



Comment on the Bureau of Land Management's Proposed Revision of Grazing Regulations

Property and Environment Research Center

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Main Points

- Effective management of federal lands requires informed decision making and rules that are clear and outcome-oriented, rather than general and prescriptive. PERC commends BLM for proposing several changes that make land management decisions more efficient, locally driven, and responsive to unique demands.
- Ranchers, permittees, and private landowners who neighbor BLM parcels are essential partners in public land stewardship. BLM is wise to treat them as such by proposing reforms to the way it assigns responsibility for diminished land health and handles challenges to grazing decisions.
- However, BLM's proposal to restrict grazing permits to owners of "production-oriented livestock" is inconsistent with the Taylor Grazing Act and reduces the benefits of grazing on BLM allotments.

Introduction

PERC appreciates the opportunity to comment on the Bureau of Land Management's (BLM) proposed revisions to its grazing regulations. Federal rangelands support ranching communities, wildlife habitat, watershed health, recreation, wildfire resilience, and open space across the West, and BLM has an important role to play in ensuring these landscapes remain healthy and productive.¹ But BLM is not alone in stewarding these lands. Ranchers, landowners, and other working-land partners are essential conservationists whose management decisions provide public benefits ranging from fuel reduction to habitat connectivity. To strengthen these partnerships, BLM should advance policies that provide clear rules, timely decisions, and incentives that reward stewardship rather than punish those best positioned to care for the land.

PERC supports several changes that make the assessment process more efficient, ground decision-making in local knowledge, move towards outcome-based policies,

¹ Shawn Regan et al., *Opening the Range: Reforms to Allow Markets for Voluntary Conservation on Federal Grazing Lands*, 2023 Utah L. Rev. 197, 198–200 (2023).

and treat permittees as partners in land management rather than obstacles to it. However, we oppose the requirement that grazing leases only be issued for “production-oriented livestock.” This change would exceed the authority granted to BLM under the Taylor Grazing Act (TGA), and we respectfully encourage BLM to remove this provision in the final rule.

The Property and Environment Research Center (PERC)

PERC is the national leader in market solutions for conservation, with more than 45 years of research and a network of respected scholars and practitioners. Through research, law and policy, and innovative field conservation programs, PERC explores how aligning incentives for environmental stewardship produces sustainable outcomes for land, water, and wildlife.

PERC has examined the federal grazing framework in depth, with particular attention to how federal rules can either enable or encumber voluntary conservation on public rangelands. Our 2023 law review article, *Opening the Range: Reforms to Allow Markets for Voluntary Conservation on Federal Grazing Lands*, provides a detailed analysis of the legal and institutional barriers that limit market-based conservation on federal grazing lands, including base-property requirements, stock-ownership rules, substantial-use pressures, and the limited durability of permit decisions.² The article offers a broader blueprint for moving federal grazing policy toward a more flexible framework that allows ranchers, conservationists, and land managers to resolve conflicts through voluntary agreements and positive incentives—rather than the lobbying and litigation that has traditionally dominated public-land policy. It also supports reforms such as outcome-based grazing, temporary nonuse flexibility, targeted grazing, and other tools that emphasize measurable land-health outcomes rather than rigid, one-size-fits-all prescriptions.

In addition to our research and law and policy efforts, PERC partners with ranchers, conservationists, and public land managers to improve federal rangelands through voluntary stewardship.³ Time and again, our work highlights the same theme: meaningful conservation depends on policies that treat permittees as partners in stewardship rather than passive subjects of a one-size-fits-all system.

I. Proposed Changes That Promote Land Health Through Flexible, Locally Informed, and Outcome-Oriented Management.

A. Support for Increasing Efficiency for Better Outcomes (Section 1700.3)

² *Id.*

³ See, e.g., PERC, *Grizzly Conflict Reduction Grazing Agreement* (last visited July 7, 2026).

