Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 144847TA, filed June 2, 1978. Applicant: CHEMICAL TRANSPORT, P.O. Box 2644, Great Falls, MT 59403. Applicant's representative: Ray F. Koby, 300 Montana Building, Great Falls, MT 59403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Acid* (in bulk), (1) from Anaconda, MT, to the facilities of Western Nuclear, Inc., Near Wellpinit, WA, and (2) from Spokane, WA, to the facilities of Western Nuclear, Inc., near Wellpinit, WA, restricted to traffic having a prior movement by rail, under a continuing contract, or contracts, with Phelps Dodge Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Roger A. Small, Assistant General Traffic Manager, Phelps Dodge Corp., 300 Park Avenue, New York, NY 10022. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

PASSENGER CARRIER

No. MC 144602TA, filed March 30, 1978. Applicant: CONTINENTAL LIMOUSINE SERVICE, INC., 3123 N. Washington Boulevard, Arlington, VA 22201. Applicant's representative: Lewis E. Leibowitz, 1815 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, limited to prospective recruits in the U.S. armed forces and military personnel enroute to the Recruitment Testing Center, in possession of tickets issued by the Armed Forces authorizing them to utilize said transportation service, from the Armed Forces Recruiting Offices in Fairfax, VA, Falls Church, VA; Alexandria, VA; Washington, DC, and Hillcrest Heights, MD, on the one hand, to the Armed Forces Testing Center, Linthicum Heights, MD, on the other, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): 3535 USAF Recruiting SQ, Chief, Logistics Branch, Bolling AFB, DC 20332. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, Washington, DC 20423.

WATER CARRIER

No. W-1132 (Sub-No. 4TA), filed May 31, 1978. Applicant: BLACK NAVIGATION CO., INC., P.O. Box 1432, Fairbanks, AK 99701. Applicant's representative: Alan F. Wohlstetter, Law Offices of Denning & Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by water, in interstate or foreign commerce, by non-self-propelled vessels, with the use of separate towing vessels, in the transportation of: *General commodities*, except classes A and explosives, during the season extending from May 1, to October 30, both dates inclusive, of each year, (1) between points on the Kuskokwim River above Bethel and Kuskokwim, AK, including Bethel and Kuskokwim; and (2) between points on the Kuskokwim River above Bethel, AK, not including Bethel, on the one hand, and, on the other, Oscarville, Napaiskak, Napakiak, Tuntalunliag, Eek, Nunapitchuck, Kasigluk, and Moravian Orphanage, AK, restricted to traffic having an immediately prior or immediately subsequent movement by air, for 180 days. Supporting shipper(s): There are approximately (19) statements of support attached to the application which may be examined at the field office named below. Send protests to: Hugh H. Chaffee, Interstate Commerce Commission, 268 Federal Building, 605 West 4th Avenue, Anchorage, AK 99501.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-18484 Filed 7-3-78; 8:45 am]

[7035-01]

[Notice No. 108]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 29, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretray, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 111375 (Sub-No. 92TA), filed May 30, 1978. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Applicant's representative: Charles E. Dye, P.O. Box 3358, Madison, WI 53704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Yougurt*, from Reed City, MI and its commercial zone to CT, ID, and UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Yaplait, USA, Inc., 304 East Hammond, Otsego, MI 49078. Send protests to: Interstate Commerce Commission, Ronald A. Morken, District Supervisor, 139 West Wilson Street, Room 202, Madison, WI 53703.

No. MC 136315 (Sub-No. 29TA), filed May 23, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Pipe and fittings, valve boxes, water boxes, castings and accessories*, from the facilities of The Central Foundry Co. at or near Holt, AL, to points in IA, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Central Foundary Co., P.O. Box 188, Holt, AL 35401. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, room 212, 145 East Amite Building, Jackson, MS 39201.

No. MC 136315 (Sub-No. 30TA), filed May 23, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle over

irregular routes, transporting: *Dump trailers and platform trailers,* from the facilities of Dorsey Trailers, Inc., Hummels Wharf, PA, to points in AR, LA, MS, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dorsey Trailers, Inc., Hummels Wharf, PA 17831. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, room 212, 145 East Amite Building, Jackson, MS 39201.

No. MC 136803 (Sub-No. 7TA), filed June 2, 1978. Applicant: SIOUX CITY BULK FEED SERVICE, INC., 3324 Highway 75 North, Sioux City, IA 51105. Applicant's representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Feed and feed ingredients,* between Magnolia, MN, and points in IA, NE, and SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Plains Milling, Inc., P.O. Box 98, Magnolia, MN 56158. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 138206 (Sub-No. 4TA), filed May 23, 1978. Applicant: TRULINE CORP., 4455 South Cameron Avenue, Las Vegas, NV 89701. Applicant's representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. Authority sought to operate as a *common carrier,* by motor vehicle, over irregulr routes, transporting: *Gypsum products and gypsum board paper, and gypsum products,* from points in Clark County, NV, to Salt Lake City, UT, Gypsum Board Paper, from Florence, CO, to points in Clark County, NV, for 180 days. Supporting shipper(s): Flintkote Co., 2201 East Washington, Los Angeles, CA 90021. Send protests to: W. J. Huetig, District Supervisor, Interstate Commerce Commission, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

No. MC 138882 (Sub-No. 69TA), filed April 27, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Wheel weights, materials, equipment and supplies,* used in the manufacture and sale of wheel weights (except commodities in bulk), between the failities of Bada Co., Inc., division of Hennessey Industries Co., Bowling Green KY; and (2) *Tire changers, jacks, tire balancers, materials, equipment and supplies,* used in the manufacture and sale of tire changers, jacks and tire balancers (except commodities in bulk), between the facilities of Coats Co., Inc., division of Hennessey Industries Co., Nashville, TN, on the one hand, and, on the other, Augusta, Savannah, Macon, Lithonia, GA; Kokomo, Indianapolis, Paoli, Morristown, Mishawaka, IN; Cedar Falls, Davenport, Ames, Rock Valley, Monare, Webster City, Marion, IA; Livonia, Detroit, Warren, Adrian, Taylor, Lansing, MI; Omaha, NE; Dayton, Loveland, Youngstown, Akron, Findlay, Shelby, Warren, Toledo, OH; Dickson, TN; Beaver Dam, Milwaukee, Combined Locks, WI; Ormand Beach, Tampa, Auburndale, Miami, Daytona Beach, Orlando, FL; Franklin Park, Rockford, Effingham, Alington Heights, IL; Lenexa, Kansas City, St. Louis, MO; Kenner, LA; Lewiston, ME; Glen Burnie, MD; Quincy, Springfield, MA; Manchester, NH; Bound Brook, Cliffside Park, Newark, Piscataway, West Paterson, NJ; Emmaws, Freeland, Wilkes-Barre, Harrisburg, Tamaqua, Pittsburgh, Imperial, Glenside, PA; Pawtucket, Cranston, RI; Houston, Richardson, San Antonio, Fort Worth, Lubbock, Paris, Tyler, McAllen, TX; Little Rock, AR; Oklahoma City, OK; Tempe, AZ; San Leandro, Westminister, San Diego, Upland, Sunnydale, Redwood City, Oakland, Sacramento, Fresno, San Francisco, Riverside, CA; Albuquerque, NM; Portland, OR; Salt Lake City, UT; Seattle, Spokane, Tacoma, WA; Lenexa, KS; Minneapolis, MN; Garden City, Long Island, Freeport, Buffalo, Tonawanda, Syracuse, Rochester, NY; Birmingham, AL; Rocky Mount, Charlotte, Winston-Salem, Ayden, NC; Spartenburg, Summerville, SC, restricted to shipments having origin and destination at the above facilities, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hennessey Industries, Inc., LaVergne, TN 37086. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Al 35203.

No. MC 139917 (Sub-No. 4TA), filed May 16, 1978. Applicant: SEARAIL, INC. P.O. Box 909, 701 South Royal Street, Mobile, AL 36601. Applicant's representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *General commodities* in containers or trailers having an intermediate prior or subsequent movement by water, (except those of unusual value, classes A and B explosives, and commodities in bulk); (2) *General commodities,* having an intermediate prior or subsequent movement by rail (except those of unusual value, classes A and B explosives, and commodities in bulk), between the facilities of International Paper Co., Inc., at points in Florida west of the Apalachicola River, on the one hand, and, on the other, Pensacola, FL, for 180 days. Supporting shipper(s): International Paper Co., P.O. Box 160707, Mobile, AL 36616. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 139973 (Sub-No. 47TA), filed May 22, 1978. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, 909 Brown Street, Fulton, MO 65251. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except commodities the transportation of which because of size or weight require the use of special equipment), (1) from the facilities of Keystone Consolidated Industries, Inc., at or near Peoria, IL, to Greenville, MS, and; (2) from the facilities of Keystone Consolidated Industries, Inc., at or near Greenville, MS, to points in AR, TN, TX, LA and OK, for 180 days. Supporting shipper(s): Keystone Steel & Wire, Division of Keystone Consolidated Industries, Inc., Peoria, IL 61641. Send protests to: Veroon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 141033 (Sub-No. 40TA), filed April 21, 1978. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, P.O. Box 1257, City of Industry, CA 91749. Applicant's representative: A. J. Swanson, of Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Animal, fish, and poultry feed supplements,* (except frozen commodities and commodities in bulk), from the plantsite of Hoffmann-LaRoche, Inc., at or near Fort Worth, TX, to Henderson, KY, and points in AR, LA, MS, and MO, restricted to traffic originating at the plantsites of Hoffmann-LaRoche, Inc., at or near Fort Worth, TX, and destined to points in the named destination States, for 180 days. Supporting shipper(s): Hoffmann-LaRoche, Inc., One Sunset Avenue, Montclair, NJ 07042. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 141274 (Sub-No. 5TA), filed April 12, 1978. Applicant: C. C. ANKENEY, INC., P.O. Box 1034, Whittier, CA 90609. Applicant's representative: C. C. Anthony, P.O. Box 1034, Whittier, CA 90609. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Thermal or weatherproofing products, viz: weatherstripping and aluminum parts thereof; plastic fibre or sheet; tape sealing or masking, insulation or filters; fiberglass*, from the plantsites of Thermwell Products, Inc., at Patterson, NJ, to the plantsites at Los Angeles, CA, under a continuing contract, or contracts, with Thermwell Products Co., Inc., for 180 days. Supporting shipper(s): Thermwell Products Co., Inc., 150 East Seventh Street, Patterson, NJ 07524. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 142948 (Sub-No. 9TA), filed May 25, 1978. Applicant: THE GRADER LINE, INC., 434 Atlas Drive, Nashville, TN 37211. Applicant's representative: Edward C. Blank II, Middle Tennessee Bank Building, P.O. Box 1004, Columbia, TN 38401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shoes, shoe findings, store supplies, including advertising materials, and packaging and clothing*, from warehouse sites of Genesco, Inc., in Nashville, TN, and Huntsville, AL, to points in the States of CA, UT, and AZ, for 180 days. Supporting shipper(s): Genesco, Inc., 111 Seventh Avenue, North, Nashville, TN 37202. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No. MC 143363 (Sub-No. 1TA), filed May 25, 1978. Applicant: VOLUNTEER TRANSPORTATION, INC., Route 6, McMinnville, TN 37110. Applicant's representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes, parts and accessories thereto*, between Ogden, UT; Forest Park, GA; Palo Pinto, TX, and Richmond, KY on the one hand and , on the other, points in the United States (excluding HI), which have been declared by the President of the United States as disaster areas, for 180 days. Supporting shipper(s): Office of Emergency Preparedness, U.S. Department of Housing and Urban Development, Room 6268, 451 Seventh Street SW., Washington, DC 20410. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No. MC 144122 (Sub-No. 11TA), filed May 24, 1978. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Applicant's representative: Joseph Carretta, South 160, Route 17 North, Paramus, NJ 07652. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, moving on freight forwarder bills of lading (except articles of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and commodities which require special equipment), between the Chicago, IL commercial zone and the New York, NY commercial zone, for 180 days. Supporting shipper(s): C. S. Green & Co., Inc., Two Illinois Center, 233 North Michigan Avenue, Chicago, IL 60601. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

No. MC 144571 (Sub-No. 1TA), filed May 4, 1978. Applicant: ALBERT LEE HERBERT, d.b.a. ALH, P.O. Box 297, Iota, LA 70543. Applicant's representative: Albert Lee Hebert, P.O. Box 297, Rural Iota, Iota, LA. 70543. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough-sawed lumber*, from Chester, TX, to points having a destination in the following LA parishes: Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, LaFourche, Livingston, Orleans, Plaquemines, Point Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana, and Vermilion, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. supporting shipper(s): Elder Pallet & Lumber Sales, Inc., P.O. Box 1221, Opelousas, LA 70570. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 144667 (Sub-No. 1TA), filed May 3, 1978. Applicant: ARTHUR E. SMITH & SON TRUCKING, INC., P.O. Box 1054, Scottsbluff, NE 69361. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cellulose insulation and materials, equipment, and supplies* utilized in the sales and distribution thereof, from Scottsbluff, NE, to points in SD, ND, WY, MT, CO, KS, IA and MO, and (2) *materials, equipment, and supplies* utilized in the manufacture, sales, and distribution of commodities named in (1) above, from points in the destination States named above in (1) to Scottsbluff, NE, and (3) *fire retardant products*, from Torrington, WY, and points in its commercial zone to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Larry Meyers, President, Plains Insulation, Inc., 401 South Beltline Highway East, Scottsbluff, NE 69361. (2) Donald M. Steen, President, Chemicals International Ltd., 818 South Beltline Highway East, Scottsbluff, NE 69361. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 144668TA, filed April 24, 1978. Applicant: G & W TRANSPORTATION, INC., P.O. Box 1769, Tupelo, MS 38801. Applicant's representative: James N. Clay III, 2700 Sterick Building, Memphis, TN 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated boxes, materials, and supplies* used in the manufacture, sale, and distribution of corrogated boxes, from points in KY, TN, LA, MO, TX, OK, and AR, to Tupelo, MS. Restriction: Restricted to service performed under a continuing contract, or contracts, with General Packaging Specialties, Inc., of Tupelo, MS, and Great Southern Box Co., Inc., of Tupelo, MS; and (2) *polyurethane carpet padding*, from Tupelo, MS, to points in AL, AR, LA, OK, and TX. Restriction: Restricted to service rendered under a continuing contract, or contracts, with General Felt Industries, Inc., of New York, NY, and Olympic Products Co., division of Cone Mills Corp. of Tupelo, MS, for 180 days. Supporting shipper(s): (1) Great Southern Box Co., Inc., P.O. Drawer 1769, Tupelo, MS 38801; (2) General Packaging Specialties, Inc., P.O. Drawer 1769, Tupelo, MS 38801; (3) Olympic Products Co., division of Cone Mills Corp., 1116 South Canal Street, Tupelo, MS 38801; (4) General Felt Industries, Inc., Park 80 Plaza West-One, Saddle Brook, NJ 07662. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

No. MC 144717TA, filed May 3, 1978. Applicant: PERLEY D. CARMI-

CHAEL, d.b.a. Carmichael Bros., U.S. Hwy No. 1, Littleton, ME 04406. Applicant's representative: Robert G. Parks, 20 Walnut Street, First Floor, Wellesley Hills, MA 02181. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and, in connection therewith, equipment, materials, and supplies, used in the conduct of such business, from the facilities of First National Stores, Inc., at Windsor Locks, CT, to points in Aroostook County, ME, and to Rockland, Bangor, Waterville, and Old Town, ME, under a continuing contract, or contracts, with First National Stores, Inc., for 180 days. Supporting shipper(s): First National Stores, Inc., 500 North Street, Windsor Locks, CT 06096. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 305, 76 Pearl Street, Portland, ME 04111.

