

112TH CONGRESS
1ST SESSION

S. 1129

To amend the Federal Land Policy and Management Act of 1976 to improve the management of grazing leases and permits, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2011

Mr. BARRASSO (for himself, Mr. ENZI, Mr. CRAPO, Mr. RISCH, Mr. THUNE, Mr. HELLER, and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Federal Land Policy and Management Act of 1976 to improve the management of grazing leases and permits, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Grazing Improvement
5 Act of 2011”.

6 **SEC. 2. TERMS OF GRAZING PERMITS AND LEASES.**

7 Section 402 of the Federal Land Policy and Manage-
8 ment Act of 1976 (43 U.S.C. 1752) is amended by strik-

1 ing “ten years” each place it appears and inserting “20
2 years”.

3 **SEC. 3. RENEWAL, TRANSFER, AND REISSUANCE OF GRAZ-**
4 **ING PERMITS AND LEASES.**

5 Title IV of the Federal Land Policy and Management
6 Act of 1976 (43 U.S.C. 1751 et seq.) is amended by add-
7 ing at the end the following:

8 **“SEC. 405. RENEWAL, TRANSFER, AND REISSUANCE OF**
9 **GRAZING PERMITS AND LEASES.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) ENVIRONMENTAL ANALYSIS.—The term
12 ‘environmental analysis’ means an environmental as-
13 sessment or an environmental impact statement re-
14 quired under the National Environmental Policy Act
15 of 1969 (42 U.S.C. 4321 et seq.).

16 “(2) SECRETARY CONCERNED.—The term ‘Sec-
17 retary concerned’ means—

18 “(A) the Secretary of Agriculture, with re-
19 spect to National Forest System land; and

20 “(B) the Secretary of the Interior, with re-
21 spect to land under the jurisdiction of the De-
22 partment of the Interior.

23 “(b) RENEWAL, TRANSFER, AND REISSUANCE.—A
24 grazing permit or lease issued by the Secretary, or a graz-
25 ing permit issued by the Secretary of Agriculture regard-

1 ing National Forest System land, that expires, is trans-
 2 ferred, or is waived after the date of enactment of this
 3 section shall be renewed or reissued, as appropriate,
 4 under—

5 “(1) section 402;

6 “(2) section 19 of the Act of April 24, 1950
 7 (commonly known as the ‘Granger-Thye Act’) (16
 8 U.S.C. 580l);

9 “(3) title III of the Bankhead-Jones Farm Ten-
 10 ant Act (7 U.S.C. 1010 et seq.); or

11 “(4) section 510 the California Desert Protec-
 12 tion Act of 1994 (16 U.S.C. 410aaa–50).

13 “(c) TERMS; CONDITIONS.—The terms and condi-
 14 tions contained in an expired, transferred, or waived per-
 15 mit or lease described in subsection (b) shall continue in
 16 effect under a renewed or reissued permit or lease until
 17 the date on which the Secretary concerned completes the
 18 renewed or reissued permit or lease that is the subject of
 19 the expired, transferred, or waived permit or lease, in com-
 20 pliance with each applicable law.

21 “(d) CANCELLATION; SUSPENSION; MODIFICA-
 22 TION.—A permit or lease described in subsection (b) may
 23 be cancelled, suspended, or modified in accordance with
 24 applicable law.

1 “(e) COMPLIANCE WITH NATIONAL ENVIRON-
2 MENTAL POLICY ACT OF 1969.—

3 “(1) IN GENERAL.—The renewal, reissuance, or
4 transfer of a grazing permit or lease by the Sec-
5 retary concerned shall be categorically excluded from
6 the requirement to prepare an environmental anal-
7 ysis if the decision continues the current grazing
8 management of the allotment.

