY COMMITTEE ACT.—Except to*
 13 *the extent that it is inconsistent with this section, the Fed-*
 14 *eral Advisory Committee Act shall apply to the Resource*
 15 *Advisory Councils established under this section.*

16 *(i) OTHER FLPMA ADVISORY COUNCILS.—Nothing in*
 17 *this section shall be construed as modifying the authority*
 18 *of the Secretary to establish other advisory councils under*
 19 *section 309 of the Federal Land Policy and Management*
 20 *Act of 1976 (43 U.S.C. 1739).*

21 **SEC. 177. GRAZING ADVISORY BOARDS.**

22 *(a) ESTABLISHMENT.—For each district office of the*
 23 *Bureau of Land Management in the sixteen contiguous*
 24 *Western States having jurisdiction over more than 500,000*
 25 *acres of public lands subject to commercial livestock graz-*

1 *ing, the Secretary, upon the petition of a simple majority*
2 *of livestock lessees and permittees under the jurisdiction of*
3 *such office, shall establish and maintain at least one Graz-*
4 *ing Advisory Board of not more than fifteen members.*

5 *(b) FUNCTION.—The function of the Grazing Advisory*
6 *Boards established pursuant to this section shall be to pro-*
7 *vide advice to the Secretary concerning management issues*
8 *directly related to the grazing of livestock on public lands,*
9 *including—*

10 *(1) range improvement objectives;*

11 *(2) the expenditure of range improvement funds*
12 *under the Public Rangelands Improvement Act of*
13 *1978 (43 U.S.C. 1901 et seq.);*

14 *(3) grazing management programs and imple-*
15 *mentation; and*

16 *(4) range management decisions and actions at*
17 *the allotment management plan level or permit man-*
18 *agement plan level.*

19 *(c) DISREGARD OF ADVICE.—*

20 *(1) REQUEST FOR RESPONSE.—If a grazing ad-*
21 *visory board becomes concerned that its advice is*
22 *being arbitrarily disregarded, the grazing advisory*
23 *board may, by unanimous vote of its members, re-*
24 *quest that the Secretary respond directly to the graz-*

1 *ing advisory board's concerns within 60 days after*
2 *the Secretary receives the request.*

3 (2) *EFFECT OF RESPONSE.*—*The response of the*
4 *Secretary to a request under paragraph (1) shall*
5 *not—*

6 (A) *constitute a decision on the merits of*
7 *any issue that is or might become the subject of*
8 *an administrative appeal; or*

9 (B) *be subject to appeal.*

10 (d) *MEMBERS.*—*The number of members on each*
11 *Grazing Advisory Board shall be determined by the Sec-*
12 *retary. Members shall serve for a term of two years. Each*
13 *board shall consist of livestock representatives who shall be*
14 *lessees or permittees in the area administered by the district*
15 *office and shall be chosen by the lessees and permittees in*
16 *the area through an election prescribed by the Secretary.*

17 (e) *PER DIEM EXPENSES.*—*Grazing Advisory Board*
18 *members shall serve without compensation as such, but shall*
19 *be reimbursed for travel and per diem expenses while on*
20 *official business, as authorized by section 5703 of title 5,*
21 *United States Code.*

22 (f) *FEDERAL ADVISORY COMMITTEE ACT.*—*Except to*
23 *the extent that it is inconsistent with this section, the Fed-*
24 *eral Advisory Committee Act shall apply to the Resource*
25 *Advisory Councils established under this section.*

1 **SEC. 178. MEETINGS.**

2 (a) *IN GENERAL.*—All meetings of an advisory com-
3 mittee and associated field examinations shall be open to
4 the public and news media.

5 (b) *NOTICE OF MEETINGS.*—

6 (1) *IN GENERAL.*—A notice of a meeting of an
7 advisory committee shall be published in the Federal
8 Register and distributed to the news media at least 30
9 days in advance of the meeting.

10 (2) *URGENT MATTERS.*—If an urgent matter
11 arises, a notice of a meeting of an advisory committee
12 shall be published in the Federal Register or distrib-
13 uted to the news media at least 15 days in advance
14 of the meeting.

15 (3) *CONTENTS.*—A notice of a meeting of an ad-
16 visory committee shall state the date, time, and place
17 of the meeting and describe the topics or issues to be
18 discussed at the meeting.

19 (c) *APPEARANCES.*—Any person may appear before or
20 file a statement with an advisory committee regarding mat-
21 ters on the meeting agenda.

22 (d) *SCHEDULING.*—The scheduling of meetings of an
23 advisory committee and the preparation of agenda shall be
24 done in a manner that encourages and facilitates public
25 attendance and participation.

1 (e) *EXTENSION OF TIME.*—The amount of time sched-
2 uled for a meeting of an advisory committee may be ex-
3 tended if an authorized officer considers it necessary to ac-
4 commodate all who seek to be heard regarding matters on
5 the agenda.