No. MC 144730 (Sub-No. 1TA), filed May 23, 1978. Applicant: VERLE BRUBAKER, P.O. Box 95, South English, IA 52335. Applicant's representative: Ron Brubaker (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Agricultural machinery*, from Keota, IA, to various points in the United States (excluding AK and HI), under a continuing contract, or contracts, with Ray-Man, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ray-Man, Inc. 515 East Broadway, Keota, IA 52248. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 144805TA, filed May 25, 1978. Applicant: M-K TRUCKING, INC., 810 First Street South, Hopkins, MN 55343. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: (1) *Kitchen and bathroom cabinets*, from Fergus Fall, MN, to all points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture of kitchen and bathroom cabinets, from all points in the United States (except AK and HI), to Fergus Falls, MN, under a continuing contract, or contracts, with Medallion Kitchens, Inc., Hopkins, MN, for 180 days. Supporting shipper(s): Medallion Kitchens, Inc., 810 First Street South, Hopkins, MN 55343. Send protests to: Delores A Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 144835TA, filed June 1, 1978. Applicant: LARRY BERRY, P.O. Box 698, Haleyville, AL 35565. Applicant's representative: Larry Berry (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Lumber and lumber products*, from Haleyville, AL, to TN, MO, IA, MN, MI, WI, IL, IN, OH, PA, NY, WV, and KY, for 180 days. Applicant will also operate as a private carrier, transporting his own lumber. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fullco Lumber Co., P.O. Box 617, Haleyville, AL 35565. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 144836TA, filed May 30, 1978. Applicant: TWIN CITY GRAIN DELIVERY, INC., Goldthwaite Road, P.O. Box 1115, Auburn, ME 04210. Applicant's representative: George S. Isaacson, 140 Lisbon Street, Lewiston, ME 04240. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Mixed poultry feed and ingredients*, from the feed mill facilities of Agway, Inc., in Manchester, NH, to points in ME, under a continuing contract, or contracts, with Agway, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Agway, Inc., 62 Academy Street, Auburn, ME 04210. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 76 Pearl Street, Room 305, Portland, Me 04111.

No. MC 144837TA, filed May 31, 1978. Applicant: WESTPORT TRUCKING, INC., 1205 Northwest Marshall, Portland, OR 97209. Applicant's representative: Steven R. Schell, 12th Floor, 707 Southwest Washington Street, Portland, OR 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Floor, wall, and countertop coverings, loose or in packages, including composition tile, cartoned and uncartoned plastic laminates, packaged and unpackaged metal moldings, and adhesives*, from Portland, OR, to points in Siskiyou, Shasta, and Tehama Counties, CA; and (2) *commodities* listed in (1) above, from Los Angeles, CA, to points in Klamath, Jackson, Josephine, Coos, Douglas, Lane, Benton, Linn, and Marion Counties, OR, and to Portland, OR, under a continuing contract, or contracts, with the Cronin Co., for 180 days. Supporting shipper(s): The Cronin Co., 1205 Northwest Marshall Street, Portland, OR 97209. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, OR 97204.

No. MC 144839TA, filed May 30, 1978. Applicant: MURRAY'S EXPRESS, INC., c/o Thomas Tucker, 135 English Village Road, Apt. 103, Manchester, NH 03102. Applicant's representative: Fred L. Potter, Sulloway, Hollis, Godfrey & Soden, 9 Capitol Street, P.O. Box 1256, Concord, NH 03301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations, soap, and costume jewelry* between all points within the State of NH, restricted to transportation service to be performed under a continuing contract, or contracts, with Avon Products, Inc., of Rye, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Avon Products, Inc., Rye, NY 10581. (Attn.: James L. Fogarty, Transportation Manager). Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Loudon Road, Concord, NH 03301.

No. MC 144846TA, filed June 1, 1978. Applicant: TRANSTATES, INC., 3216 East Westminister, Santa Ana, CA 92703. Applicant's representative: David P. Christianson, Knapp, Stevens, Grossman & Marsh, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Transformers and related electrical switching equipment*, from Jefferson City, MO, to CA, OR, WA, AZ, NV, UT, MT, ID, ND, and SD, for 180 days. Supporting shipper(s): Westinghouse Electric Corp., 290 Leger Road, Huntington, PA 15642. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-18485 Filed 7-3-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

1

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the June 29, 1978, agenda; M-144, Amdt. 4, June 6, 1978.

TIME AND DATE: 2 p.m., June 29, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1a. Docket 32921, Application of Airlift International, Inc., McDonnell Douglas Finance Corp., First Greyhound Leasing Co. for a disclaimer of jurisdiction (BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This application was received by the Dockets Section at 10:50 a.m., June 28, with Board action requested on or before June 30. The applicants seek a Board action by June 30, 1978, to avoid the loss of $12.6 million in tax credits. The draft order was completed by the staff at 1 p.m., June 29. Accordingly, the following Members have voted that agency business requires the addition of this item to today's agenda as item 1a and that no earlier announcement was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia

[S-1385-78 Filed 6-30-78; 3:41 pm]

[6730-01]

2

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 27641, June 26, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., June 30, 1078.

CHANGES IN THE MEETING: Addition of the following items to the open session:

2. Application for extension of Agreement No. 10140 between the Gulf/United Kingdom and Seatrain International S.A. and United States Lines.
3. Tariff strike provisions of Conferences serving Pacific Coast Ports.

[S-1382-78 Filed 6-30-78; 11:13 am]

[6210-01]

3

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, July 7, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: June 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1384-78 Filed 6-30-78; 3:41 pm]

[7020-02]

4

[USITC SE-78-33]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Wednesday, July 5, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Status of the grievance of Mr. Shewmaker.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1386-78 Filed 6-30-78; 3:41 pm]

[7020-02]

5

[USITC SE-78-32]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, July 13, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Welded stainless steel pipe and tube (Inv. AA1921-180)—briefing and vote.
2. Agenda.
3. Minutes.
4. Ratifications.
5. Petitions and complaints (if necessary):
   a. Fabricated steel (Docket No. 521),
   b. Portland cement from Canada (Docket No. 522), and
   c. Certain fish from Canada (Docket No. 523).
6. Consideration of P.O. 12044 (Improving Government Regulations).
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1387-78 Filed 6-30-78; 3:41 pm]

[3210-01]

6

OVERSEAS PRIVATE INVESTMENT CORPORATION (Meeting of the Board of Directors).

TIME AND DATE: Meeting of the OPIC Board of Directors, Tuesday, July 11, 1978 at 9 a.m. (closed portion); 10:30 a.m. (open portion).

PLACE: Offices of the Corporation, Seventh Floor Board Room, 1129 20th Street NW., Washington, D.C.

STATUS: The first part of the meeting from 9 a.m. to 10:30 a.m. will be closed to the public. The open portion of the meeting will start at 10:30 a.m.

MATTERS TO BE CONSIDERED:

Closed to the public, 9 a.m. to 10:30 a.m.

1. Personnel matters.
2. Revised agreement with Andean Pact Countries.
3. Insurance project in Caribbean.
4. Insurance project in Middle East.
5. Human rights: Review of projects in three countries.
6. Claims report.
7. Information reports.

FURTHER MATTERS TO BE CONSIDERED:

Open to the public, 10:30 a.m.

1. Approval of the minutes of the previous meeting.
2. Confirmation of CY-1978 Board meetings.
3. Testimonials.
4. Status of construction insurance.
5. Preferences for small investors/cooperatives.
6. Regulations for suspension related to Foreign Corrupt Payments Act.
7. Criteria for investment projects.
8. Investor mission program.
9. Multilateral investment incentives.

CONTACT PERSON FOR INFORMATION:

Information with regard to this meeting may be obtained from the Secretary of the Corporation at 202-632-1839.

ELIZABETH A. BURTON,
Corporate Secretary.

JUNE 30, 1978.

[S-1383-78 Filed 6-30-78; 11:13 am]

Federal Register

WEDNESDAY, JULY 5, 1978
PART II



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

■

RANGE MANAGEMENT AND TECHNICAL SERVICES

Grazing Administration and Trespass Regulations

[4310-84]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

[Circular No. 2433]

RANGE MANAGEMENT AND TECHNICAL SERVICES

Grazing Administration and Trespass

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: Rulemaking updates livestock grazing regulations for public lands and adds provisions required by the Federal Land Policy and Management Act of 1976. Changing and increasing land use demands and passage of the new act necessitate new rulemaking. This rulemaking changes the grazing regulations to allow for management flexibility to achieve multiple use, sustained yield, environmental, economic, and other objectives.

DATE: Effective August 4, 1978.

ADDRESS: Director (330), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION, CONTACT:

Maxwell T. Lieurance, Division of Range (330), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240, 202-343-6011.

SUPPLEMENTARY INFORMATION: The principal author of this final rulemaking is Allan W. Strobel of the Bureau of Land Management, Washington Office, Division of Range Management, assisted by staff of the Division of Legislation and Regulatory Management and Gail L. Achterman and Carolyn P. Osolinik of the Solicitor's Office, Department of the Interior.

Proposed rulemaking was first published in the FEDERAL REGISTER July 28, 1976. On October 21, 1976, the Federal Land Policy and Management Act was signed into law. The act required substantive changes in the initial proposed rulemaking. On July 8, 1977, proposed rulemaking was again published to include changes required by the Federal Land Policy and Management Act. It also reflected comments on the first proposed rulemaking. The proposed rulemaking, as amended, appeared on pages 35334-35344 of the FEDERAL REGISTER of July 8, 1977.

Comments were invited for 60 days ending September 6, 1977. Approximately 225 letters were received from individuals and groups many of whom had analyzed the proposed grazing regulations and submitted good thoughtful comments and suggestions. These letters have been reviewed and analyzed. The following summarizes the comments and suggestions received and the action taken on them.

OBJECTIVES

As suggested in a number of comments, the objectives of these regulations, under § 4100.0-2, are to "administer" livestock grazing on the public lands in a manner that will "protect" the land and its resources, etc., and not to "manage" livestock grazing on the public lands and to "preserve" the land and its resources, etc. We have changed the language of the objectives section so as to accurately reflect the objectives of the rulemaking.

DEFINITIONS

In response to several comments, and recommendations that certain terms be clarified, definitions were added to § 4100.0-5 for the terms "indigenous animal," "land use plan," "service area," and "supplemental feed." A large number of commenters requested that the regulations specify in the definition section who the "authorized officer" is. We feel the definition adequately describes who the authorized officer is. As further clarification, only the Director, State Director, District Manager or Area Manager have been "authorized" by the Secretary to act pursuant to these regulations. Any further delegation will be made public before it is instituted by the Department.

MANDATORY QUALIFICATIONS

As suggested, a change has been made in the provision under § 4110.1 which states that a corporation is qualified for grazing use on the public lands if it is authorized to conduct business in the State in which the grazing use is sought and if the controlling interest is vested in citizens of the United States. The citizenship requirement for the controlling interest has been deleted. This section now provides that a corporation is qualified for grazing use on the public lands if it is authorized to conduct business in the State in which the grazing use is sought.

GRAZING PREFERENCE ALLOCATION

It was suggested in a number of comments that the rulemaking should establish an equitable system for allocating forage among competing uses such as livestock and wildlife, under § 4110.2-2. Some commenters suggested that livestock should be given preference while others suggested that wildlife and other nonlivestock resources should be given preference.

Under the Bureau of Land Management't planning system, no particular land or resource use is given preference. In the planning process, each use is given equal consideration with all other uses in light of social, economic, environmental, and other pertinent information, and public comment and suggestions. During the planning process, areas may be identified as particularly valuable for livestock grazing, mining, timber production, wildlife, recreation, wild horses or burros, etc. Decisions are made during planning as to the land or resource use or uses for which an area will be managed and the vegetative and other resources will be allocated as appropriate.

These grazing regulations apply to the administration of livestock grazing on the public lands after it has been determined through the planning process what areas and how much forage are available for livestock grazing. Actions under these regulations must be consistent with the multiple use, sustained yield, environmental, economic, and other objectives included in the land use plans. Vegetative allocations are not made under these regulations, and even if they were, it would not be appropriate to include a specific priority or preference applicable to all public lands.

Serious concern was expressed in several of the comments about how these grazing regulations will affect the livestock operators now authorized to graze on the public lands administered by the Bureau of Land Management. Livestock operators with a grazing license, permit, or lease will be recognized as having a preference for continued grazing use on these lands. There adjudicated grazing use, their base properties, and their areas of use (allotments) will be recognized under these grazing regulations.

DECREASES IN FORAGE

The proposed regulations provided for cancellation of grazing permits or grazing leases and grazing preferences in whole or in part under § 4110.3-2 when the authorized grazing use exceeds the amount of forage available for livestock grazing within an allotment. It was suggested that this should not apply when the amount of forage available is reduced on a temporary basis in the case of drought, fire, or other short term situation. In response to these suggestions, the regulations have been changed to provide for suspension of grazing permits or leases, instead of cancellation, when the authorized grazing use exceeds the amount of forage available for livestock grazing within an allotment on a temporary basis.

CONFLICTING APPLICATIONS

Some comments suggested that it is illegal to consider whether or not an applicant will allow public ingress and egress across his privately owned or

controlled lands for public access to public lands in allocating livestock grazing use among conflicting applicants. This provision is only one of a number of factors listed under § 4110.5 that may be used in determining allocation of grazing use among conflicting applicants. This provision has been used historically in administering grazing lands leased under section 15 of the Taylor Grazing Act. This provision has been retained in this final rulemaking.

KIND/CLASS OF LIVESTOCK

Some comments suggested that the authorized officer should not specify the kind or class of livestock in grazing permits or leases. Section 4120.2-1 has been changed to provide that the authorized officer shall specify the kind of livestock. Under a new § 4120.2-2, he may specify the class of livestock. The authorized officer must have the authority to specify kind of livestock because certain public lands are better suited for grazing by one kind of livestock than another since different kinds of livestock use different kinds of forage. the authorized officer may also specify the breed and class of livestock since this is sometimes necessary for good range management. These provisions now appear in § 4120.2-2.

SUPPLEMENTAL FEEDING

A number of comments suggested that supplemental feeding of livestock on the public lands should be at the discretion of the permittees or lessees and that the authorized officer should have no control over when or where supplements are fed. The Bureau of Land Management understands the need for supplemental feeding. It is not the intent of § 4120.2-2 of the regulations that the authorized officer direct the permittees or lessees to feed supplements to their livestock or to dictate what supplements should be fed. The Bureau of Land Management recognizes that under certain emergency conditions, such as deep snow, feeding supplements may be necessary. The Bureau also recognizes that supplemental feeding, unless properly controled, tends to concentrate livestock. This may damage the basic vegetative-soil resources and must be prevented. If the feeding of concentrates or harvested feed, such as hay, becomes maintenance feeding rather than supplemental feeding, it indicates that the range is too heavily stocked and that action should be taken to adjust livestock use to the livestock grazing capacity. Placement of supplements also can affect other resource values such as archeological sites, critical wildlife areas, etc., and must be controlled to reduce these impacts.

