112TH CONGRESS
1ST SESSION

S. 1129

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

IN THE SENATE OF THE UNITED STATES

MAY 26, 2011

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

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. TERMS OF GRAZING PERMITS AND LEASES.

Section 402 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752) is amended by strik-
ing “ten years” each place it appears and inserting “20 years”.

**SEC. 3. RENEWAL, TRANSFER, AND REISSUANCE OF GRAZING PERMITS AND LEASES.**

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

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

“(a) DEFINITIONS.—In this section:

“(1) ENVIRONMENTAL ANALYSIS.—The term ‘environmental analysis’ means an environmental assessment or an environmental impact statement required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(2) SECRETARY CONCERNED.—The term ‘Secretary concerned’ means—

“(A) the Secretary of Agriculture, with respect to National Forest System land; and

“(B) the Secretary of the Interior, with respect to land under the jurisdiction of the Department of the Interior.

“(b) RENEWAL, TRANSFER, AND REISSUANCE.—A grazing permit or lease issued by the Secretary, or a grazing permit issued by the Secretary of Agriculture regard-
ing National Forest System land, that expires, is transferred, or is waived after the date of enactment of this section shall be renewed or reissued, as appropriate, under—

“(1) section 402;

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

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


“(c) TERMS; CONDITIONS.—The terms and conditions contained in an expired, transferred, or waived permit or lease described in subsection (b) shall continue in effect under a renewed or reissued permit or lease until the date on which the Secretary concerned completes the renewed or reissued permit or lease that is the subject of the expired, transferred, or waived permit or lease, in compliance with each applicable law.

“(d) CANCELLATION; SUSPENSION; MODIFICATION.—A permit or lease described in subsection (b) may be cancelled, suspended, or modified in accordance with applicable law.
“(e) COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—

“(1) IN GENERAL.—The renewal, reissuance, or transfer of a grazing permit or lease by the Secretary concerned shall be categorically excluded from the requirement to prepare an environmental analysis if the decision continues the current grazing management of the allotment.

“(2) APPLICABILITY REGARDING PERMITS AND LEASES WITH MINOR MODIFICATIONS.—If the renewal, reissuance, or transfer of a grazing permit or lease by the Secretary concerned contains only minor modifications from the grazing permit or lease that is the subject of the renewal, reissuance, or transfer, the grazing permit or lease shall be categorically excluded from the requirement to prepare an environmental analysis if—

“(A) monitoring of the allotment has indicated that the current grazing management has met, or has satisfactorily progressed towards meeting, objectives contained in the land and resource management plan of the allotment, as determined by the Secretary concerned; and

“(B) the decision is consistent with the policy of the Department of the Interior or the
Department of Agriculture, as appropriate, regarding extraordinary circumstances.

“(f) PRIORITY AND TIMING FOR COMPLETING ENVIRONMENTAL ANALYSES.—

“(1) IN GENERAL.—Notwithstanding section 504 of the Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred at Oklahoma City, and Rescissions Act, 1995 (Public Law 104–19; 109 Stat. 212), the Secretary concerned, in the sole discretion of the Secretary concerned, shall determine the priority and timing for completing each required environmental analysis regarding any grazing allotment, permit, or lease based on the environmental significance of the allotment, permit, or lease and available funding for that purpose.

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

SEC. 4. APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT TO GRAZING APPEALS.

(a) FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974.—Section 14 of the
Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1612) is amended by adding at the end the following:

"(c) Applicability of Administrative Procedure Act.—With respect to a decision by the Secretary of Agriculture regarding a grazing permit, an appeal by a grazing permittee shall be conducted in accordance with subchapter II of chapter 5 of title 5, United States Code.”.

(b) Federal Land Policy and Management Act of 1976.—Section 402 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752) is amended by adding at the end the following:

“(i) Applicability of Administrative Procedure Act.—

“(1) Secretary concerned.—The term ‘Secretary concerned’ means—

“(A) the Secretary of Agriculture, with respect to National Forest System land; and

“(B) the Secretary of the Interior, with respect to land under the jurisdiction of the Department of the Interior.

“(2) Applicability of Administrative Procedure Act.—With respect to a decision by the Secretary concerned regarding a grazing permit or lease, an appeal by a grazing permittee shall be con-
ducted in accordance with subchapter II of chapter 5 of title 5, United States Code.

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

“(4) SUSPENSION OF DECISIONS.—

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

“(B) DETERMINATION BY SECRETARY CONCERNED.—A decision described in subparagraph (A) may not be suspended if the Secretary concerned (including any other authorized official) determines there is an emergency regarding a deterioration of resources.

“(5) CONTINUED USE OF GRAZING PERMIT OR LEASE.—Except in a situation in which grazing use for the preceding year was authorized on a temporary basis, an applicant who was granted grazing use in the preceding year may continue at the level
of authorized active use until the date on which the appeal is resolved.”.