9 “(2) APPLICABILITY REGARDING PERMITS AND
10 LEASES WITH MINOR MODIFICATIONS.—If the re-
11 newal, reissuance, or transfer of a grazing permit or
12 lease by the Secretary concerned contains only minor
13 modifications from the grazing permit or lease that
14 is the subject of the renewal, reissuance, or transfer,
15 the grazing permit or lease shall be categorically ex-
16 cluded from the requirement to prepare an environ-
17 mental analysis if—

18 “(A) monitoring of the allotment has indi-
19 cated that the current grazing management has
20 met, or has satisfactorily progressed towards
21 meeting, objectives contained in the land and
22 resource management plan of the allotment, as
23 determined by the Secretary concerned; and

24 “(B) the decision is consistent with the
25 policy of the Department of the Interior or the

1 Department of Agriculture, as appropriate, re-
 2 garding extraordinary circumstances.

3 “(f) PRIORITY AND TIMING FOR COMPLETING ENVI-
 4 RONMENTAL ANALYSES.—

5 “(1) IN GENERAL.—Notwithstanding section
 6 504 of the Emergency Supplemental Appropriations
 7 for Additional Disaster Assistance, for Anti-ter-
 8 rorism Initiatives, for Assistance in the Recovery
 9 from the Tragedy that Occurred at Oklahoma City,
 10 and Rescissions Act, 1995 (Public Law 104–19; 109
 11 Stat. 212), the Secretary concerned, in the sole dis-
 12 cretion of the Secretary concerned, shall determine
 13 the priority and timing for completing each required
 14 environmental analysis regarding any grazing allot-
 15 ment, permit, or lease based on the environmental
 16 significance of the allotment, permit, or lease and
 17 available funding for that purpose.

18 “(2) APPLICABILITY.—This subsection shall not
 19 apply to the renewal, reissuance, or transfer of a
 20 grazing permit or lease that is categorically excluded
 21 under subsection (e).”.

22 **SEC. 4. APPLICABILITY OF ADMINISTRATIVE PROCEDURE**
 23 **ACT TO GRAZING APPEALS.**

24 (a) FOREST AND RANGELAND RENEWABLE RE-
 25 SOURCES PLANNING ACT OF 1974.—Section 14 of the

1 Forest and Rangeland Renewable Resources Planning Act
 2 of 1974 (16 U.S.C. 1612) is amended by adding at the
 3 end the following:

4 “(c) APPLICABILITY OF ADMINISTRATIVE PROCE-
 5 DURE ACT.—With respect to a decision by the Secretary
 6 of Agriculture regarding a grazing permit, an appeal by
 7 a grazing permittee shall be conducted in accordance with
 8 subchapter II of chapter 5 of title 5, United States Code.”.

9 (b) FEDERAL LAND POLICY AND MANAGEMENT ACT
 10 OF 1976.—Section 402 of the Federal Land Policy and
 11 Management Act of 1976 (43 U.S.C. 1752) is amended
 12 by adding at the end the following:

13 “(i) APPLICABILITY OF ADMINISTRATIVE PROCE-
 14 DURE ACT.—

15 “(1) SECRETARY CONCERNED.—The term ‘Sec-
 16 retary concerned’ means—

17 “(A) the Secretary of Agriculture, with re-
 18 spect to National Forest System land; and

19 “(B) the Secretary of the Interior, with re-
 20 spect to land under the jurisdiction of the De-
 21 partment of the Interior.

22 “(2) APPLICABILITY OF ADMINISTRATIVE PRO-
 23 CEDURE ACT.—With respect to a decision by the
 24 Secretary concerned regarding a grazing permit or
 25 lease, an appeal by a grazing permittee shall be con-

1 ducted in accordance with subchapter II of chapter
2 5 of title 5, United States Code.

3 “(3) DEADLINE FOR FILING APPEALS.—An ap-
4 peal made under this subsection shall be filed not
5 later than 30 days after the date on which a decision
6 described in paragraph (2) is made.

7 “(4) SUSPENSION OF DECISIONS.—

8 “(A) IN GENERAL.—Except as otherwise
9 provided in this subsection, each decision by the
10 Secretary concerned regarding a grazing permit
11 or lease that is appealed under this subsection
12 shall be suspended until the date on which the
13 appeal is resolved.

14 “(B) DETERMINATION BY SECRETARY
15 CONCERNED.—A decision described in subpara-
16 graph (A) may not be suspended if the Sec-
17 retary concerned (including any other author-
18 ized official) determines there is an emergency
19 regarding a deterioration of resources.

20 “(5) CONTINUED USE OF GRAZING PERMIT OR
21 LEASE.—Except in a situation in which grazing use
22 for the preceding year was authorized on a tem-
23 porary basis, an applicant who was granted grazing
24 use in the preceding year may continue at the level

- 1 of authorized active use until the date on which the
- 2 appeal is resolved.”.

