

opportunity to comment because the Agency believed that providing notice and an opportunity to comment was unnecessary and contrary to the public interest. Therefore, the Agency applied the "good cause" exemption in the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B) that allows agencies in limited circumstances to issue final rules without first providing notice and an opportunity for comment. While not required to do so under the APA, EPA delayed the effective date until October 19, 1998, providing a 30-day public comment period. EPA stated that if significant adverse comment was received, the Agency would withdraw the rule prior to the effective date and the comments would be addressed in a subsequent final rule. EPA simultaneously issued a companion proposed rule in the **Federal Register** (63 FR 46734) (FRL-6017-7) to ensure that the public was aware of its opportunity to comment, and to provide the APA-required proposal in the event that significant adverse comment was received and issuance of a subsequent final rule was necessary.

The comment period ended on October 2, 1998. The Agency has determined that significant adverse comments were received and is today issuing a withdrawal of the final rule. A subsequent final rule will be issued prior to February 28, 1999, which will address comments received during the comment period. EPA will not institute a second comment period for this action.

II. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This action does not impose any requirements. As such, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997). For the same reason, it does not require any action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4), or Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994). In addition, since this type of action does not require any proposal, no action is needed under the Regulatory

Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled "Enhancing Intergovernmental Partnerships" (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and Tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's action does not create an unfunded Federal mandate on State, local or Tribal governments. The action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

C. Executive Order 13084

Under Executive Order 13084, entitled "Consultation and Coordination with Indian Tribal Governments" (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of

regulatory policies on matters that significantly or uniquely affect their communities."

Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

III. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 745

Environmental protection, Hazardous substances, Lead-based paint, Lead poisoning, Reporting and recordkeeping requirements.

Dated: October 13, 1998.

Susan A. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.
[FR Doc. 98-27840 Filed 10-15-98; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4300

[WO-420-1050-00-24]

RIN 1004-AD06

Grazing Administration; Alaska; Reindeer; General

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is revising its regulations that provide for the administration of permits for grazing reindeer in Alaska. These regulations explain how Native Alaskans may apply for permits and what a permit entitles

them to do. BLM has translated the regulations into Plain Language and, with a few exceptions, has not changed the substance of the regulations.

DATES: Effective November 16, 1998.

ADDRESSES: You may send inquiries or suggestions to: Director (630), Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Larry Field, BLM Northern District Office, Fairbanks, Alaska, Telephone: 907-474-2343 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Final Rule as Adopted
- III. Responses to Comments
- IV. Procedural Matters

I. Background

Part 4300 of Title 43 of the Code of Federal Regulations implements the provisions of the Act of September 1, 1937 (50 Stat. 900; 25 U.S.C. 500, et seq.) (Act). That Act authorizes the Secretary of the Interior to manage the reindeer industry in Alaska in order to maintain a self-sustaining industry for Alaska Natives. The Act also authorizes the Secretary to issue permits to Natives for grazing reindeer on public lands.

The final rule published today is the last stage of the rulemaking process that is concluding in the revision of the regulations at 43 CFR 4300. This rule was preceded by a proposed rule that was published in the **Federal Register** on November 1, 1996 (61 FR 56497). The proposed rule, which was written in Plain Language, clarified the application procedures for reindeer grazing permits. BLM invited public comments for 30 days and received comments from a private citizen. We also received internal comments.

II. Final Rule as Adopted

The final rule is adopted with changes to the proposed rule as discussed in the Responses to Comments section. In summary, the final rule revises the definition of reindeer to clarify the reindeer's relationship to wild caribou; expands the reasons for cancellation of a permit to include those reasons currently used by BLM to reduce or modify a permit, as spelled out in § 4300.50; and clarifies that a \$10 filing fee must be paid for each application but no annual use fee is required.

III. Responses to Comments

Discussed below are the issues raised in the comments that BLM received during the 30-day comment period on the proposed rule to revise 43 CFR part 4300.

1. *Comment:* The commenter believes BLM should list the name and number

of any forms required for submitting grazing permit applications and state that none is required when appropriate.