PERC supports the proposed revisions to Section 1700.3 because the rapid landscape-scale condition assessment process would provide grazing permittees and lessees with greater certainty while helping BLM better meet its land-management goals. BLM's allotment-by-allotment assessment framework has not historically allowed the agency to evaluate land health quickly or consistently enough to support timely management decisions.⁴ When these assessments are delayed or outdated, BLM lacks the data it needs to identify resource concerns, set clear expectations, and respond before problems worsen. That uncertainty also affects permittees, whose business and stewardship decisions often depend on timely determinations about stocking rates, infrastructure, water, range improvements, and long-term management investments. Crucially, positive conservation outcomes depend on clear rules, updated information, and timely decisions.

Section 1700.3 would address these concerns by requiring BLM to complete rapid landscape-scale condition assessments with available data within six months and update those assessments at least once every ten years.⁵ By moving toward broader landscape-scale assessments, BLM can use existing staff, data, and monitoring resources more efficiently than under an allotment-by-allotment approach, while still producing the information needed for more specific land-health evaluations where necessary. This benefits both ranchers and conservation: permittees receive faster and clearer determinations, and BLM is better positioned to identify and respond to land-health problems before they worsen.

B. Support for Respecting State Water Quality Authority While Protecting Watershed Health (Sections 1700.1 & 1700.2)

PERC supports BLM's proposed changes to Sections 1700.1 and 1700.2 that remove water quality as a standalone land-health fundamental while retaining BLM's responsibility to manage watershed functions within its jurisdiction.⁶ The existing framework creates unnecessary confusion by tying BLM's land-health regulations to state water quality standards, even though those standards are properly administered and enforced by state agencies under the Clean Water Act's cooperative-federalism framework. BLM should manage the land conditions under its jurisdiction—riparian function, soil stability, ground cover, infiltration, erosion, hydrologic function, and nonpoint-source processes—but its grazing and land-health regulations should not become an indirect enforcement mechanism for state water quality law.⁷ The proposed rule draws a clear line between these jurisdictions. It

⁴ Bureau of Land Mgmt., U.S. Dep't of the Interior, *Rangeland Inventory, Monitoring and Evaluation Report: Fiscal Year 2019*, (2019).

⁵ Revision of Regulations for Grazing Administration, 91 Fed. Reg. 26852, 26869 (May 12, 2026) (to be codified at 43 C.F.R. pt. 1700).

⁶ *Id.* at 26868–69.

⁷ 33 U.S.C. § 1313.

respects state authority while preserving BLM's obligation to manage federal lands in ways that support healthy watersheds and improved water conditions.

C. Support for Increased Flexibility for Outcome-Based and Targeted Grazing (Sections 4130.3-2, 4100 & 4190.1)

PERC also supports BLM's proposed revision to Section 4130.3-2, which would allow grazing permits to specify the limits of flexibility within which permittees may adjust operations without seeking separate approval from the agency. This is an important step toward updating federal grazing policy to reflect the agency's recent move toward more flexible, outcome-based grazing authorizations.⁸ Rigid, prescriptive grazing rules often leave too little room for experimentation, adaptive management, or localized stewardship, even though each allotment faces its own particularized set of challenges, including drought, invasive species, wildfire risk, fluctuating wildlife populations, and changing forage conditions. By allowing permittees to adjust grazing practices within defined parameters, BLM can better manage for measurable ecological outcomes rather than rigid inputs that may not align with conditions on the ground.

PERC encourages BLM to continue to embrace adaptive management by more clearly authorizing outcome-based grazing within the final rule. In particular, BLM should clarify that flexible terms and conditions may be used to implement grazing authorizations with measurable ecological objectives, monitoring protocols, and adaptive-management triggers. BLM should also provide durable regulatory support for the flexibility reflected in Instruction Memorandum 2025-011, rather than leaving outcome-based grazing dependent on temporary internal guidance. Doing so would give permittees, field staff, and conservation partners greater certainty while reducing unnecessary procedural barriers to innovative rangeland stewardship.⁹

Relatedly, PERC supports the addition of the term "targeted grazing" under Section 4100 and addition as a fuel reduction activity under Section 4190.1. Expanding the flexibility of BLM decision making to allow targeted grazing has clear benefits to producers and the landscape. The use of targeted grazing to reduce wildfire risk through fuel reduction or address undesirable plant species aligns production incentives with landscape health goals, resulting in improved outcomes.