ALLOTMENT MANAGEMENT PLANS

Several comments suggested that allotment management plans should include State and private lands only with the owner's consent. The Federal Land Policy and Management Act of 1976 provides that allotment management plans shall not refer to livestock operations or range improvements on non-Federal lands except where the non-Federal lands are intermingled with Federal lands *or* with the consent of the permittees or lessees where the non-Federal lands are associated with the Federal lands in the plan. Section 4120.2-3 of the regulations implements this provision of the Act adding only that these non-Federal lands must be unfenced as well as intermingled before they will be included in allotment management plans. It is not the intent of the Bureau of Land Management to take over the management of private and State owned lands. However, it is impossible to avoid considering some of these lands because of the particular management actions that may be required on unfenced intermingled public lands. In some cases this problem can be alleviated by fencing private and State lands so that they can be used separately from the public lands. In other cases, however, fencing would be impractical. Differences will develop and in some cases unpopular decisions may have to be made because of the requirements of various laws relating to the management of the public lands. This cannot be avoided but we hope will be addressed with a reasonable attitude by all parties involved. The Bureau of Land Management will strive to use exchange of use permits wherever possible in cases where major differences do arise. The utility of exchange of use permits has been broadened with these considerations in mind.

CLOSURE TO LIVESTOCK

Many comments suggested a change in the provisions under § 4120.3 of the regulations on closure to livestock. Some felt that the 2-year prior notification required by the Federal Land Policy and Management Act in other situations should apply; others felt that this section should apply to specific emergency situations, and others suggested that closure should occur only after approval by the permittee or lessee. The intent of this section is to provide for temporary closure for the protection of the soil, vegetative, or other resources on the public lands because of drought, fire, or other similar reasons. The regulations have been changed to include this reference to emergency situations. To be effective, the authorized officer must be able to close lands on very short notice. The 2-year notification requirement does not apply to a temporary closure of public lands because these closures can only be ordered in emergencies.

The 2-year prior notification requirement applies when the public lands will be devoted to another public purpose which precludes livestock grazing or when the Bureau of Land Management disposes of public lands. A specific exception is made for emergencies in these cases too.

RANGE IMPROVEMENTS

It was suggested that all range betterment funds should go back to the district or resource area from which the grazing fees were collected. Other suggestions were that the funds should be used only for materials and labor related to range improvements and that these improvements should be for the benefit of livestock grazing and not for wildlife or other resources. Section 4120.6 of the regulations, in keeping with the provisions of the Federal Land Policy and Management Act, provides that one-half of the range betterment fund shall be available for range improvements in the district from which the grazing fees were collected. The other one-half shall be available for range improvements at the discretion of the Director. In addition to materials and labor, range betterment funds shall be used for other things related to the installation, maintenance, or modification of range improvements such as planning, environmental assessment, design, survey, equipment purchase or rental, and supervision. These actions are considered an integral part of on-the-ground rehabilitation, protection, and improvement of the public lands. Range betterment funds should be used to improve fish and wildlife habitat and watershed protection as well as forage conditions and livestock production, as Congress recognized in section 401(b)(1) of the Federal Land Policy and Management Act.

COOPERATIVE AGREEMENTS/RANGE IMPROVEMENT PERMITS

In regard to maintenance of range improvements, these regulations do not require the permittee or lessee to get another permit to do maintenance work every time maintenance is needed. Maintenance responsibility will be specified in the cooperative agreements and range improvement permits, under §§ 4120.6-1 and 4120.6-2, when the improvements are authorized on the public lands.

GRAZING PERMITS AND LEASES

A number of comments were received suggesting that all grazing permits and leases be issued for 10-year terms. Several comments were made regarding the kinds of grazing permits and leases. The proposed regulations published on July 8, 1977, provided for the issuance of "regular," "management," and "custodial" grazing permits and leases. Although the term "custodial" was used nowhere else in

the proposed regulations, the general interpretation was that these custodial permits and leases would be issued to authorized livestock grazing on custodial allotments and that these allotments would be under custodial management. The term "custodial" has been interpreted in many ways. In many instances, the term "custodial management" has been interpreted to mean that management of the forage available for livestock grazing on public lands in custodial allotments will be at the discretion of permittees and lessees.

The Bureau of Land Management cannot abdicate its management responsibilities on the public lands. The Bureau is required to specify numbers of livestock, periods/seasons of use, and how it will manage livestock grazing on all allotments and is required to supervise grazing use to assure compliance with the regulations and terms and conditions of the grazing permits and leases. To prevent any misunderstanding or confusion concerning different kinds of grazing permits and leases, the regulations, in § 4130.2, have been changed to provide for one kind of permit or lease that will simply be called a "grazing" permit or lease. Terms and conditions, including allotment management plans, needed to achieve the management objectives for the public lands involved, will be incorporated into the grazing permits and leases. In respect to kinds of grazing permits and leases, the regulations parallel the Forest Service regulations which were published as final rules on October 28, 1977.

The provisions relating to terms of permits have been rewritten to reflect more clearly the language and intent of section 402(3) of FLPMA. Under the regulations as now written, grazing permits or leases will be offered to qualified livestock operators for a term of 10 years. Exceptions will be on a case-by-case basis and may be made only where there is good evidence that the issuance of a 10-year permit or lease would be detrimental to sound public land management or where the lands involved are pending disposal or will be devoted to another public purpose which precludes livestock grazing prior to the end of 10 years.

The terms and conditions of the permits and leases will provide that if problems with numbers of livestock, periods of use, or grazing capacity are later identified through the planning process and environmental assessment that appropriate adjustments in grazing use can be made.

Free-Use Grazing Permits

Several comments registered concern that the issuance of free-use grazing permits under § 4130.3 might result in reductions in established and recognized livestock operations on the public lands. The issuance of free-use grazing permits for livestock under regulations developed by the Secretary is mandated by section 5 of the Taylor Grazing Act. We have amended this section to make this clear.

Payments of Fees

Paragraph (a) under § 4130.5-1, relating to the annual establishment of grazing fees by the Secretary of the Interior, is reserved. Proposed rulemaking further amending this section was published in the FEDERAL REGISTER on November 23, 1977. Upon publication of this section as final rulemaking at a later date, it will be incorporated into these regulations. In the proposed rulemaking, this paragraph was shown as paragraph (c); it will be changed to paragraph (a) in the final rulemaking.

Many comments indicated there was confusion over § 4130.5-1(b) concerning the age livestock must reach before fees can be charged for grazing on the public lands. This section has been changed to coincide with the Forest Service regulations. The full fee shall be charged for all animals 6 months of age or over at the time of entering public lands, for all weaned animals regardless of age, and for the animals that will become 12 months of age during the authorized period of use. No charge will be made for animals under 6 months of age at the time of entering public lands, that are the natural progeny of animals upon which fees are paid, provided they do not become 1 year old during the authorized period of use. No charge will be made for progeny born during the authorized period of use.

Service Charge

Many comments recommended eliminating the service charge for each transfer of grazing preference and for each revised or supplemental billing notice initiated by the permittees or lessees. The service charge will be retained; however, it has been reduced from $25 to $10. The service charge will be the same as the minimum annual grazing fee of $10 and the minimum charge for each crossing permit, which is also $10. The establishment of a service-charge is provided for under section 304 of the Federal Land Policy and Management Act. Section 4130.6 of these regulations has been changed to provide that the service charge will be charged when changes in grazing use are approved and billing notices related to the affected grazing use have to be revised. To avoid the service charge, applications for changes in grazing use must be filed before billing notices are issued.

Acts Prohibited on Public Lands

Several comments indicated that the acts prohibited by § 4140.1 should apply to everyone and not just to grazing permittees and lessees. The words "permittees and lessees" have been deleted from the first sentence in this section.

Some commenters understood § 4140.1(b) to mean that non-use by permittees or lessees would jeopardize their grazing permits or grazing leases and grazing preferences. Making "substantial" grazing use as authorized does not require that the permittee or lessee make total active use each year. Sections 4130.1 and 4130.2 of the regulations provide for taking nonuse. Making substantial grazing use includes making nonuse as authorized. This provision now appears in § 4140.1(a)(2). Numerous comments were made suggesting that § 4140.1(c) be deleted. This section has been reworded and retained in the regulations. This provision now appears in § 4140.1(a)(3). It provides that supplemental feed cannot be placed on the public lands and other lands under Bureau of Land Management control without authorization. Salt may be placed on the public lands at the discretion of the permittee or lessee; however, under § 4120.2-2(c), the authorized officer may direct where salt is placed on these lands.

Some comments suggested the deletion of changing of § 4140.1(e), which provides that failure to finance range improvements when so directed by the authorized officer is a prohibited act. This section was changed to provide that refusing to install, maintain, modify, or remove range improvements when so directed by the authorized officer is a prohibited act. This provision now appears in § 4140.1(a)(5). Section 4140.1 has been divided into two paragraphs which show that violators of some of the prohibited acts may be subject to civil penalties while violators of other prohibited acts may be subject to criminal, as well as civil penalties. This division into two classes of prohibited acts is based on a decision that those acts in (a) are not criminal in nature and should not be subjected to criminal sanctions.

Unauthorized Grazing Use/ Settlement

Comments regarding settlement for unauthorized grazing use under § 4150.3 included suggestions that settlement fees should be reduced, that nonwillful violators should not have to make settlement, and that willful violators should not have their permits or leases suspended or canceled.

This section has been retained with a slight change which provides that for violations to be considered "repeated" it must also be determined that the violations are "willful". The amounts due in settlement for unauthorized grazing use provided for

under this section are considered fair to the general public and not unjustly severe to the violator. The intent of this provision is to discourage unauthorized grazing use. The suspension of a grazing permit or grazing lease in whole or in part or the cancellation of a grazing permit or grazing lease and grazing preference in whole or in part under § 4170.1 for repeated, willful unauthorized grazing use will also act as a further deterrent to such use.

Common sense and discretion will be employed in the application of the provisions of these regulations relating to unauthorized grazing use. Where prompt corrective action is taken by permittees and lessees or in cases where the unauthorized grazing use is of an innocent nature, appropriate action can be taken under these regulations. However, the authority is there, when it is needed, to effectively handle cases of unauthorized grazing use.

Unauthorized Grazing Use/ Impoundment

A number of comments suggested that inpoundment and sale of unauthorized livestock under § 4150.5 should be under State law. The regulations provide that the Bureau of Land Management will impound unauthorized livestock grazing on the public lands when impoundment is necessary. Where a suitable agreement with the State is in effect, the impounded livestock may be turned over to the State for appropriate action.

Where the State has not entered into a suitable agreement with the Bureau Of Land Management, the authorized officer shall sell, or otherwise dispose of, the impounded livestock under these regulations. When livestock are sold by the authorized officer under these regulations, he furnishes the purchaser a bill of sale. The purchaser enjoys all privileges related to ownership of those livestock.

Decisions/Protests/Appeals

Comments were made that the permittees and lessees should have the right to protest and/or appeal decisions of the authorized officer under specific sections of the regulations. Rather than include the right of protest and/or appeal in each section under which a decision may be issued, the right to protest and/or appeal any decision issued under these regulations is provided in §§ 4160.2 and 4160.4. Any applicant, permittee, lessee, or any other person whose interest is adversely affected by a proposed decision of the authorized officer may protest the decision to the authorized officer. Any applicant permittee, lessee, or any other person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision to an Administrative Law Judge. Decisions of an Aministrative Law Judge may be appealed for review to the Interior Board of Land Appeals.

The administrative remedies included in these regulations are the same administrative remedies which are in the current grazing regulations. The only difference is that the same remedies now apply to the applicants and permittees under section 3 of the Taylor Grazing Act as well as to the applicants and lessees under section 15 of that act. Previously, the remedies pertaining to section 3 were different from those pertaining to section 15.

Show Cause

Because of the necessity to impose timely disciplinary action when a permittee or lessee has willfully or repeatedly violated provisions of these regulations, § 4160.5, providing for show cause, has been added to these regulations. When it is deemed advisable, the authorized officer shall serve a show cause notice on the permittee or lessee, stating the alleged violation and citing the permittee or lessee to appear before an administrative law judge at a designated time and place to show cause why his grazing permit or grazing lease should not be suspended in whole or in part or why his grazing permit or grazing lease and grazing preference should not be canceled in whole or in part.

Federal or State Laws or Regulations

Some commenters suggested deletion of § 4140.1(L), which provides that violating any Federal or State laws or regulations concerning conservation or protection of natural and cultural resources or the environment is a prohibited act under these regulations and deletion of § 4170.1-2 which provides the penalty for such actions. They contend that these provisions are unfair because they punish the permittees and lessees twice, once under the conservation laws or regulations violated and then again under these regulations. Other commenters suggested that this section be strengthened to allow the authorized officer to make determinations about violations of other State and Federal statutes and regulations, and to penalize permittees and lessees when he found there had been violations. It would be a great administrative burden for BLM to enforce directly a myriad of unfamiliar statutes and regulations. The regulations attempt to strike a reasonable balance between the two. After careful consideration, both of these sections have been retained; § 4140.1(L) has been changed to § 4140.1(b)(8) and § 4170.1-2 has been changed to provide that a penalty may be imposed under these regulations where a permittee or lessee has been found to be in violation of the conservation laws and regulations by a court of competent jurisdiction. These provisions are necessary because in some instances violation of these laws and regulations indicates that a permittee or lessee has insufficient regard for the public lands and their resources to warrant continuation of his preference. Violators who do not have a grazing preference on the public lands will be penalized under other laws and regulations, as applicable.

Advisory Boards

A few commenters suggested that grazing advisory boards should be established to help resolve conflicts and make recommendations to the authorized officer and that the regulations for these advisory boards be included in the grazing regulations. The Federal Land Policy and Management Act provides for establishment of grazing advisory boards if they are wanted by the permittees and lessees in an area. The boards are authorized to offer advice and make recommendations to the authorized officer concerning the development of allotment management plans and the utilization of range betterment funds. The regulations for grazing advisory boards will not be included in these regulations, but are included with other regulations related to advisory boards in subpart 1784.

Wild Horses and Burros

Many comments reflected concern that §§ 4720.3, 4730.3, and 4730.4 of the wild horse and burro regulations, published with these regulations on July 8, 1977, contradicted the purpose and objectives of the grazing regulations. These sections were published word for word as formerly approved merely for the purpose of changing cross references to conform to the new grazing regulations. While there is specific direction in the wild horse and burro regulations relative to closing areas to livestock grazing and allocating all the available forage to wild horses and burros, this action depends on land use plans that specify areas which shall in fact be managed exclusively for wild horses or burros. These decisions are not made independently under the grazing administration or wild horse and burro regulations. The planning process provides for public participation during which all interested parties have the opportunity to make known their views and suggestions relative to proposals that may lead to these land use decisions.

Changes and Corrections

Editorial changes and corrections have been made as necessary.

Other Changes

The proposed rulemaking of July 28, 1976, contained two changes in the ex-

isting grazing administration regulations that were not republished in the second proposed rulemaking of July 8, 1977. These two changes were not republished because no substantive comments were received on them as a result of the publication of the first proposed rulemaking on grazing administration and trespass. The first of these two changes is a recodification of the grazing administration regulations as they pertain to Alaska. This recodification is necessary to accommodate a change in the coding for the new grazing administration and trespass regulations, exclusive of Alaska. The second change is the deletion of all of the regulations now encompassed in group 4200 because they are no longer applicable.

AUTHORITY

Under the authority of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315, 315(a)-315(r)), section 4 of the act of August 28, 1937 (43 U.S.C. 1181(d)), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), groups 4100, 4200, 4300, and 4700, subchapter D and group 9200, subchapter I, chapter II, title 43 of the Code of Federal Regulations are amended as set forth below.

GUY R. MARTIN,
Assistant Secretary of the Interior.

JUNE 28, 1978.

1. Group 4200 is deleted from Subchapter D, Chapter II, Title 43 of the Code of Federal Regulations.

2. Part 4130 of group 4100 is recodified as group 4200 and 4300 as set forth below:

Group 4200—Grazing Administration; Alaska; Livestock

PART 4200—GRAZING ADMINISTRATION; ALASKA; LIVESTOCK

Subpart 4200—Grazing Administration; Alaska; Livestock; General

Sec.
4200.0-2 Objectives.
4200.0-3 Authority.
4200.0-5 Definitions.