Response: We have adopted the commenter's suggestion and amended the rule as follows:

—Revised § 4300.2 to specify the name and number of the forms used in this part—the Reindeer Grazing Permit (Form 4132-2), the Grazing Lease or Permit Application (Form 4201-1), and Range Improvement Permit (Form 4120-7). Also corrected § 4300.2 to delete the reference to reports having to be on a BLM-approved form.

—Added a statement to §§ 4300.30(a) (protest of a permit application), 4300.45 (annual reports), 4300.59 (assignment of permits), and 4300.80 (reindeer crossing permit) that the permittee is not required to use a particular format nor a BLM-approved form when completing actions under these sections.

2. *Comment:* In § 4300.23, BLM should provide a time frame for issuing a permit.

Response: We have revised § 4300.23 to state that BLM generally responds to an applicant within 120 days and keeps the applicant informed if there are delays in meeting that time frame.

3. *Comment:* In § 4300.25, the commenter has a problem with BLM issuing a grazing permit at its discretion.

Response: We have expanded § 4300.25 to point out that BLM's discretionary decisions are based on sound resource management guidelines developed in land use plans and in consultation with other State and Federal resource management agencies.

4. *Comment:* Section 4300.55 should identify the BLM official that makes the final decision when there is an appeal of the readjustment of a permit area.

Response: We have added information to § 4300.55 to advise that the BLM Field Office Manager makes the bureau decision and the BLM official's decision can be appealed to the Interior Board of Land Appeals (IBLA) under 43 CFR part 4. The IBLA makes the final decision.

5. In response to internal comments, we have made several technical amendments to the proposed regulation:

—Corrected the November 1, 1996, preamble of the 4300 proposed rule (61 FR 56497) and revised §§ 4300.22 and 4300.57 to provide that a \$10 filing fee is required for each reindeer grazing application but no annual use fee is required. Also, revised § 4300.57 to clarify that the application for renewal is completed on the same form as the original application.

The proposed rule incorrectly stated that a \$10 application fee must be paid each year of the reindeer grazing permit. Actually, BLM only requires a \$10 filing fee to accompany each application. For multi-year grazing permits, the \$10 filing fee submitted with each application is the only fee required.

—Replaced the word "default" in § 4300.71(b) to more closely track language in § 4300.71(a)(2). Paragraph (a) (2) lists one of the reasons that BLM may cancel a permit as the failure of the permittee to comply with the provisions of the permit or the regulations of part 4300.

Paragraph (b) uses the term "default" in the sense of "failure to comply." To make the terms in paragraphs (a) and (b) consistent, we have substituted "failure to comply" for "default" the first time it appears in paragraph (b) and substituted "noncompliance" for "default" the second time it appears in that paragraph.

—Replaced the term "Federal land" with "public land" in § 4300.90(a) for consistency and accuracy. "Public land", as discussed in § 4300.10, is the correct term to describe the types of land for which a reindeer grazing application may be filed.

IV. Procedural Matters

National Environmental Policy Act

BLM has determined that this final rule is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, pursuant to 516 Departmental Manual (DM), Chapter 2, Appendix 1, Item 1.10, and that the final rule does not meet any of the 10 criteria for exceptions to categorical exclusions listed in 516 DM, Chapter 2, Appendix 2. Pursuant to Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the term "categorical exclusion" means a category of actions that do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

This final rule qualifies as a categorical exclusion under item 1.10 for regulations of an administrative, financial, legal, technical, or procedural nature. The final rule does not change the rights of customers who may file applications and has no impact on the environment. The rule will simplify the

application procedures and make clear to applicants the legal requirements they need to meet.

Paperwork Reduction Act

BLM has submitted the information collection requirements in this final rule to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We will not require collection of this information until OMB has given its approval.