⁸ See BLM, Instruction Memorandum No. 2025-011, *Flexibility in Livestock Grazing Management* (2024). BLM previously relied on 43 C.F.R. § 4120.2(a)(1)–(4) to incorporate flexibility into allotment management plans by allowing for adjustments in the number of livestock or season of use to respond to temporary changes in conditions outside the control of the BLM and permittee or lessee.

⁹ PERC has previously encouraged BLM to permanently authorize and expand outcome-based grazing because this model rewards stewardship, empowers ranchers, and fosters healthier landscapes. See PERC, *Comment on Advancing Outcome-Based Grazing on Public Rangelands* (June 2025).

D. Support for Aligning Responsibility with Actual Causes (Section 1700.4)

PERC also supports the proposed changes to Section 1700.4, which would allow BLM to consider a broader range of factors beyond grazing when evaluating diminished land health. Land health is often affected by drought, wildfire, invasive species, and wild horse overpopulation—some of which are within BLM’s control and some of which are not. However, the current regulations locate the land-health evaluation process within Part 4100, the grazing regulations, and focus the corrective-action framework largely on grazing management. As a result, when wild horse overpopulation degrades the land health of a permittee’s allotment, for example, the existing framework does not provide the same clear mechanism for identifying that cause and directing corrective action toward the relevant non-grazing program.¹⁰

BLM is right to acknowledge the result of this regulatory structure: the grazing program and its permittees shoulder a disproportionate share of the burden for land-health problems, even where other uses or causes are responsible. Accountability works best when responsibility is tied to management authority. Grazing permittees should be accountable for grazing practices that contribute to poor land health, but they should not be treated as the presumptive cause of every negative condition on a multiple-use landscape—especially where the relevant cause is within the government’s power to address.¹¹ By requiring BLM to identify the land uses or other factors substantially contributing to unmet standards, the proposed changes would better align responsibility with management authority. Grazing-related problems can be addressed through grazing management, while problems caused by non-grazing factors should be addressed through the programs and tools suited to those causes.

II. BLM’s Proposed Limitation to “Production-Oriented Livestock” Exceeds Statutory Authority and Limits Potential Benefits.

PERC opposes the proposed limitation of grazing leases to “production-oriented livestock” and applicants engaged in the “production-oriented livestock” business. Under the Taylor Grazing Act, grazing permit eligibility is tied to clear, factual requirements: stock ownership and base property ownership or control. The

¹⁰ BLM has several management tools available in this context: PERC supported BLM’s Adoption Incentive Program, which produced an estimated \$50 million in net savings and is projected to save taxpayers roughly \$400 million in lifetime holding costs for the more than 15,000 horses and burros adopted during its tenure. See Tate Watkins & Katie Flavin, *From Range to Ranch: Assessing the Bureau of Land Management’s Wild Horse and Burro Adoption Incentive Program* 7, 19 (May 2024).

¹¹ While the proposed rule allows BLM to identify causal factors beyond grazing, it retains the authority to adjust grazing permits/leases in response to emergencies, natural disasters, or events beyond its control to promote landscape health. Revision of Regulations for Grazing Administration, 91 Fed. Reg. at 26859.

proposed rule creates a new subjective standard that is contrary to the TGA and narrows the potential benefits of grazing on BLM allotments. Inserting such subjectivity into the grazing program opens the door to future administrations making intrusive demands for information about ranchers' private business operations and politically driven scrutiny of whether ranching operations are sufficiently profitable to qualify as production oriented.