Subpart 4210—Conditions

4210.1 Grazing districts.
4210.2 Land subject to lease.
4210.3 Qualifications of applicants.
4210.4 No right acquired by applicant prior to lease.

Subpart 4220—Procedures

4220.1 Applicants.
4220.2 Application for lease.
4220.3 Maximum number of stock.
4220.4 Annual rental.
4220.5 Reduction in excessive leased area.
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4220.7 Leases.
4220.8 Stock driveways; crossing permits; quarantine regulations.
4220.9 Range improvements.

Subpart 4230—Disposition of Leased Lands

4230.1 Settlement, location, and acquisition.
4230.2 Mineral prospecting, location, and purchase.

Subpart 4240—Protests, Hearings, and Appeals

4240.1 Protests.
4240.2 Hearings.

AUTHORITY: Taylor Grazing Act of 1934, as amended (43 U.S.C. 315, 315(a)-315(r)), section 4 of the act of August 28, 1937 (43 U.S.C. 1181(d)), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

Subpart 4200—Grazing Administration; Alaska; Livestock; General

§ 4200.0-2 Objectives.

The beneficial utilization of the public lands in Alaska for the purpose of livestock grazing shall be conducted in such manner as may be considered necessary and consistent with the purposes of the act but shall be subordinated to the development of their mineral resources, to their use for agriculture, to the protection, development, and utilization of their forests and to the protection, development, and utilization of such other resources as may be of greater benefit to the public.

§ 4200.0-3 Authority.

The act of March 4, 1927, as amended (43 U.S.C. 316, 316a-316o), authorizes the Secretary of the Interior to establish grazing districts upon any public lands in Alaska, surveyed or unsurveyed, outside of the Aleutian Islands Reservation, outside of national forests and other reservations administered by the Secretary of Agriculture and outside of national parks and monuments, and to lease such lands for the grazing of livestock thereon. Section 316f provides that a lease may be made for such term as the Secretary deems reasonable, but not to exceed 55 years, taking into consideration all factors that are relevant to the exercise of the grazing privileges.

§ 4200.0-5 Definitions.

As used in this subpart:

(a) "Secretary" means Secretary of the Interior;

(b) "Director" means Director, Bureau of Land Management;

(c) "Authorized officer" or "manager" means the designated official of the Bureau of Land Management, in whose district the lands involved are situated, who has been delegated the authority to issue grazing leases;

(d) "The act" means the act of March 4, 1927, as amended (43 U.S.C. 316, 316a-316o);

(e) "Person" means individual, partnership, corporation, or association;

(f) "Native" means any member of the aboriginal races inhabiting Alaska, of whole or not less than half blood;

(g) "District" means any grazing district established under the act;

(h) "Animal unit month" means the forage consumed or grazing privileges represented by the grazing of one cow or its equivalent for 1 month. For the purpose of this definition, one cow shall be condsidered the equivalent of one horse, or five sheep or five goats.

Subpart 4210—Conditions

§ 4210.1 Grazing districts.

(a) *Establishment.* Pursuant to the act, grazing districts are hereby established, the boundaries of which shall be coextensive with the boundaries of the public land districts in Alaska.

(b) *Leases on acreage basis.* Grazing leases will be granted only for such areas as may be deemed adequate and usable according to the needs of the lessee. Leases will provide for grazing on a definite area, and on an acreage basis, except where peculiar local conditions or the difficulties of administration make more practicable a lease based on the number of livestock to be grazed.

§ 4210.2 Lands subject to lease.

Vacant, unreserved, and unappropriated public lands are subject to lease. Where these lands are embraced within the natural grazing grounds or routes of migration of animals such as caribou or moose, or have other important values for wildlife, the lands may be leased, in the discretion of the manager, subject to such special terms and conditions as may be determined. Except as to those reservations described in § 4200.0-3 public lands within the boundaries of a grazing district which have been withdrawn for any purpose may be leased with the prior consent of the Department or agency having administrative jurisidiction thereof and subject to such additional terms and conditions as such Department or agency may impose.

§ 4210.3 Qualifications of applicants.

An applicant for a grazing lease is qualified if the applicant:

(a) Is a citizen of the United States, or

(b) Has on file before a court of competent jurisdiction a valid declaration of intention to become a citizen, or a valid petition for naturalization, or

(c) Is a group, association, or corporation organized under the laws of the United States or of any State or Territory thereof, authorized to conduct business in Alaska, and the controlling interest in which is vested in persons who would be qualified under either paragraph (a) or (b) of this section.

§ 4210.4 No right acquired by applicant prior to lease.

The filing of an application will not segregate the land applied for from application by other persons for a grazing lease, or from other disposition under the public land laws. As the issuance of a lease is discretionary, the filing of an application for a lease will not in any way create any right in the applicant to a lease, or to the use of the lands applied for pending the issuance of a lease. Any such unauthorized use constitutes a trespass.[1]

Subpart 4220—Procedures

§ 4220.1 Applicants.

(a) *Classes of applicants and preference.* Applicants for grazing leases shall be given preference in the following order:

(1) Natives.

(2) Bona fide settlers.

(3) Other qualified applicants.

(b) *Assertion of preference rights.* Any person claiming a preference right to a lease under paragraph (a) of this section must furnish with the application required under § 4220.2(a) a statement setting forth the facts on which such claim is made.

§ 4220.2 Application for lease.

(a) *Form used.* An application for grazing lease must be executed in duplicate on a form approved by the Director, and filed with the manager.

(b) *Schedule of operations.* The application must be accompanied by a schedule of the applicant's proposed annual program to develop and increase the number of livestock which will be grazed on the land, and showing the applicant's need for all the land applied for, to provide forage for the maximum number of livestock which the applicant intends to graze thereon.

(c) *Financial responsibility.* The applicant, upon request by the manager, must also furnish evidence of his financial responsibility consisting of a showing that he has the financial means or has made arrangements with an established financial institution to provide the capital necessary to commence and maintain his proposed schedule of operations.

§ 4220.3 Maximum number of stock.

The lease will indicate the maximum number of stock which may be grazed on the leased area, based on the condition of the range and its accessibility for summer and winter feeding. The manager may adjust the maximum number from time to time as the condition of the range may warrant.

§ 4220.4 Annual rental.

(a) *Amount.* Unless otherwise provided, each lessee shall pay to the Bureau of Land Management such rental per acre, per head, or per animal unit month, as may be determined to be a fair charge for grazing of livestock on the leased land. The rental under any grazing lease may be adjusted every 3 years. The date for making the annual payment will be specified in the lease. If the rental is to be paid according to the number of animals grazed, no charge will be made for the natural increase of grazing animals until the beginning of the following lease year.

(b) *Adjustment or waiver.* The manager, if he determines such action to be in the public interest by reason of: (1) depletion or destruction of the range by any cause beyond the control of the lessee, or (2) calamity or disease causing wholesale destruction of or injury to livestock, may grant an extension of time for making payment, or reduce or waive the grazing fee under a lease so affected. An application for the desired relief should be filed with the manager and should state all pertinent details and itemize the losses sustained.

(c) *Payment.* The first rental payment required and the return of the proposed lease duly executed by the prospective lessee shall be made within 30 days of receipt of the lease form by the prospective lessee; if the rental is not paid or the lease is not returned within the prescribed time, the offer shall be null and void and of no effect, and all rights of the prospective lessee thereunder or under the application upon which it is based shall be considered as terminated. Subsequent rental payments for succeeding lease periods are payable in advance. In the event such payment is not received in the proper office by the last day of the current lease period or within the time prescribed in the billing notice whichever is the later, the case shall be considered canceled and all rights terminated thereunder as of the end of such current lease period; except the lease shall not terminate if the lessee submits payment to the proper office within a grace period of 60 days following the last day of the current lease period together with a showing satisfactory to the authorized office that the delay in rental payment was for unavoidable reasons and that termination of the lease would cause undue hardship to the lessee.

§ 4220.5 Reduction in excessive leased area.

Whenever, in the opinon of the manager, the leased land is excessive for the number of livestock to be grazed by the lessee, the manager may, after 30 days' notice to the lessee, reduce the lease area to the extent necessary, and the annual rental, if on an acreage basis, shall be reduced proportionately, effective at the beginning of the next lease year.

§ 4220.6 Free grazing permits.

Any person may file application in duplicate on a form approved by the Director, for a permit to graze, free of charge, not to exceed the number of livestock whose products are consumed or whose work is directly and exclusively used by the applicant or his family, for a term of not more than 1 year.

§ 4220.7 Leases.

(a) *Issuance of lease.* If the application is complete and it is determined that a lease should be issued, the manager will prepare a proposed lease, with necessary copies, on a form approved by the Director, for execution by the applicant. The forms, signed by the applicant, must be forwarded promptly to the manager, together with any required rental payment. The lease will be dated as of January 1 of the year in which it is issued, and the required rental for the first year will be adjusted on a pro rata monthly basis to cover that protion of the year subsequent to the lease issuance.

(b) *Report of grazing operations.* Before April 1 of the second lease year and each lease year thereafter, the lessee shall file with the manager a report, in duplicate, on a form approved by the Director, of his grazing operations during the preceding year.

(c) *Assignments.* No part of the leased land may be subleased. Any proposed assignment of a lease, in whole or in part, must be filed in duplicate with the authorized officer within 90 days of its execution. Assignments will be executed on a form approved by the Director and must be accompanied by the application on a form approved by the Director, executed in duplicate, together with the same showing by the assignee as to qualifications and stock development schedule as would be required of applicants for a new lease, including financial responsibility when specifically requested by the manager. The assignee's acceptance of the lease offered pursuant to the grazing lease assignment shall constitute his acceptance of the lease terms. No assignment will be recognized nor will it confer on the assignee any rights to the leased area until a lease therefor is issued to him.

(d) *Renewals.* An application for renewal of a grazing lease should be executed and filed in duplicate on a form approved by the Director not less than 4 months but not more than 8 months before the expiration date of the lease

[1] It is unlawful for any person to graze any class of livestock on the public lands in grazing districts in Alaska, except under authority of a lease or permit granted under the act. Any person who wilfully grazes livestock in such areas without such authority shall, upon conviction, be punished by a fine of not more than $500. (Sec. 12, act of March 4, 1927; 43 U.S.C. 316k, and notice approved March 7, 1929.)

term. The renewal lease, if issued, will contain such terms and conditions as the manager may determine.

(e) *Rights reserved.* Grazing leases under this part shall be subordinated to and shall be subject to modification or reduction by the manager to the extent necessary to permit:

(1) The protection, development, and utilization, under applicable laws and regulations, of the mineral, timber, water, and other resources on or in the leased lands, including their use for agriculture.

(2) The allowance of applications for and the acquisition of homesites, easements, permits, leases, or other rights and uses, pursuant to applicable public land laws, where the same are in the public interest or will not unduly interfere with the use of the area for grazing purposes.

(3) The temporary closing of portions of the leased area to grazing whenever, because of improper handling of the stock, overgrazing, fire or other cause, such action is deemed necessary to restore the range to its normal condition.

(f) *Restrictions.* No lessee may so enclose roads, trails, or other highways as to disturb public travel thereon, nor interfere with existing communication lines or other improvements on the leased area; he shall not prevent legal hunting, fishing, or trapping on the land, or the ingress of miners, mineral prospectors, and other persons entitled to enter the area for lawful purposes.

(g) *Termination.* A lease may be surrendered by the lessee upon prior written notice filed with the manager, effective upon the date indicated in such notice but no less than 30 days from the date of filing, provided the lessee has complied with the terms and conditions of the lease and has paid all charges due thereunder.

(h) *Cancellation.* A lease may be canceled by the manager if the lease was issued improperly through error with respect to a material fact or facts, or if the lessee shall fail to comply with any of the provisions of the lease or of this part. No lease will be canceled for default in complying with the provisions of the lease or of this part until the lessee has been notified in writing of the nature of the default and has been afforded an opportunity to show why the lease should not be canceled.

§ 4220.8 Stock driveways; crossing permits; quarantine regulations.

(a) *Stock driveways.* The manager may establish stock driveways for the regular crossing of livestock across public lands, in such form and manner as he may determine.

(b) *Crossing permits.* A permit for the crossing of livestock on a stock driveway or other public lands, including lands under grazing lease, may be issued free of charge, upon the filing of an application on a form approved by the Director, in duplicate, with the authorized officer at least 30 days prior to the date the crossing is to begin.

(c) *Quarantine regulations.* Persons driving or transporting stock across any public lands must comply with the quarantine and other sanitary laws prescribed by the Territorial or other proper authorities.

§ 4220.9 Range improvements.

(a) *Permits for construction and maintenance.* Application for a permit to construct and maintain range improvements should be filed with the authorized officer in duplicate on a form approved by the Director. The lessee, upon obtaining an executed permit from the authorized officer, may construct, maintain, and utilize authorized fences, buildings, corrals, reservoirs, wells, or other improvements needed for the exercise of the grazing privileges under the lease. The lessee will be required to comply with the laws of the State of Alaska with respect to the construction and maintenance of fences, but any such fence shall be constructed to permit the ingress and egress of minerals, prospectors for miners, and other persons entitled to enter such area for lawful purposes. The lessee, upon written approval by the authorized officer, may improve by seeding or reseeding within the lease area and may harvest hay or ensilage from such seeded or reseeded areas provided that the forage so produced is used primarily as feed for the lessee's livestock. The authorized officer may approve the assignment of range improvements upon receipt of an application for such assignment on a form approved by the Director.

(b) *Removal of improvements and personal property.* (1) Improvements, fixtures, or personal property (other than livestock) may not be removed from the lands unless all moneys due the United States under the lease have been paid.

(2) If all moneys due have been paid and the lessee, on or before the termination of his lease in whole or in part for any reason, notifies the manager of his determination to leave on the land involved in such termination improvements, the construction or maintenance of which has been authorized, no other person shall use or occupy, under any permit, lease, or entry under any public land law, the land on which such improvements are located, until there has been paid to the person entitled thereto the value of such improvements. If the interested parties are unable to reach an agreement as to such value, the amount may be fixed by the manager. All such agreements, to be effective, must be approved by the manager. The failure of the subsequent permittee, lessee, or entryman to pay the former lessee in accordance with such agreement will be just cause for the cancellation of the permit, lease, or entry.

(3) In the absence of a notice by the lessee in accordance with subparagraph (2) of this paragraph the lessee shall, within 90 days from the date of expiration or termination of the lease, and if all charges due thereunder have been paid, remove all personal property belonging to him, together with any fence, building, corral, or other removable range improvements owned by him. All such property which is not removed within the time allowed shall thereupon become the property of the United States.

Subpart 4230—Disposition of Leased Lands

§ 4230.1 Settlement, location, and acquisition.

Lands leased under the act are not subject to settlement, location, and acquisition under the nonmineral public land laws applicable to Alaska unless and until the authorized officer of the Bureau of Land Management determines that the grazing lease should be canceled or reduced in order to permit, in the public interest and without undue interference with the grazing operations, the appropriate development and utilization of the lands (see § 4220.7(e)) and that the lands are suitable for and otherwise subject to the intended settlement, location, entry, or acquisition. An application on the appropriate form or a notice on a form approved by the Director if applicable to the class of entry contemplated, will be accepted and treated as a petition for determination. Upon such determination and after not less than 30 days' notice thereof to the lessee, the grazing lease may be canceled or reduced to permit the settlement, location, entry or other acquisition of the lands so eliminated from the lease, and the petitioner will be accorded a preference right to settle upon or enter the lands in accordance with the determination.