6 (f) *AUTHORITY TO SCHEDULE.*—An advisory commit-
7 tee shall meet only at the call of the Secretary or of an
8 authorized officer.

9 (g) *ATTENDANCE BY AUTHORIZED OFFICER.*—No
10 meeting of an advisory committee shall be held in the ab-
11 sence of an authorized officer or designee of an authorized
12 officer.

13 (h) *AGENDA.*—A meeting of an advisory committee
14 shall be conducted with close adherence to the agenda ap-
15 proved in advance by an authorized officer.

16 (i) *ADJOURNMENT.*—An authorized officer may ad-
17 journ a meeting of an advisory committee at any time if—

18 (1) *continuance would be inconsistent with the*
19 *purpose for which the meeting was called or with the*
20 *rules established for the conduct of the advisory com-*
21 *mittee; or*

22 (2) *adjournment is determined to be in the pub-*
23 *lic interest.*

24 (j) *RECORDS.*—

1 (1) *IN GENERAL.*—Detailed records shall be kept
2 of each meeting of an advisory committee.

3 (2) *REQUIREMENTS.*—The records of a meeting
4 of an advisory committee shall include, at a mini-
5 mum—

6 (A) the time and place of the meeting;

7 (B) copies of the Federal Register and other
8 public notices announcing the meeting;

9 (C) a list of members of the advisory com-
10 mittee and of Federal employees (in the capacity
11 of Federal employee) present;

12 (D) a list of members of the public present,
13 and a description of the interest represented by
14 each member;

15 (E) the meeting agenda;

16 (F) a complete summary description of
17 matters discussed and conclusions reached;

18 (G) a list of recommendations made by the
19 advisory committee;

20 (H) copies of all reports received, issued, or
21 approved by the advisory committee; and

22 (I) a description of the nature of public
23 participation.

1 (3) *CERTIFICATION BY CHAIRPERSON.*—The
 2 Chairperson of an advisory committee shall certify
 3 the accuracy of the records of the advisory committee.

4 (4) *AVAILABILITY FOR INSPECTION AND COPY-*
 5 *ING.*—All records, reports, transcripts, minutes, rec-
 6 ommendations, studies, working papers, and other
 7 documents prepared by or submitted to an advisory
 8 committee shall be available for public inspection and
 9 copying in the Federal office responsible for support
 10 of the advisory committee.

11 (k) *SUBCOMMITTEES.*—Each of the requirements of
 12 this section that applies to an advisory committee applies
 13 to any subcommittee of an advisory committee.

14 **SEC. 179. CONFORMING AMENDMENT AND REPEAL.**

15 (a) *AMENDMENT.*—The third sentence of section 402(d)
 16 of the Federal Land Policy and Management Act of 1976
 17 (43 U.S.C. 1752(d)) is amended by striking “district graz-
 18 ing advisory boards established pursuant to section 403 of
 19 the Federal Land Policy and Management Act (43 U.S.C.
 20 1753)” and inserting “resource advisory councils and graz-
 21 ing advisory boards established under section 176 and sec-
 22 tion 177 of the Livestock Grazing Act”.

23 (b) *REPEAL.*—Section 403 of the Federal Land Policy
 24 and Management Act of 1976 (43 U.S.C. 1753) is repealed.

Subtitle I—Reports**SEC. 181. REPORTS.**

(a) *IN GENERAL.*—Not later than March 1, 1997, and annually thereafter, the Secretary shall submit to Congress a report that contains—

(1) an itemization of revenues received and costs incurred directly in connection with the management of grazing on Federal land; and

(2) recommendations for reducing administrative costs and improving the overall efficiency of Federal rangeland management.

(b) *ITEMIZATION.*—If the itemization of costs under subsection (a)(1) includes any costs incurred in connection with the implementation of any law other than a statute cited in section 102, the Secretary shall include with specificity the costs associated with implementation of each such statute.

TITLE II—MANAGEMENT OF NATIONAL GRASSLANDS**SEC. 201. SHORT TITLE.**

This title may be cited as the “National Grasslands Management Act of 1995”.

SEC. 202. FINDINGS AND PURPOSE.

(a) *FINDINGS.*—The Congress finds that—

1 (1) *the inclusion of the National Grasslands*
2 *within the National Forest System has prevented the*
3 *Secretary of Agriculture from effectively administer-*
4 *ing and promoting grassland agriculture on National*
5 *Grasslands as originally intended under the*
6 *Bankhead-Jones Farm Tenant Act;*

7 (2) *the National Grasslands can be more effec-*
8 *tively managed by the Secretary of Agriculture if ad-*
9 *ministered as a separate entity outside of the Na-*
10 *tional Forest System; and*

11 (3) *a grazing program on National Grasslands*
12 *can be responsibly carried out while protecting and*
13 *preserving recreational, environmental, and other*
14 *multiple uses of the National Grasslands.*