A. Lack of Legal Justification

The proposed changes to Section 4110.1 that require grazing lease applicants be engaged in the “production-oriented livestock” industry ignore Congress’ decision to explicitly distinguish between permit eligibility (which requires only stock ownership) and preference (which considers whether a permittee is “engaged in the livestock business”).¹²

BLM admits in the proposed rule that issuing grazing authorizations “for [only] production-oriented livestock” is “not expressly stated in the TGA.”¹³ Even though BLM argues that the TGA and legislative history “heavily imply that intent,”¹⁴ BLM is governed by the words of the statute, not “the intentions of legislators.”¹⁵ Indeed, this exact argument was rejected by the Supreme Court *unanimously* in *Public Lands Council v. Babbitt*, 529 U.S. 511 (2000). The Court stated that “[t]he words ‘stock owner’ and ‘stock owner engaged in the livestock business,’ . . . are not obvious synonyms” so when Congress made stock owners “eligible for [grazing] permits,” but gave preference to “landowners engaged in the livestock business,” it clearly communicated that livestock are not limited to animals owned by those engaged in the livestock business.¹⁶ The Court further emphasized that there was no evidence in “[t]he legislative history” that Congress intended “any such absolute requirement” that permit holders “engage in the livestock business.”¹⁷ Importantly, *Public Lands Council* did not rely on deference to an agency interpretation; the court definitively interpreted the statute itself.¹⁸

Thus, the proposed regulation violates the TGA by eliminating the statutory distinction between allowing stock owners to be issued grazing permits and giving preference to “landowners engaged in the livestock business.”

B. Inadequate Policy Rationale

¹² 43 U.S.C. § 315b.

¹³ Revision of Regulations for Grazing Administration, 91 Fed. Reg. at 26857.

¹⁴ *Id.*

¹⁵ *FS Credit Opportunities Corp. v. Saba Capital Master Fund, Ltd.*, 146 S. Ct. 1546, 1557 (2026) (quoting *Conroy v. Aniskoff*, 507 U.S. 511, 519 (1993) (Scalia, J., concurring in judgment)).

¹⁶ *Pub. Lands Council v. Babbitt*, 529 U.S. 728, 745–46 (2000) (citing 43 U.S.C. § 315b).

¹⁷ *Id.* at 746.

¹⁸ *Id.* at 731.

In addition to being legally unsound, the proposed regulation lacks a sufficient policy rationale to justify restricting grazing permits to only production-oriented livestock. BLM's argument that the TGA was enacted to only allow public forage to "support a commodity-producing operation" is not supported by the language and history of the TGA itself.¹⁹ While there is legislative evidence that the TGA was meant to support the livestock industry through the Dust Bowl and Great Depression, it also directed BLM to create grazing districts "[i]n order to promote the highest use of public lands."²⁰ To do so, the Act established several other goals, including "preserv[ing] the land and its resources from destruction or unnecessary injury" and "protect[ing] and rehabilitat[ing] the areas subject" to grazing.²¹ The importance of these other goals is strengthened by the statutory authority to withdraw land from grazing.²²

Finally, the Act explicitly protects other uses of the land, including hunting and fishing, the ability to graze domestic animals, and the use of natural resources by "miners, prospectors for mineral, [and] bona fide residents and settlers," demonstrating that the Act does not support the production livestock industry over all other users and management goals.²³ Thus, the provided policy considerations are insufficient to support limiting grazing authorizations to only production-oriented livestock.

By exceeding the authority and intent of the statute, BLM would limit the beneficial outcomes that grazing allotments can achieve. Allowing a range of grazing uses, consistent with a proper interpretation of the Taylor Grazing Act, promotes healthy landscapes while protecting all public-land grazers.

III. Conclusion

For these reasons, PERC supports the proposed changes that would improve the efficiency, flexibility, and conservation potential of grazing management on BLM allotments. These reforms would better align incentives, respect state authority, and allow permittees and land managers to respond more effectively to changing on-the-ground conditions. However, BLM should withdraw the proposed "production-oriented livestock" requirement because it contradicts the TGA's text and would unnecessarily limit the beneficial grazing and conservation outcomes the current framework allows.

¹⁹ See Revision of Regulations for Grazing Administration, 91 Fed. Reg. at 26857.

²⁰ 43 U.S.C. § 315.

²¹ 43 U.S.C. § 315a.

²² 43 U.S.C. § 315f.

²³ *Id.*