§ 4230.2 Mineral prospecting, location, and purchase.

Unless otherwise withdrawn therefrom, lands leased under the act are subject to disposition under the mineral leasing laws and to mineral prospecting, location, and purchase under the mining laws, in accordance with the applicable regulations of group 3800 of this chapter.

Subpart 4240—Protests, Hearings, and Appeals

§ 4240.1 Protests.

Protests against an application for a lease should be filed in duplicate, with

the manager, contain a complete disclosure of all facts upon which the protest is based, and describe the lands involved in such protest; and should be accompanied by evidence of service of a copy of the protest upon the applicant. If the protestant desires to lease all or part of the land embraced in the application against which the protest is filed, the protest should be accompanied by an application for a grazing lease.

§ 4240.2 Hearings.

Any lessee of or applicant for grazing privileges may procure a review of any action or decision of the authorized officer by filing with such officer an application for a hearing, stating the nature of the action or decision complained of and the grounds of complaint. The filing of any such application and the conduct of the proceedings before an administrative law judge shall be governed by § 4.450 of this title.

Group 4300—Grazing Administration; Alaska; Reindeer

PART 4300—GRAZING ADMINISTRATION; ALASKA; REINDEER

Subpart 4300—Grazing Administration; Alaska; Reindeer; General

Sec.

4300.0-3 Authority.
4300.0-5 Definitions.

Subpart 4310—Conditions

4310.1 Lands subject to grazing permit.
4310.2 Qualifications of applicants.
4310.3 No right acquired by applicant prior to issuance of grazing permit.
4310.4 Rights reserved; public land laws applicable.
4310.5 Location, settlement, entry, and other disposition of lands included in grazing permit; notice to permittee of disposition and reduction of permitted area.

Subpart 4320—Procedures

4320.1 Application for grazing permit.
4320.2 Filing fee; grazing fee.
4320.3 Term of grazing permit; renewals.
4320.4 Area of use and maximum number of reindeer.
4320.5 Adjustment of grazing permit area.
4320.6 Report of grazing operations; assignments allowed.
4320.7 Termination of grazing permit; cancellation.
4320.8 Crossing permits.
4320.9 Permits for construction and maintenance of improvements; removal.

Subpart 4330—Protests

4330.1 Protests.

Subpart 4340—Trespass

4340.1 Trespass.

AUTHORITY: Taylor Grazing Act of 1934, as amended (43 U.S.C. 315, 315(a)-315(r)), section 4 of the act of August 28, 1937 (43 U.S.C. 1181(d)), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

Subpart 4300—Grazing Administration; Alaska; Reindeer; General

§ 4300.0-3 Authority.

Section 12 of the act of September 1, 1937 (50 Stat. 902), authorizes the Secretary of the Interior to promulgate such rules and regulations as, in his judgment, are necessary to carry into effect the provisions of this act.

§ 4300.0-5 Definitions.

(a) "Reindeer" includes reindeer and such caribou as have been introduced into animal husbandry or have actually joined reindeer herds and the increase thereof.

(b) "Natives" include the native Indians, Eskimos, and Aleuts of whole or part blood inhabiting Alaska at the time of the Treaty of Cession of Alaska to the United States and their descendants of whole or part blood, together with the Indians and Eskimos who, since the year 1867 and prior to September 1, 1937, have migrated into Alaska from the Dominion of Canada, and their descendants of whole or part blood.

(c) "Bureau" means Bureau of Land Management.

(d) "Director" means Director, Bureau of Land Management.

(e) "Authorized Officer" means the Bureau official who has been authorized to issue a reindeer grazing permit.

(f) "The act" means the act of September 1, 1937 (50 Stat. 902).

Subpart 4310—Conditions

§ 4310.1 Lands subject to grazing permit.

Vacant and unreserved and unappropriated public lands are subject to inclusion in a reindeer grazing permit. Where these lands are within the natural migration routes of caribou, or when they have other important wildlife values, the lands may be included in a permit, at the discretion of the authorized officer after consultation with the Alaska Department of Fish and Game, subject to such special terms and conditions as may be jointly agreed upon. Public lands which have been withdrawn for any purpose may also be included in a grazing permit with the prior consent of the Department or agency having administrative jurisdiction thereof, and subject to such additional terms and conditions as such Department or agency may impose.

§ 4310.2 Qualifications of applicants.

An applicant is qualified if he is a native or group, association or corporation of natives as defined by the act of September 1, 1937, organized under the laws of the United States or the State of Alaska, or if the applicant is a native corporation under the provisions of the Alaska Native Claims Settlement Act.

§ 4310.3 No rights acquired by applicant prior to issuance of grazing permit.

The filing of an application will not segregate the land applied for from application by other persons for a grazing permit, or from other disposition under the public land laws. As the issuance of a grazing permit is discretionary, the filing of an application will not create a right for such a permit, or to the use of the lands applied for pending the issuance of a grazing permit.

§ 4310.4 Rights reserved; public land laws applicable.

(a) Grazing permits under this part shall be subordinated to higher uses and subject to modification or reduction by the authorized officer to the extent necessary to allow:

(1) The protection, development and utilization, under applicable laws and regulations, of the mineral, timber, water, and other resources on or in the lands included in the grazing permit, including their use for agriculture.

(2) The allowance of applications for and the acquisition of homesites, easements, permits, leases, or other rights and uses pursuant to applicable public land laws.

(3) The temporary closing of portions of the permitted area to grazing whenever, because of improper handling of the reindeer, overgrazing, fire, or other cause, such action is deemed necessary to restore the range to its normal condition.

(b) No permittee may so enclose roads, trails, or highways as to disturb public travel thereon, nor interfere with existing communication lines or other improvements on the permitted area; he shall not prevent legal hunting, fishing or trapping on the land, or ingress of miners, mineral prospectors, and other persons entitled to enter the area for lawful purposes.

(c) Persons using public lands for grazing of reindeer or for driving of reindeer across such lands must comply with applicable State and Federal laws relative to livestock quarantine and sanitation.

§ 4310.5 Location, settlement, entry, and other disposition of lands included in grazing permit; notice to permittee of disposition and reduction of permitted area.

(a) Lands included in grazing permits under the act are subject to settlement, location, and acquisition under the non-mineral public land laws applicable to the State of Alaska.

(b) Upon settlement location, or entry of any lands included within a

reindeer grazing permit, the permittee shall be notified of the settlement, location, or entry, and the permitted area shall be reduced by the area involved in the settlement, location, or entry.

(c) Unless otherwise withdrawn therefrom lands included in grazing permits under the act are subject to disposition under the mineral leasing laws and to mineral prospecting, location, and purchase under the mining laws, in accordance with the applicable regulations of Group 3800 of this chapter.

Subpart 4320—Procedures

§ 4320.1 Application for grazing permit.

(a) *Form used.* An application for a grazing permit must be executed in duplicate on a form approved by the Director and filed in the Bureau office which has jurisdiction over lands applied for.

(b) *Bureau of Indian Affairs certification.* A certification of reindeer allotment to the applicant, signed by the authorized Bureau of Indian Affairs officer, must accompany the application if the applicant is to receive a herd from the Government.

(c) *Source of reindeer other than Government.* If reindeer are to be obtained from a source other than the Government, the applicant should state the source and show evidence of his purchase or option to purchase.

(d) *Listing of improvements.* With the initial application for any grazing permit issued under this part, the applicant must list by location and description the improvements found in the area under application which are owned by the applicant. Such statement of ownership will be verified by a Bureau of Indian Affairs official prior to submitting it to the Bureau of Land Management. Such existing improvements will be permitted by the terms of the initial grazing permit. Improvements to be constructed subsequent to the issuance of the initial grazing permit must be under permit in accordance with § 4320.9.

§ 4320.2 Filing fee; grazing fee.

A filing fee of $10 must accompany each application for a reindeer grazing permit or application for renewal thereof. No grazing fee will be charged.

§ 4320.3 Term of grazing permit; renewals.

(a) Reindeer grazing permits shall be issued for a maximum term of 10 years, except where the applicant desires a shorter term, or where the authorized officer determines that a shorter period will be in the public interest.

(b) Application for renewal of a grazing permit shall be made not less than 4 months or more than 8 months before the expiration date of the permit. The authorized officer may at his discretion offer the permittee a renewed grazing permit containing such terms, conditions, and of such duration as he determines to be in the public interest.

§ 4320.4 Area of use and maximum number of reindeer.

(a) Permits will restrict grazing use to a definitely described area. Grazing permits will be granted only for such areas as may be deemed adequate and usable according to the needs of the permittee.

(b) The grazing permit will indicate the maximum number of reindeer which may be grazed on the permitted area, based on range conditions, and will be subject to adjustment as the condition of the range indicates.

§ 4320.5 Adjustment of grazing permit area.

The permitted area may be reduced at any time, after not less than 30 days notice to the permittee, when in the opinion of the authorized officer the area is excessive for the number of reindeer grazed thereon. The permit may be increased by the authorized officer on his own motion or upon request of the permittee, when in the opinion of the authorized officer the area is insufficient for the number of reindeer grazed thereon. The permittee shall have opportunity within such notice period to show cause why the area included in the grazing permit should not be adjusted.

§ 4320.6 Report of grazing operations; assignments allowed.

(a) Before April 1 of this second permit year and each year thereafter, the permittee shall file with the authorized officer a report in duplicate of his grazing operations during the preceding year on an approved form.

(b) No part of the land included in the permit may be subleased. Proposed assignments of a permit, in whole or in part, must be filed in duplicate with the authorized officer within 90 days from the date of its execution. Such assignments must contain all of the terms and conditions agreed upon by the parties thereto, accompanied by the same showing by the assignee as to qualifications and a reindeer allotment as is required of applicants for a permit, and by the assignee's statement agreeing to be bound by the provisions of the permit. No assignment shall be effective until approved by the authorized officer.

§ 4320.7 Termination of grazing permit; cancellation.

(a) A grazing permit may be surrendered by the permittee upon prior written notice filed with the authorized officer, effective upon the date indicated in such notice, but not less than 30 days from the date of filing.

(b) A grazing permit may be canceled by the authorized officer if the permit was issued improperly through error with respect to a material fact or facts, or if the permittee shall fail to comply with any of the provisions of the permit or of this part. No permit shall be canceled for default in complying with the provisions of the permit or of this part until the permittee has been notified in writing of the nature of the default and has been afforded an opportunity of not less than 30 days to show why the permit should not be canceled.

§ 4320.8 Crossing permits.

A permit for the crossing of reindeer over public lands, including lands under grazing permit, may be issued free of charge, upon application filed with the authorized officer at least 30 days prior to the date the crossing is to begin. The application must show the number of reindeer to be driven, date of starting, approximate period of time required, and the land to be traversed.

§ 4320.9 Permits for construction and maintenance of improvements; removal.

(a) Application for a permit to construct and maintain range improvements should be filed, in duplicate, with the authorized officer on an approved form. The grazing permittee, upon obtaining a permit from the authorized officer, may construct, maintain and utilize any fence, building, corral, reservoir, well, or other improvement needed for the exercise of the grazing privileges under the grazing permit. The permittee will be required to comply with the laws of the State of Alaska with respect to the construction and maintenance of fences, but any such fence shall be constructed to permit the ingress and egress of miners, prospectors for minerals, and other persons entitled to enter such area for lawful purposes.

(b) The permittee, within 90 days from the date of expiration or termination of the grazing permit, or within any extension of such period, shall be allowed to remove all personal property belonging to him, together with any fence, building, corral, or other removable range improvements owned by him. All such property which is not removed within the time allowed shall thereupon become the property of the United States.

Subpart 4330—Protests

§ 4330.1 Protests.

Protests against an application for a grazing permit shall be filed in duplicate, with the authorized officer; contain a complete disclosure of all facts

upon which the protest is based; and describe the lands involved in such protests. It shall be accompanied by evidence of service of a copy of the protest upon the applicant. If the protestant desires to obtain a grazing permit for all or part of the land embraced in the application against which the protest is filed, the protest shall be accompanied by an application for a grazing permit.

Subpart 4340—Trespass

§ 4340.1 Trespass.

(a) Any use of the Federal lands for reindeer grazing purposes, unless authorized by a valid permit issued in accordance with the regulations in this part is unlawful and is prohibited.

(b) Any person who willfully violates any of the rules and regulations in this part shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by imprisonment for not more than 1 year, or by a fine of not more than $500.

3. Part 4100 is revised to read as follows:

PART 4100—GRAZING ADMINISTRATION—EXCLUSIVE OF ALASKA

Subpart 4100—Grazing Administration—Exclusive of Alaska; General

Sec.
4100.0-1 Purpose.
4100.0-2 Objectives.
4100.0-3 Authority.
4100.0-5 Definitions.
4100.0-7 Cross-references.

Subpart 4110—Allocation of Grazing Use

4110.1 Mandatory qualifications.
4110.2 Grazing preference.
4110.2-1 Base property.
4110.2-2 Grazing preference allocation.
4110.2-3 Transfer of grazing preference.
4110.2-4 Relinquishment of grazing preference.
4110.3 Changes in available forage.
4110.3-1 Additional forage.
4110.3-2 Decrease in forage.
4110.4 Changes in public land acreage.
4110.4-1 Additional land acreage.
4110.4-2 Decrease in land acreage.
4110.5 Conflicting applications.
4110.6 Interest of Member of Congress.

Subpart 4120—Grazing Management

4120.1 Allotments.
4120.2 Terms and conditions.
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AUTHORITY: 43 U.S.C. 315, 315a-315r,1701 et seq., 1181d.

Subpart 4100—Grazing Administration—Exclusive of Alaska; General

§ 4100.0-1 Purpose.

The purpose of these regulations is to provide for the uniform administration of livestock grazing on the public lands, exclusive of Alaska.

§ 4100.0-2 Objectives.

The objectives of these regulations are to administer livestock grazing on the public lands in a manner that will protect the land and its resources from destruction or unnecessary injury, stabilize the livestock industry dependent on the public lands, and provide for the orderly use, improvement, development, and rehabilitation of the public lands for livestock grazing consistent with multiple-use, sustained yield, environmental, economic, and other objectives as stated in subpart 1725 of this chapter and in section 102 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

§ 4100.0-3 Authority.

(a) The Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r), authorizes the Secretary of the Interior to establish grazing districts and to make provisions for the protection, administration, regulation, and improvement of the public lands. It also authorizes the Secretary to lease lands outside of such districts for grazing purposes upon such terms and conditions as he may prescribe.

(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) provides for the management, protection, development, and enhancement of the public lands and directs the Secretary to manage these lands under principles of multiple use and sustained yield in accordance with land use plans.

(c) Executive orders transfer land acquired under the Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1012), to the Secretary and authorize administration under the Taylor Grazing Act.

(d) Section 4 of the O&C Act of August 28, 1937 (43 U.S.C. 1181d), authorizes the Secretary, at his discretion, to lease for grazing purposes any revested Oregon and California railroad or reconveyed Coos Bay wagon road grant lands in the State of Oregon which may be so used without interfering with the production of timber or other purposes specified in the O&C Act.

(e) Public land orders, Executive orders, and agreements authorize the Secretary to administer livestock grazing on specified lands under the Taylor Grazing Act or other authority as specified.

§ 4100.0-5 Definitions.

Whenever used in this part, unless the context otherwise requires, the following definitions apply:

(a) The "act" means the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r).

(b) "Allotment" means an area of land designated and managed for grazing of livestock.