Sections of this final rule with information collection requirements are §§ 4300.20, 4300.57, 4300.80, and 4300.45, and BLM estimates the public reporting burden of these sections to average 1 hour per response for the first three sections and 15 minutes per response for the fourth section. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Information Collection Clearance Officer, Bureau of Land Management, U.S. Department of the Interior, 1849 C Street, NW., Mail Stop 401-LS, Washington, DC 20240, and the Office of Information and Regulatory Affairs, Desk Officer for the Department of the Interior (1004-AD06), Office of Management and Budget, Washington, DC 20503.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. Based on the discussion in the preamble above, the final rule will not materially change the way BLM processes applications, and will not affect the rights of customers who may file applications for grazing reindeer. The rule only simplifies the application procedures and makes clear to applicants the legal requirements they need to meet. BLM anticipates that this final rule will have no significant impact on the public at large. Therefore, BLM has determined under the RFA that this final rule would not have a

significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Revision of 43 CFR part 4300 will not result in any unfunded mandate to State, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year.

Executive Order 12612

The final rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, BLM has determined that this final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12630

The final rule does not represent a government action capable of interfering with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically exempts actions modifying regulations in a way that lessens interference with private property use from the definition of "policies that have takings implications." Since the primary function of the final rule is to clarify existing regulations in a way that does not materially change the regulations, there will be no private property rights impaired as a result. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 12866

According to the criteria listed in section 3(f) of Executive Order 12866, BLM has determined that the final rule is not a significant regulatory action. As such, the final rule is not subject to Office of Management and Budget review under section 6(a)(3) of the order.

Executive Order 12988

The Department of the Interior has determined that this rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Author

The principal author of this rule is Frances Watson, Regulatory Affairs

Group, Telephone: 202-452-5006 (Commercial or FTS).

List of Subjects in 43 CFR Part 4300

Administrative practice and procedure, Alaska, Grazing lands, Range management, Reindeer, Reporting and recordkeeping requirements.

Dated: September 22, 1998.

Sylvia V. Baca,

Deputy Assistant Secretary, Land and Minerals Management

For the reasons set forth in the preamble, and under the authority of 25 U.S.C 500k, BLM is revising 43 CFR part 4300 to read as follows:

PART 4300—GRAZING ADMINISTRATION; ALASKA; REINDEER; GENERAL

General Information

Sec.

4300.1 What is a reindeer?

4300.2 Is there a special form for my application?

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Applying for a Grazing Permit

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4300.21 What must I include in my application?

4300.22 What fees must I pay?

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4300.24 Does my filed application mean that no one else can file an application?

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Protests Against a Grazing Permit Application

4300.30 Can someone else protest my permit application?

Conditions of Your Approved Permit

4300.40 How long can I graze reindeer with my permit?

4300.41 What will the permit say about the number of reindeer and where I can graze them?

4300.42 If I have existing improvements on the land, will these be allowed in the initial permit?

4300.43 What should I do if I want to construct and maintain improvements on the land?

4300.44 Are there any major restrictions on my grazing permit that I might otherwise think are allowed?

4300.45 Must I submit any reports?

Changes That Can Affect Your Permit**Other Uses of the Land**

- 4300.50 Are there other uses of the land that may affect my permit?
- 4300.51 Will I be notified if another use, disposal, or withdrawal occurs on the land?
- 4300.52 Can other persons use the land in my permit for mineral exploration or production?

Changes in the Size of the Permitted Area

- 4300.53 Can BLM reduce the size of the land in my permit?
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- 4300.55 What if I don't agree with an adjustment of my permit area?

Permit Renewals

- 4300.57 How do I apply for a renewal of my permit?
- 4300.58 Will the renewed permit be exactly the same as the old permit?

Assigning Your Permit to Another Party

- 4300.59 If I want to assign my permit to another party, when must I notify BLM?
- 4300.60 What must be included in my assignment document?
- 4300.61 Can I sublease any part of the land in my permit?

Closing out Your Permit

- 4300.70 May I relinquish my permit?
- 4300.71 Under what circumstances can BLM cancel my permit?
- 4300.72 May I remove my personal property or improvements when the permit ends?

Reindeer Crossing Permit

- 4300.80 How can I get a permit to cross reindeer over public lands?

Trespass

- 4300.90 That is a trespass?

Authority: 25 U.S.C. 500k, and 43 U.S.C. 1701 *et seq.*

General Information**§ 4300.1 What is a reindeer?**

Reindeer, *Rangifer tarandus*, are a semi-domesticated member of the deer family, Cervidae. They are essentially the same animal as their wild cousins, the caribou, but tend to be smaller than caribou. Reindeer and caribou are different subspecies of the same family, genus, and species. The term "reindeer" includes caribou that have been introduced into animal husbandry or have joined reindeer herds, the offspring of these caribou, and the offspring of reindeer.