15 (b) *PURPOSE.*—*The purpose of this title is to provide*
16 *for improved management and more efficient administra-*
17 *tion of grazing activities on National Grasslands while pre-*
18 *serving and protecting multiple uses of such lands, includ-*
19 *ing but not limited to preserving hunting, fishing, and rec-*
20 *reational activities, and protecting wildlife habitat in ac-*
21 *cordance with applicable laws.*

22 **SEC. 203. DEFINITIONS.**

23 *As used in this title, the term—*

24 (1) *“National Grasslands” means those areas*
25 *managed as National Grasslands by the Secretary of*

1 *Agriculture under title III of the Bankhead-Jones*
 2 *Farm Tenant Act (7 U.S.C. 1010–1012) on the day*
 3 *before the date of enactment of this title; and*

4 (2) “Secretary” means the Secretary of Agri-
 5 culture.

6 **SEC. 204. REMOVAL OF NATIONAL GRASSLANDS FROM NA-**
 7 **TIONAL FOREST SYSTEM.**

8 *Section 11(a) of the Forest Rangeland Renewable Re-*
 9 *source Planning Act of 1974 (16 U.S.C. 1609(a)) is amend-*
 10 *ed by striking the phrase “the national grasslands and land*
 11 *utilization projects administered under title III of the*
 12 *Bankhead-Jones Farm Tenant Act (50 Stat 525, 7 U.S.C.*
 13 *1010–1012),”.*

14 **SEC. 205. MANAGEMENT OF NATIONAL GRASSLANDS.**

15 (a) *IN GENERAL.*—The Secretary, acting through the
 16 *Chief of the Forest Service, shall manage the National*
 17 *Grasslands as a separate entity in accordance with this title*
 18 *and the provisions and multiple use purposes of title III*
 19 *of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–*
 20 *1012).*

21 (b) *CONSULTATION.*—The Secretary shall provide
 22 *timely opportunities for consultation and cooperation with*
 23 *interested State and local governmental entities and others*
 24 *in the development of land use policies and plans, and land*
 25 *conservation programs for the National Grasslands.*

1 (c) *GRAZING ACTIVITIES.*—*In furtherance of the pur-*
2 *poses of this title, the Secretary shall administer grazing*
3 *permits and implement grazing management decisions in*
4 *consultation, cooperation, and coordination with local graz-*
5 *ing associations and other grazing permit holders.*

6 (d) *REGULATIONS.*—*The Secretary shall promulgate*
7 *regulations to manage and protect the National Grasslands,*
8 *taking into account the unique characteristics of the Na-*
9 *tional Grasslands and grasslands agriculture conducted*
10 *under the Bankhead-Jones Farm Tenant Act. Such regula-*
11 *tions shall facilitate the efficient administration of grazing*
12 *and provide protection for the environment, wildlife, wild-*
13 *life habitat, and Federal lands equivalent to that on units*
14 *of the National Forest System.*

15 (e) *CONFORMING AMENDMENT TO BANKHEAD-JONES*
16 *ACT.*—*Section 31 of the Bankhead-Jones Farm Tenant Act*
17 *(7 U.S.C. 1010) is amended to read as follows:*

18 *“To accomplish the purposes of title III of this Act,*
19 *the Secretary is authorized and directed to develop a sepa-*
20 *rate program of land conservation and utilization for the*
21 *National Grasslands, in order thereby to correct maladjust-*
22 *ments in land use, and thus assist in promoting grassland*
23 *agriculture and secure occupancy and economic stability of*
24 *farms and ranches, controlling soil erosion, reforestation,*
25 *preserving and protecting natural resources, protecting fish*

1 *and wildlife and their habitat, developing and protecting*
 2 *recreational opportunities and facilities, mitigating floods,*
 3 *preventing impairment of dams and reservoirs, developing*
 4 *energy resources, conserving surface and subsurface mois-*
 5 *ture, protecting the watersheds of navigable streams, and*
 6 *protecting the public lands, health, safety and welfare, but*
 7 *not to build industrial parks or commercial enterprises.”.*

8 (f) *HUNTING, FISHING, AND RECREATIONAL ACTIVI-*
 9 *TIES.—Nothing in this title shall be construed as limiting*
 10 *or precluding hunting or fishing activities on National*
 11 *Grasslands in accordance with applicable Federal and*
 12 *State laws, nor shall appropriate recreational activities be*
 13 *limited or precluded.*

14 (g) *VALID EXISTING RIGHTS.—Nothing in this title*
 15 *shall affect valid existing rights, reservations, agreements,*
 16 *or authorizations. Section 1323(a) of Public Law 96–487*
 17 *shall continue to apply to non-Federal and interests therein*
 18 *within the boundaries of the National Grasslands.*

S 852 RS——2

S 852 RS——3

S 852 RS——4

S 852 RS——5

S 852 RS——6

S 852 RS——7

S 852 RS——8

S 852 RS——9

S 852 RS——10

S 852 RS——11