(c) "Allotment management plan (AMP)" means a documented program which applies to livestock operations on the public lands, which is prepared

in consultation with the permittee(s) or lessee(s) involved, and which: (1) Prescribes the manner in and extent to which livestock operations will be conducted in order to meet the multiple-use, sustained-yield, economic, and other needs and objectives as determined for the public lands through land use planning; and (2) describes the type, location, ownership, and general specifications for the range improvements to be installed and maintained on the public lands to meet the livestock grazing and other objectives of land management; and (3) contains such other provisions relating to livestock grazing and other objectives as may be prescribed by the authorized officer consistent with applicable law.

(d) "Animal unit month (AUM)" means the amount of forage necessary for the sustenance of one cow or its equivalent for a period of 1 month.

(e) "Authorized officer" means any person authorized by the Secretary to administer regulations in this part.

(f) "Base property" means: (1) Land that has the capability to produce crops or forage that can be used to support authorized livestock for a specified period of the year, or (2) water that is suitable for consumption by livestock and is available and accessible, to the authorized livestock when the public lands are used for livestock grazing.

(g) "Cancellation" means a permanent termination of a grazing permit or grazing lease and grazing preference, or free-use grazing permit or other grazing authorization, in whole or in part.

(h) "Class of livestock" means age and/or sex groups of a kind of livestock.

(i) "Contiguous land" means land that borders or touches upon public land.

(j) "District" means the specific area of public lands administered by a District Manager.

(k) "Grazing district" means the specific area within which the public lands are administered under section 3 of the act. Public lands outside grazing district boundaries are administered under section 15 of the act.

(l) "Grazing fee year" means the year March 1 to the last day of February which is used for billing purposes.

(m) "Grazing lease" means a document authorizing use of the public lands outside grazing districts under section 15 of the act for the purpose of grazing livestock.

(n) "Grazing permit" means a document authorizing use of the public lands within grazing districts under section 3 of the act for the purpose of grazing livestock.

(o) "Grazing preference" means the total number of animal unit months of livestock grazing on public lands apportioned and attached to base property owned or controlled by a permittee or lessee.

(p) "Indigenous animal" means an animal which is or was part of the original fauna of the area in question.

(q) "Land use plan" means a planning decision document which establishes resource allocations and coordinated objectives and constraints for all forms of public land and resource use within the area covered by the plan.

(r) "Livestock" or "kind of livestock" means species of domestic livestock—cattle, sheep, horses, burros, and goats.

(s) "Livestock grazing capacity" means the number of animal unit months of forage available for livestock grazing on a sustained yield basis on the public lands as determined through land use planning.

(t) "Modification" means a change or revision of the terms and conditions of an unexpired grazing permit or lease including changes in kind or class and number of livestock, period(s) of use, and area(s) of use.

(u) "Other lands under Bureau of Land Management control" means those State or private lands controlled by the Bureau of Land Management through lease, agreement, or otherwise.

(v) "Public lands" means any land and interest in land outside of Alaska owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management, except lands located on the Outer Continental Shelf and lands held for the benefit of Indians.

(w) "Range betterment" means on-the-ground rehabilitation, protection, and improvement of the public lands to arrest range deterioration and to improve forage conditions, fish and wildlife, habitat, watershed protection, and livestock production consistent with land use plans.

(x) "Range betterment fund" means the separate account in the Treasury established by section 401(b)(1) of the Federal Land Policy and Management Act of 1976 consisting of 50 per centum of all moneys received by the United States as fees for grazing livestock on public lands.

(y) "Range improvement" means a structure, development, or treatment used to rehabilitate, protect, or improve the public lands to advance range betterment.

(z) "Secretary" means the Secretary of the Interior or his authorized officer.

(aa) "Service area" means the area that can be properly grazed by livestock watering at a certain water. In determining this area, natural and cultural barriers, recognized habits of livestock, proper livestock practices, and range management factors shall be considered.

(bb) "Supplemental feed" means concentrates or harvested feed supplied to livestock to supplement the range forage.

(cc) "Suspension" means temporarily withholding a grazing permit or lease in whole or in part.

§ 4100.0-7 Cross-references.

The regulations in subpart 1784 of this chapter govern advisory boards and the regulations in part 4 of this title govern appeals and hearings.

Subpart 4110—Allocation of Grazing Use

§ 4110.1 Mandatory qualifications.

Except as provided under §§ 4130.3 and 4130.4-3, to qualify for grazing use on the public lands an applicant must be engaged in the livestock business, must own or control land or water base property, and must be:

(a) A citizen of the United States or have properly filed a valid declaration of intention to become a citizen or a valid petition for naturalization; or

(b) A group or association authorized to conduct business in the State in which the grazing use is sought, all members of which are qualified under paragraph (a) of this section; or

(c) A corporation authorized to conduct business in the State in which the grazing use is sought.

§ 4110.2 Grazing preference.

§ 4110.2-1 Base property.

(a) The authorized officer shall find land or water owned or controlled by an applicant to be base property (see § 4100.0-5(f)) if:

(1) It serves as a base for a livestock operation which utilizes public lands within a grazing district; or

(2) It is contiguous land, or noncontiguous land when no applicant owns or controls contiguous land, used in conjunction with a livestock operation which utilizes public lands outside a grazing district.

(b) The authorized officer shall specify the length of time for which land base property shall be capable of supporting authorized livestock during the year, based on the management requirements for the public lands.

(c) An applicant shall provide a legal description, or plat, of his base property and shall certify to the authorized officer that this base property meets the requirements under paragraph (a) and (b) of this section and § 4100.0-5(f).

§ 4110.2-2 Grazing preference allocation.

(a) Grazing preference shall be allocated to qualified applicants following the allocation of the vegetation resources among livestock grazing, wild free-roaming horses and burros, wildlife, and other uses in the land use plans.

(b) Applicants who own or control base property contiguous to or corner-

ing upon public land outside of a grazing district where such public land consists of an isolated or disconnected tract embracing 760 acres or less shall have a preference right for 90 days after the tract has been offered for lease to lease the whole tract.

(c) The animal unit months of grazing preference are attached to: (1) the acres of land base property on a pro rata basis, or (2) water base property on the basis of the livestock grazing capacity within the service area of that water.

§ 4110.2-3 Transfer of grazing preference.

(a) Transfers of grazing preference in whole or in part are subject to the following requirements:

(1) The transferee shall meet all necessary qualifications for a grazing preference under the regulations of this part.

(2) Approval of the transfer shall not disrupt the stability of the livestock industry in the general area within which the public lands involved are located.

(3) The transfer applications under paragraphs (b) and (c) of this section, shall evidence assignment of interest and obligation in range improvements authorized on public lands under § 4120.6 and used and maintained in conjunction with the transferred preference (see § 4120.6-5). The transferee shall accept the terms and conditions of the cooperative agreements and range improvement permits with such modifications deemed necessary by the authorized officer.

(4) The transferee shall accept the terms and conditions of the terminating grazing permit or lease (see § 4130.2) with such modifications as he may request which are approved by the authorized officer or with such modifications as may be required by the authorized officer. Such modifications shall be consistent with the land use plans.

(5) The transferee shall file an application for a grazing permit or lease to the extent of the transferred preference simultaneously with filing a transfer application under paragraph (b) or (c) of this section.

(b) If base property is sold or leased, the transferee shall file with the authorized officer a properly executed transfer application showing the base property and the amount of grazing preference being transferred, in animal unit months, within 60 days of the date of sale or lease. If the transfer application has been timely filed and the requirements under paragraph (a) of this section have been met, the authorized officer may approve the transfer of the grazing preference attached to the affected base property, may approve the assignment of interest and obligation in range improvements on the public lands, and may issue a grazing permit or lease.

(c) If a grazing preference is being transferred from one base property to another base property, the transferee shall file with the authorized officer a properly completed transfer application in advance for approval. The transfer application shall: (1) State the amount of grazing preference being transferred, in animal unit months, (2) include a legal description of the old and new base property, (3) contain the concurrence of any lien holder, and (4) contain the consent of the owner(s) of the base property from which the transfer is to be made, unless the transferor is a lessee of the base property without whose livestock operation a grazing preference would not have been established, in which case the consent of the owner of the base property is not required. If the transfer application has been properly filed and the requirements under paragraph (a) of this section have been met, the authorized officer may approve the transfer of grazing preference between the base properties, may approve the assignment of interest and obligation in range improvements on the public lands, and may issue a grazing permit or lease.

(d) At the date of approval of a transfer, the existing grazing permit or lease shall terminate automatically and without notice to the extent of the transfer.

(e) If an unqualified transferee acquires rights in base property through operation of law or testamentary deposition, such transfer will not affect the grazing preference or any outstanding grazing permit or lease, or preclude the issuance or renewal of a grazing permit or lease based on such property for a period of 2 years after the transfer. However, such a transferee shall qualify under paragraph (a) of this section within the 2-year period or the grazing preference shall be subject to cancellation. The authorized officer may grant extensions of the 2-year period where there are delays solely attributable to probate proceedings.

(f) Failure of the transferee to comply with the regulations of this section shall result in the cancellation of the grazing preference.

§ 4110.2-4 Relinquishment of grazing preference.

Upon written request, the authorized officer shall accept the relinquishment of a grazing preference in whole or in part. No such relinquishment shall be accepted without the written concurrence of any lien holder and the written consent of the owner(s) of the base property to which the preference is attached, unless the applicant is a lessee of the base property without whose livestock operation a grazing preference would not have been established.

§ 4110.3 Changes in available forage.

§ 4110.3-1 Additional forage.

Additional forage may be allocated to qualified applicants for livestock grazing use at the discretion of the authorized officer if this use is consistent with the land use plans.

(a) Additional forage temporarily available for livestock grazing use, including forage which is temporarily available within an allotment because of a change in grazing use under § 4130.6, may be allocated on a nonrenewable basis.

(b) Additional forage permanently available for livestock grazing use shall first be allocated in satisfaction of grazing preferences to the permittee(s) or lessee(s) authorized to graze in the allotment in which the forage is available.

(c) Additional forage permanently available for livestock grazing use over and above the preference(s) of the permittee(s) or lessee(s) in an allotment may be allocated in the following priority to:

(1) Permittee(s) or lessee(s) in proportion to their preferences or in proportion to the permittee's or lessee's contribution or efforts which resulted in increased forage production; or

(2) Other qualified applicants under § 4110.5.

§ 4110.3-2 Decrease in forage.

(a) When authorized grazing use exceeds the amount of forage available for livestock grazing within an allotment on a temporary basis: (1) due to drought, fire, or other natural causes, or (2) to facilitate installation, maintenance, or modification of range improvements, grazing permits or leases may be suspended in whole or in part.

(b) When authorized grazing use exceeds the amount of forage available and allocated for livestock grazing within an allotment or where reduced grazing use is necessary to facilitate achieving the objectives in the land use plans, grazing permits or grazing leases and grazing preferences shall be canceled in whole or in part.

(c) The suspension or cancellation under paragraphs (a) or (b) of this section will be equitably apportioned by the authorized officer or as agreed to among permittees or lessees and the authorized officer. If consistent with resource management needs, the authorized officer may provide the cancellations under paragraph (b) of this section be scheduled over a period not to exceed 3 years with the full cancellation coming in the last year.

§ 4110.4 Changes in public land acreage.

§ 4110.4-1 Additional land acreage.

When land outside designated allotments becomes available for grazing administration by the Bureau of Land

Management, the forage available for livestock grazing may be allocated to qualified applicants at the discretion of the authorized officer if this use is consistent with the land use plans. Grazing use will be allocated under § 4110.5.

§ 4110.4-2 Decrease in land acreage.

(a) Where there is a decrease in public land acreage available for livestock grazing use within an allotment, grazing permits or grazing leases and grazing preferences shall be canceled in whole or in part. The cancellations will be equitably apportioned by the authorized officer or as agreed to among authorized users and the authorized officer.

(b) When public lands are disposed of or devoted to a public purpose which precludes livestock grazing, the permittees and lessees shall be given 2 years' prior notification except in cases of emergency (military defense requirements in time of war, natural disasters, national emergency needs, etc.), before their grazing permit or grazing lease and grazing preference may be canceled in whole. A permittee or lessee may unconditionally waive the 2-year prior notification. Such a waiver shall not prejudice the permittee's or lessee's right to reasonable compensation for the fair market value of his interest in authorized permanent range improvements located on these public lands (see § 4120.6-6).

4110.5 Conflicting applications.

When more than one qualified applicant applies for livestock grazing use of the same public land and/or where additional forage or additional land acreage becomes available, the authorized officer may allocate grazing use of such land or forage consistent with the land use plans on the basis of any of the following factors:

(a) Historical use of the public land (see § 4130.2(d));

(b) Proper range management and use of water for livestock;

(c) General needs of the applicants' livestock operations;

(d) Public ingress and egress across privately owned or controlled land to public lands;

(e) Topography;

(f) Other land use requirements unique to the situation.

4110.6 Interest of Member of Congress.

Title 18 U.S.C. 431-433 (1970) generally prohibits a Member of or Delegate to Congress from entering into any contract or agreement with the United States. Title 41 U.S.C. 22 (1970) generally provides that in every contract or agreement to be made or entered into, or accepted by or on behalf of the United States, there shall be inserted an express condition that no Member of or Delegate to Congress shall be admitted to any share or part of such contract or agreement, or to any benefit to arise thereupon. The provisions of these laws are incorporated herein by reference and apply to all permits, leases, and agreements issued under these regulations.

Subpart 4120—Grazing Management

§ 4120.1 Allotments.

As land use plans are prepared, the authorized officer shall designate allotments where the public lands and other lands under Bureau of Land Management control are suitable and available for livestock grazing.

§ 4120.2 Terms and conditions.

Livestock grazing permits and leases shall contain terms and conditions necessary to achieve the management objectives for the public lands and other lands under Bureau of Land Management control identified in land use plans.

§ 4120.2-1 Mandatory terms and conditions.

(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, that can be made in every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock grazing capacity and shall be limited or excluded to the extent necessary to achieve the objectives established for the allotment.

(b) If it has been determined that allotment management plans are not necessary, or if allotment management plans have not been implemented where they are needed, the authorized officer shall incorporate terms and conditions under this section in grazing permits or leases. The authorized officer shall modify these terms and conditions if the condition of the range requires modification of grazing use and may cancel grazing permits or grazing leases and grazing preferences as conditions warrant. These modifications and cancellations may be made at any time and shall be put into full force and effect on the date specified by the authorized officer. See § 4110.3-2.

(c) All permits and leases shall be made subject to cancellation, suspension or modification, as required by land use plans, and subject to applicable law.

(d) All permits and leases shall include the provisions that such permits and leases shall be subject to annual review, and to modification in accordance with applicable law.

§ 4120.2-2 Other terms and conditions.

The authorized officer may:

(a) Specify the class of livestock that will graze on an allotment.

(b) Specify breed or livestock in allotments within which two or more permittee(s) or lessee(s) are authorized to graze.

(c) Authorize the use and direct the placement of supplemental feed, including salt, for livestock on the public lands.

(d) Require permittees or lessees operating under a grazing permit or lease not incorporating an allotment management plan to submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, a report of the actual livestock grazing use made.

(e) Authorize grazing use by kinds of indigenous animals under specific terms and conditions.

§ 4120.2-3 Allotment management plans.

Grazing management may be applied on allotments through the preparation and implementation of allotment management plans.

(a) An allotment management plan shall be prepared in consultation with the affected permittee(s) or lessee(s), approved by the authorized officer and implemented (see § 4100.0-5(c)). The allotment management plan shall include terms and conditions under § 4120.2-1, may include terms and conditions under § 4120.2-2, and shall prescribe a system of grazing designed to meet specific management objectives. The plan shall include the limits of flexibility within which the permittee of lessee may adjust his operation without prior approval of the authorized officer. The plan shall provide for the collection of data that shall be used to evaluate the effectiveness of the system of grazing in achieving the specific objectives.

(b) Private and State lands shall be included in the allotment management plan if these lands are unfenced and are intermingled with the public lands in the allotment or with the consent or at the request of the party who owns or controls these lands.

(c) Allotment management plans may be revised in consultation with the affected permittee(s) or lessee(s).

(d) If allotment management plans have been prepared, the authorized officer shall incorporate these plans in grazing permits or leases when they are issued. If grazing permits or leases have been issued prior to the preparation of allotment management plans, the authorized officer shall incorporate the allotment management plans in the grazing permits or leases when these plans are completed.

(e) Permittees or lessees operating under a grazing permit or lease incorporating an allotment management plan shall submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, a report of the actual grazing use made.

(f) Decisions which specify that allotment management plans are incorporated as terms and conditions of grazing permits or leases may be protested and appealed under subpart 4160.

§ 4120.3 Closure to livestock.

When the authorized officer determines that the soil, vegetation, or other resources on the public lands require protection because of drought, fire, or for other similar reasons, he shall temporarily close allotments, or portions of allotments, to grazing by any kind of livestock and for any period of time. The action to be taken by the authorized officer shall be specified in a notice of closure. The notice of closure shall state why the allotments, or portions of allotments, are being closed, shall specify the period of time for which these areas will be closed, and shall describe the resource conditions that must be present before these areas are reopened to grazing. The notice shall be published in a local newspaper and shall be posted at the county courthouse and at a post office near the public land area involved. Written notification shall be delivered personally or by certified mail to those who are authorized to graze livestock on the allotments affected. The notice of closure shall be issued as a final decision in full force and effect under § 4160.3(c) and shall require all owners of livestock affected thereby to remove such livestock in accordance with provisions of the notice. The authorized officer may proceed to impound, remove, and dispose of any livestock found in violation of the closing notice after the closure date specified in the notice in accordance with § 4150.5.

§ 4120.4 Ownership and identification of livestock.

(a) The permittee or lessee shall own or control and be responsible for the management of the livestock which graze the public lands under a grazing permit or lease. If the permittee or lessee does not own the livestock, he shall furnish the authorized officer a document specifying the kind and number of livestock, the brand or other marking the livestock are carrying, and the arrangements which in fact give him control of the livestock. This document shall be approved by the authorized officer prior to placing the livestock on the public lands.

(b) All cattle, horses, and burros over 6 months of age shall carry a brand which has been filed with the authorized officer. All sheep and goats over 6 months of age shall be identified with an earmark, paint brand, or other marking that has been filed with the authorized officer.

(c) The authorized officer may exempt certain livestock from the minimum requirements under paragraph (b) of this section. An alternative method of identifying the livestock satisfactory to the authorized officer shall be used in such instances.

(d) The authorized officer may require counting and/or additional or special marking or tagging of the authorized livestock in order to control unauthorized grazing use or in order to otherwise promote the orderly administration of the public lands.

§ 4120.5 State livestock requirements.

Authorized users shall comply with the requirements of the State in which the public lands are located relating to: branding of livestock; breed, grade, and number of bulls; and health and sanitation requirements.

§ 4120.6 Range improvements.

§ 4120.6-1 Conditions for range improvements.

(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with the land use plans.

(b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative agreement with the Bureau of Land Management or must have an approved range improvement permit.

(c) The authorized officer may require a permittee or lessee to install, maintain, and/or modify range improvements on the public lands.

(d) When appropriated, one-half of the range betterment funds (see § 4130.5-1(f)) shall be available for use in the District from which the grazing fees were collected for the purpose of on-the-ground rehabilitation, protection, and improvement of public lands. The other one-half of the range betterment funds shall be used for on-the-ground range rehabilitation, protection, and improvement of public lands at the discretion of the Director. The range betterment funds shall be used as directed after consultations with user representatives. See § 4100.0-5 (w), (x), and (y). These funds shall be used for the installation, maintenance, modification, and removal of range improvements including such things as planning, environmental assessment, design, survey, materials, equipment, labor, and supervision related to these improvements.

§ 4120.6-2 Cooperative agreements.

Any permittee or lessee may enter into a cooperative agreement with the Bureau of Land Management for the installation, use, maintenance, and/or modification of range improvements needed to achieve management objectives within his designated allotment. The cooperative agreement shall specify the division of cost or labor, or both, between the United States and permittees or lessees. The United States shall have title to range improvements authorized under cooperative agreements.

§ 4120.6-3 Range improvement permits.

Any permittee or lessee may apply for a range improvement permit to install, use maintain, and/or modify range improvements that are needed to achieve management objectives within his designated allotment. The permittee or lessee shall agree to provide total funding. The range improvement permits are issued at the discretion of the authorized officer. The permittee or lessee shall have title to range improvements authorized under range improvement permits.

§ 4120.6-4 Standards, design, and stipulations.

Range improvement cooperative agreements and permits shall specify the standards, design, and construction and maintenance criteria for the range improvements and shall include additional conditions and stipulations deemed necessary by the authorized officer to facilitate achieving the objectives in the land use plans. Where an existing range improvement is significantly inconsistent with these objectives, the authorization for the improvement may be modified by the authorized officer to reflect needed changes. Upon failure of the permittee or lessee to comply with the standards, design, construction, and maintenance criteria, and/or the conditions and stipulations specified by the authorized officer or failure to comply with the authorized officer's order to modify an existing range improvement, authorization for the improvement may be canceled.

§ 4120.6-5 Assignment of range improvements.

The authorized officer shall not approve the transfer of a grazing preference under § 4110.2-3 nor approve use by the transferee of existing range improvements, unless the transferee has agreed to compensate the transferor for fair market value of his interest in the authorized improvements within the allotment as of the date of transfer. If the parties are unable to agree as to the amount or manner of reasonable compensation, the matter shall be resolved by the authorized officer.

§ 4120.6-6 Removal and compensation for loss of range improvements.

(a) Range improvements shall not be removed from the public lands without authorization.

(b) The authorized officer may require permittees or lessees to remove range improvements which they own

on the public lands if these improvements are no longer serving the purpose for which they were installed or if they fail to meet the criteria under § 4120.6–4.

(c) If grazing permits or grazing leases and grazing preferences are canceled in whole or in part because the public lands are being disposed of or devoted to a public purpose which precludes livestock grazing, the permittees or lessees shall receive fair market value from the United States for their interest in the authorized permanent range improvements located on the public lands (less salvage value) which will no longer be available for livestock grazing.

(d) Permittees or lessees may be allowed a period of 180 days from the date of cancellation of a range improvement permit to salvage material owned by them and to perform such rehabilitation measures as are deemed necessary by the authorized officer.

§ 4120.6–7 Contributions.

The authorized officer may accept contributions of labor, material, equipment, or money for administration, protection, and improvement of the public lands necessary to achieve the objectives of this part.

§ 4120.7 Cooperation in management.

The Bureau of Land Management may cooperate with Federal, State, and/or local governmental entities, institutions, organizations, corporations, associations, and individuals to achieve the objectives of this part.

§ 4120.8 Special rules.

Whenever it appears to a State Director that local conditions within his administrative jurisdiction require a special rule to achieve improved administration consistent with the objectives of this part, he may recommend such a rule for approval by the Director. These recommendations shall be subject to public review and comment, as appropriate, and upon approval shall become effective when published in the FEDERAL REGISTER as final rules. Special rules shall be published in a newspaper within the local area. Copies of the rule shall be sent to those who are authorized to graze livestock in the area where the special rule is applicable.

Subpart 4130—Authorizing Grazing Use

§ 4130.1 Applications.

Applications for grazing permits or leases (active use and nonuse), free-use grazing permits and other grazing authorizations shall be filed timely with the authorized officer at the local Bureau of Land Management office having jurisdiction over the public lands involved.

§ 4130.2 Grazing permits or leases.

(a) The Bureau of Land Management shall offer grazing permits or leases for a term not to exceed 10 years to qualified applicants.

(b) Grazing permits or leases shall be issued to authorize livestock grazing on the public lands and other lands under Bureau of Land Management control. These grazing permits or leases shall include appropriate terms and conditions under § 4120.2. Grazing use under these permits or leases may include active grazing use, nonuse, or a combination of active use and nonuse.

(c) Grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources.

(d) (1) Grazing permits or leases authorizing livestock grazing on the public lands and other lands under BLM control shall be issued for a term of 10 years, unless: (i) The land is pending disposal; (ii) the land will be devoted to a public purpose which precludes grazing prior to the end of 10 years; or (iii) it will be in the best interest of sound land management to specify a shorter term.

(2) Exceptions to the issuance of 10-year permits shall be made on a case-by-case basis. In determining whether the interest of sound land management warrants the issuance of a permit for less than 10 years, the following are elements that the authorized officer shall consider:

(i) Resource conditions;

(ii) Availability of resource and use data;

(iii) Use conflicts;

(iv) Availability of completed land use plans;

(v) Whether significant adverse environmental impacts will result from issuance of a 10-year permit; and

(vi) Expressed desire of applicant for a shorter term.

(3) Grazing permits or leases shall be modified or canceled in accordance with land use planning decisions.

(4) Grazing permits or leases shall be subject to annual review and modification of terms and conditions as appropriate.

(e) Permittees or lessees holding expiring grazing permits or leases shall be given first priority for receipt of new permits or leases if:

(1) The lands remain available for livestock grazing in accordance with land use plans (see subpart 4120);

(2) The permittee or lessee is in compliance with the regulations contained in this part and the terms and conditions of his grazing permit or lease; and

(3) The permittee or lessee accepts the terms and conditions to be included in the new permit or lease by the authorized officer.

§ 4130.3 Free-use grazing permits.

A free-use grazing permit shall be issued to any applicant whose residence is adjacent to public lands within grazing districts and who needs these public lands to support those domestic livestock owned by the applicant whose products or work are used directly and exclusively by the applicant and his family. The issuance of free-use grazing permits is subject to § 4110.5. These permits shall be issued on an annual basis. These permits cannot be transferred or assigned.

§ 4130.4 Other grazing authorizations.

Exchange-of-use grazing agreements, nonrenewable grazing permits, or leases, crossing permits, and special grazing permits or leases have no priority for renewal and cannot be transferred or assigned.

§ 4130.4–1 Exchange-of-use grazing agreements.

An exchange-of-use grazing agreement may be issued to any applicant who owns or controls lands within the exterior boundaries of the allotment in which the land offered in exchange-of-use is located. An exchange-of-use agreement may be issued to authorize use of public land within the allotment to the extent of the livestock grazing capacity of the land offered in exchange-of-use. No fee shall be charged for this grazing use. The exchange-of-use agreement may be issued for a term of not more than 10 years. The expiration date of the exchange-of-use agreement may coincide with the expiration date of any grazing permit or lease issued on the allotment in which the land offered in exchange is located. If the land offered in exchange of use is leased, the expiration date of the exchange-of-use agreement shall coincide with the expiration date of this lease not to exceed 10 years. During the term of the exchange-of-use agreement, the Bureau of Land Management shall have management control of such private land for grazing purposes under the provisions of this part and may authorize grazing use as deemed appropriate.

§ 4130.4–2 Nonrenewable grazing permits or leases.

Nonrenewable grazing permits of leases may be issued to qualified applicants when forage is temporarily available, provided this use does not interfere with existing livestock operations on the public lands and it is consistent with land use plans. This use shall be authorized on an annual basis only.

§ 4130.4–3 Crossing permits.

Any applicant showing the necessity for crossing the public land or other land under Bureau of Land Management control, or both, with livestock

for proper and lawful purposes may be issued a crossing permit upon such terms and conditions deemed necessary by the authorized officer to achieve the objectives of this part.

§ 4130.4–4 Special grazing permits or leases.

Special grazing permits or leases authorizing grazing use by privately owned or controlled indigenous animals may be issued at the discretion of the authorized officer. This use shall be consistent with land use plans. These permits or leases shall be issued for a term deemed appropriate by the authorized officer not to exceed 10 years.

§ 4130.5 Fees.

§ 4130.5–1 Payment of fees.

(a) [Reserved]

(b) The fees for each grazing fee year shall be published annually in the FEDERAL REGISTER.

(c) Fees shall be charged for livestock grazing upon or crossing the public lands and other lands under Bureau of Land Management control at a specified rate per animal unit month. For billing purposes, one cow, one horse, one burro, five sheep, or five goats shall be considered as one animal unit. A minimum annual fee of $10 shall be charged for livestock grazing upon these lands. A minimum fee of $10 shall be charged for each crossing permit issued on these lands. No fee shall be charged for livestock grazing authorized under free-use grazing permits or exchange-of-use grazing agreements. No fee shall be charged when authorizing total nonuse.

(d) The full fee shall be charged for each paying animal unit, which is defined as each animal six (6) months of age or over at the time of entering public lands, for all weaned animals regardless of age, and for such animals as will become twelve (12) months of age during the authorized period of use. No charge will be made for animals under six (6) months of age at the time of entering public lands, that are the natural progeny of animals upon which fees are paid, provided they will not become twelve (12) months of age during the authorized period of use, or for progeny born during that period.

(e) Fees are due upon issuance of the billing notice and must be paid in full prior to grazing use except where an allotment management plan has been incorporated in a grazing permit or lease, in which case a billing notice based on actual use may be issued at the end of the grazing period or year or a billing notice based on the normal operation may be issued prior to the grazing period or year followed by an adjusted billing notice based on actual use after grazing use has been completed. If an actual use report is not submitted, the amount due will be based on grazing use at the upper limit of flexibility specified in the allotment management plan. The authorized officer shall cancel this actual use billing privilege for failure, or refusal, to submit a timely actual use report, however, this does not relieve the permittee or lessee of his responsibility for submitting an actual use report under § 4120.2–3(e).

(f) Fifty percent of the grazing fees collected for grazing livestock on public lands (other than ceded Indian lands) under the act shall be deposited in a separate account in the U.S. Treasury for the range improvement program (see § 4120.6).

§ 4130.5–2 Refunds.

(a) Grazing fees may be refunded at the discretion of the authorized officer where applications for change in grazing use and related refund are filed prior to the period of use for which the refund is requested.

(b) No refunds shall be made for failure to make grazing use, except during periods of range depletion due to drought, fire, or other natural causes, or in case of a general spread of disease among the livestock, that occurs during the term of a permit or lease. During these periods of range depletion the authorized officer may credit or refund fees in whole or in part, or fee payment may be postponed for as long as the emergency exists.

§ 4130.5–3 Service charge.

Except for actions initiated by the authorized officer, a service charge of $10 shall be made for each transfer of a grazing preference and for each replacement or supplemental billing notice issued under § 4130.6

§ 4130.6 Changes in grazing use.

(a) Applications for changes in grazing use should be filed with the authorized officer before the billing notices for the affected grazing use have been issued. Applications for changes in grazing use filed after the billing notices for the affected grazing use have been issued and which require the issuance of replacement or supplemental billing notices shall be subject to a service charge under § 4130.5–3.

(b) Changes in grazing use may be granted at the discretion of the authorized officer if the changes applied for are compatible with existing operations and are consistent with the objectives for the affected allotments.

4130.7 Pledge of permits or leases as security for loans.

Grazing permits or leases that have been pledged as security for loans from lending agencies shall be renewed by the authorized officer under the provisions of these regulations for a period of not to exceed 10 years if the loan is for the purpose of furthering the permittee's or lessee's livestock operation, *Provided*, That the permittee or lessee has complied with the rules and regulations of this part and that such renewal will be in accordance with other applicable laws and regulations. While grazing permits or leases may be pledged as security for loans from lending agencies, this does not exempt these permits or leases from the provisions of these regulations.

Subpart 4140—Prohibited Acts

§ 4140.1 Acts prohibited on public lands.

The following acts are prohibited on public lands and other lands under Bureau of Land Management control:

(a) Persons performing the following prohibited acts may be subject to civil penalties under § 4170.1:

(1) Violating special terms and conditions incorporated in permits or leases;

(2) Failing to make substantial grazing use as authorized for 2 consecutive fee years;

(3) Placing supplemental feed on these lands without authorization;

(4) Failing to comply with the terms, conditions, and stipulations of range improvement cooperative agreements or range improvement permits;

(5) Refusing to install, maintain, modify, or remove range improvements when so directed by the authorized officer.

(b) Persons performing the following prohibited acts may be subject to civil and criminal penalties under §§ 4170.1 and 4170.2:

(1) Allowing livestock on or driving livestock across these lands without a permit or lease or in violation of the terms and conditions of a permit or lease, either by exceeding the number of livestock authorized, or by allowing livestock to be on these lands in an area or at a time different from that designated;

(2) Installing, using, maintaining, modifying, and/or removing range improvements without authorization;

(3) Cutting, burning, spraying, destroying, or removing vegetation without authorization;

(4) Damaging or removing U.S. property without authorization;

(5) Molesting livestock authorized to graze on these lands;

(6) Littering;

(7) Violating any provision of part 4700 of subchapter concerning the protection and management of wild free-roaming horses and burros;

(8) Violating any Federal or State laws or regulations concerning conservation or protection of natural and cultural resources or the environment including, but not limited to, those re-

lating to air and water quality, protection of fish and wildlife, plants, and the use of chemical toxicants;

(9) Interfering with lawful uses or users;

(10) Knowingly or willfully making a false statement or representation in base property certifications, grazing applications, range improvement permit applications, cooperative agreements, and/or amendments thereto;

(11) Violating State livestock requirements relating to branding of livestock; breed, grade, and number of bulls; and health and sanitation requirements;

(12) Allowing privately owned or controled indigenous animals on or driving them across these lands without a permit or lease or in violation of the terms and conditions of a permit or lease, either by exceeding the number of animals authorized, or by allowing indigenous animals to be on these lands in an area or at a time different from that designated.

Subpart 4150—Unauthorized Grazing Use

§ 4150.1 Violations.

Violation of § 4140.1(b)(1) constitutes unauthorized grazing use. Violators shall be liable in damages to the United States for the forage consumed by their livestock, for injury to Federal property caused by their unauthorized grazing use, and for expenses incurred in impoundment and disposal, and may be subject to civil penalties or criminal sanction for such unlawful acts. Violation of § 4140.1(b)(12) also constitutes unauthorized grazing use and violators are subject to the provisions of this subpart as deemed appropriate.

§ 4150.2 Notice and order to remove.

(a) Whenever it appears that a violation exists and the owner of the unauthorized livestock is known, written notice shall be served upon the alleged violator or his agent, or both, by certified mail or personal delivery and a copy of the notice shall be sent to any lien holder of record. The notice shall set forth the act or omission constituting the violation and refer to the specific terms, conditions, and provisions of these regulations alleged to have been violated. It shall also order the alleged violator to remove the livestock within a specified time. The notice shall allow a specified time from receipt of notice for the alleged violator to show that there has been no violation or to make settlement under § 4150.3. If the alleged violator fails to comply with the notice, the authorized officer may proceed to impound the livestock under § 4150.5.

(b) When neither the owner of the unauthorized livestock nor his agent is known, the authorized officer may proceed to impound the livestock under § 4150.5.

(c) A notice alleging unauthorized horse or burro use in areas with wild free-roaming horses and burros shall specify that the unauthorized horses or burros can be claimed and gathered only in accordance with the procedures of part 4700 of this subchapter.

§ 4150.3 Settlement.

The authorized officer shall analyze the facts and circumstances of the case and shall determine if the violation is nonwillful or willful and, if it is willful, whether it is a repeated violation. When violations are determined to be nonwillful, settlement shall be made under paragraphs (a)(1) and (a)(3) of this section. When violations are determined to be willful, or willfully repeated, settlement shall be made under paragraphs (a) (2), (3), and (4) of this section and the authorized officer shall take action under § 4170.1-1.

(a) The amount due the United States in settlement for unauthorized grazing use shall be determined by the authorized officer as follows:

(1) "Nonwillful violations." The value of forage consumed as determined by the average monthly rate for pasturing livestock on privately owned land (excluding irrigated land) for the 11 Western States as published annually by the Department of Agriculture.

(2) "Willful and repeated willful violations." Twice the value of the forage consumed as determined in paragraph (a)(1) of this section.

(3) The full value for all damages to the public lands and other property of the United States.

(4) All expenses incurred by the United States including those incurred in gathering, impounding, caring for, and disposing of livestock in cases which necessitate impoundment under § 4150.5.

(b) Payment made under this section does not relieve the alleged violator of any criminal liability under Federal or State law.

(c) No permit or lease shall be issued or renewed until any amount found to be due in the United States under this section has been paid.

§ 4150.4 Demand for payment.

Where the livestock have been removed, but satisfactory settlement has not been made within the time allowed under § 4150.2, a certified letter demanding payment will be sent or personally delivered to the owner or his agent, or both, and a copy of the letter shall be sent to any lienholder of record. This letter shall allow not more than 15 days from date of receipt to settle the obligation.

§ 4150.5 Impoundment and disposal.

Unauthorized livestock remaining on the public lands or other lands under Bureau of Land Management control, or both, after the date set forth in the notice and order to remove sent under § 4150.2 may be impounded and disposed of by the authorized officer as provided herein.

§ 4150.5-1 Notice of intent to impound.

(a) A written notice of intent to impound shall be sent by certified mail or personally delivered to the owner or his agent, or both, and a copy of the notice shall be sent to any lienholder of record. The written notice shall indicate that unauthorized livestock on the specified public lands or other lands under Bureau of Land Management control, or both, may be impounded any time after 5 days from delivery of the notice.

(b) Where the owner and his agent are unknown, or where both a known owner and his agent refuses to accept delivery, a notice of intent to impound shall be published in a local newspaper and posted at the county courthouse and a post office near the public land involved. The notice shall indicate that unauthorized livestock on the specified public lands or other lands under Bureau of Land Management control, or both, may be impounded any time after 5 days from publishing and posting the notice.

§ 4150.5-2 Impoundment.

(a) Any time after 5 days from delivery of the notice under § 4150.5-1(a) or any time after 5 days from publishing and posting the notice under § 4150.5-1(b), the unauthorized livestock may be impounded.

(b) Unauthorized livestock my be impounded without further notice any time within the 12-month period following the effective date of a notice given under § 4150.5-1 (a) or (b).

§ 4150.5-3 Notice of public sale.

Following the impoundment of livestock under this subpart the livestock may be disposed of by the authorized officer under these regulations or, if a suitable agreement is in effect, they may be turned over to the State for disposal. If the authorized officer disposes of the livestock, he shall publish a notice of sale in a local newspaper and post this notice at the county courthouse and at a post office near the land involved. The notice shall describe the livestock and specify the date, time, and place of sale. The sale date shall be at least 5 days after the publication and posting of the notice. Any known owners or agents, or both, and lienholders of record shall be notified in writing by certified mail or by personal delivery of the sale and the procedure by which the impounded livestock may be redeemed prior to the sale.

§ 4150.5-4 Redemption.

Any owner or his agent, or both, or lien-holder of record of the impounded

livestock may redeem them under these regulations or, if a suitable agreement is in effect, in accordance with State law, prior to the time of sale upon settlement with the United States under § 4150.3 or adequate showing that there has been no violation.

§ 4150.5-5 Sale.

If the livestock are not redeemed on or before the date and time fixed for their sale, they shall be offered at public sale to the highest bidder by the authorized officer under these regulations or, if a suitable agreement is in effect, by the State. If a satisfactory bid is not received, the livestock may be reoffered for sale, condemned and destroyed, or otherwise disposed of under these regulations or, if a suitable agreement is in effect, in accordance with State law. When livestock are sold by the authorized officer under these regulations, he shall furnish the purchaser a bill of sale. If sold by the State, the Bureau of Land Management shall be reimbursed for the amount due under § 4150.3 up to the amount received for sale of the livestock.

Subpart 4160—Administrative Remedies

§ 4160.1 Proposed decisions.

§ 4160.1-1 Proposed decisions on permits or leases.

The authorized officer shall serve a proposed decision on any applicant, permittee, or lessee, or his agent, or both, who is adversely affected by his proposed action on applications for permits (including range improvement permits) or leases or by his proposed action related to terms and conditions of permits (including range improvement permits) or leases, by certified mail or personal delivery, and shall notify any lienholder of record of the proposed decision. The proposed decision shall state the reasons for the action, including reference to the pertinent terms, conditions, and/or provisions of these regulations, and shall provide for a period of 15 days after receipt for the filing of a protest.

§ 4160.1-2 Proposed decisions on alleged violations.

If the authorized officer determines that a permittee or lessee appears to have violated any provision of this part he shall serve a proposed decision on the permittee or lessee, or his agent, or both, by certified mail or personal delivery, and shall notify any lienholder of record of the proposed decision. The proposed decision shall state the alleged violation and refer to the specific terms, conditions, and/or provisions of these regulations alleged to have been violated and the reasons for the proposed decision. As applicable, the proposed decision shall state the amount due under §§ 4130.5-1 or 4150.3 and the action to be taken under § 4170.1. The proposed decision shall provide for a period of 15 days after receipt for the filing of a protest.

§ 4160.2 Protests.

Any applicant, permittee, lessee, or any other person adversely affected by a proposed decision of the authorized officer may protest the proposed decision in person or in writing to the authorized officer within 15 days after receipt of the proposed decision.

§ 4160.3 Final decisions.

(a) In the absence of a protest, the proposed decision shall become the final decision of the authorized officer without further notice.

(b) Upon the timely filing of a protest, the authorized officer shall reconsider his proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion of his review of the protest, the authorized officer shall serve his final decision on the protestant or his agent, or both, and on any other known interested individual, and shall notify any lienholder of record of the final decision.

(c) The final decision shall provide for a period of 30 days after receipt for filing of an appeal. An appeal shall suspend the effects of the final decision from which it is taken pending final action on the appeal. Where the appeal is concerned with the grazing use to be granted under the current application, an applicant who was granted grazing use in the preceding year may continue to make that use pending final action on the appeal. However, the authorized officer may provide in the final decision that it shall be in full force and effect pending decision on appeal therefrom. Final decisions shall be in full force and effect only if required for the orderly administration of the range or for the protection of other resource values. See § 4.477 of this title.

§ 4160.4 Appeals.

Any applicant, permittee, lessee, or any other person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge under § 4.470 of this title by filing his notice of appeal in the office of the authorized officer within 30 days after the receipt of the decision.

§ 4160.5 Show cause.

Whenever it appears to the authorized officer that disciplinary action is advisable because a permittee or lessee has willfully or repeatedly violated provisions of this part, the authorized officer shall serve a show cause notice on the permittee or lessee, or his agent, or both, by certified mail or personal delivery and shall notify any lienholder of record. The show cause notice shall state the alleged violation and refer to the specific terms, conditions, and/or provisions of these regulations alleged to have been violated. As applicable, the notice shall state the amount due under §§ 4130.5-1 or 4150.3. The show cause notice shall cite the permittee or lessee to appear before an administrative law judge at a designated time and place, in accordance with § 4.470 of this title, to show cause why his grazing permit or grazing lease should not be suspended in whole or in part or why his grazing permit or grazing lease and grazing preference should not be canceled in whole or in part under § 4170.11.

Subpart 4170—Penalties

§ 4170.1 Civil penalties.

§ 4170.1-1 Penalty for violations.

The authorized officer may suspend the grazing use authorized under a grazing permit or grazing lease, in whole or in part, or may cancel a grazing permit, or grazing lease and grazing preference, or a free use grazing permit or other grazing authorization, in whole or in part, under subpart 4160 for violation by a permittee or lessee of any of the provisions of this part. However, the authorized officer shall suspend the grazing use authorized under a grazing permit or grazing lease, in whole or in part, or shall cancel a grazing permit or grazing lease and grazing preference, in whole or in part, under subpart 4160 for repeated willful violation by a permittee or lessee of § 4140.1(b)(1). Whenever a nonpermittee or nonlessee violates § 4140.1(b)(1) and has not made satisfactory settlement under § 4150.3, the authorized officer shall refer the matter to proper authorities for appropriate legal action by the United States against the violator.

§ 4170.1-2 Failure to use.

Failing to make substantial grazing use as authorized for 2 consecutive fee years may result in the cancellation of the grazing preference only to the extent of failure to use (see § 4140.1(a)(2)).

§ 4170.1-3 Federal or State laws or regulations.

Violation of § 4140.1(b)(8) may result in a penalty under § 4170.1-1 where:

(a) Public land administered by the Bureau of Land Management is involved or affected;

(b) Such violation is related to grazing use authorized by permit or lease; and

(c) The permittee or lessee has been convicted of or otherwise found to be in violation of any of these laws or regulations by a court.

§ 4170.2 Penal provisions.

§ 4170.2-1 Penal provisions under the Taylor Grazing Act.

Under section 2 of the act any person who willfully violates the provisions of § 4140.1(b) or of approved special rules and regulations is punishable by a fine of not more than $500.

§ 4170.2-2 Penal provisions under the Federal Land Policy and Management Act.

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), any person who knowingly and willfully violates the provisions of § 4140.1(b) or of approved special rules and regulations may be brought before a designated U.S. magistrate and is punishable by a fine of not more than $1,000 or imprisonment for no more than 12 months, or both.

4. Part 4700 is amended by changing references in §§ 4720.3, 4730.3, and 4730.4. These sections are revised to read as follows:

§ 4720.3 Trespass animals.

Unauthorized horses or burros which have been claimed and have been determined to be privately owned in accordance with the provisions of this section will be considered to have been in trespass and may not be released until a proper trespass charge has been determined by the authorized officer in accordance with the provisions of subpart 4150 of this subchapter.

§ 4730.3 Habitat reservation and allocation.

The biological requirements of wild free-roaming horses and burros will be determined based upon appropriate studies or other available information. The needs for soil and watershed protection, domestic livestock, maintenance of environment quality, wildlife, and other factors will be considered along with wild free-roaming horse and burro requirements. After determining the optimum number of such horses and burros to be maintained on an area, the authorized officer shall reserve adequate forage and safety other biological requirements of such horses and burros and, when necessary, adjust or exclude domestic livestock use accordingly. See §§ 4110.2-2 and 4110.3-2 of this subchapter.

§ 4730.4 Closure to livestock grazing.

The authorized officer may close public lands to use by all or a particular kind of domestic livestock where it is necessary to allocate all available forage to, or to satisfy other biological requirements of wild free-roaming horses or burros. Such closures may be made only after appropriate public notice and in accordance with the procedures for reduction or cancellation of grazing privileges provided for under provisions in this subchapter. See §§ 4110.2-2 and 4110.3-2 of this subchapter.

5. Part 9230 is amended by deleting §§ 9239.3, 9239.3-1, and 9239.3-2 and redesignating "§ 9239.3-3 Alaska." as "§ 9239.3 Grazing, Alaska." as follows:

§§ 9239.3—9239.3-2 [Deleted]

§ 9239.3 Grazing, Alaska. [Redesignated from § 9239.3-3]

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