§ 4300.2 Is there a special form for my application?

All applications you submit to BLM must be on a BLM-approved form and in duplicate. The forms to be used in this part are the Grazing Lease or Permit

Application (Form 4201-1), the Reindeer Grazing Permit (Form 4132-2), and the Range Improvement Permit (Form 4120-7).

Before You Apply for a Reindeer Grazing Permit**§ 4300.10 On what types of public land can I obtain a reindeer grazing permit?**

- (a) You may apply for public lands that are vacant and unappropriated.
- (b) You may apply for public lands which have been withdrawn for any purpose, but the Department or agency with administrative jurisdiction of the withdrawn lands must give its prior consent, and may impose terms or conditions on the use of the land.
- (c) If the lands you apply for are within natural caribou migration routes, or if they have other important values for wildlife, BLM will consult with the Alaska Department of Fish and Game before issuing a permit. BLM may include such lands in a permit at its discretion, and a permit will contain any special terms and conditions to protect wildlife resources.

§ 4300.11 Who qualifies to apply for a permit?

Natives, groups, associations or corporations of Natives as defined by the Act of September 1, 1937 (50 Stat. 900) qualify. If you are a Native corporation, you must be organized under the laws of the United States or the State of Alaska. Native corporations organized under the Alaska Native Claims Settlement Act also qualify.

§ 4300.12 What is the definition of a Native?

- Natives are:
- (a) Native Indians, Eskimos, and Aleuts of whole or part blood living in Alaska at the time of the Treaty of Cession of Alaska to the United States, and their descendants of whole or part blood; and
- (b) Indians and Eskimos who, between 1867 and September 1, 1937, migrated into Alaska from Canada, and their descendants of whole or part blood.

Applying for a Grazing Permit**§ 4300.20 How do I apply for a permit?**

You must execute a completed application for a grazing permit (Form 4201-1) and file it in the BLM office with jurisdiction over the lands for which you are applying.

§ 4300.21 What must I include in my application?

- (a) You must include a certification of reindeer allotment to you, signed by the

Bureau of Indian Affairs, if you are to receive a herd from the Government. If you obtain reindeer from a source other than the Government, you should state the source and show evidence of purchase or option to purchase.

(b) Your initial application must list the location of and describe the improvements you own in the application area. You must have this statement verified by the Bureau of Indian Affairs before you submit it to BLM.

§ 4300.22 What fees must I pay?

You must pay a \$10 filing fee with each application. No grazing fee will be charged.

§ 4300.23 After I file my application, can I use the land before BLM issues my permit?

No. You cannot use the land until BLM issues you a permit. Generally, BLM will issue a permit within 120 days after receiving an application and will keep you informed if there are delays in meeting that timeframe.

§ 4300.24 Does my filed application mean that no one else can file an application?

No. The filing of your application will not segregate the land. Anyone else may file an application and BLM may dispose of the lands under the public land laws.

§ 4300.25 Does my filed application mean I will automatically receive a permit?

No. BLM issues grazing permits at its discretion. Our decisionmaking is based on resource management guidelines developed in land use plans and in consultation with other State and Federal resource management agencies.

Protests Against a Grazing Permit Application**§ 4300.30 Can someone else protest my permit application?**

(a) Yes, anyone may file a protest with BLM. The protest does not have to be in a particular format nor on a BLM-approved form but it must:

- (1) Be filed in duplicate with BLM;
- (2) Contain a complete description of all facts upon which it is based;
- (3) Describe the lands involved; and
- (4) Be accompanied by evidence of service of a copy of the protest on the applicant.

(b) If the person protesting also wants a grazing permit for all or part of the land described in the protested application, the protest must be accompanied by a grazing permit application.

Conditions of Your Approved Permit**§ 4300.40 How long can I graze reindeer with my permit?**

BLM issues permits for a maximum of 10 years, except when you request a shorter term, or when BLM determines that a shorter period is in the public interest. The issued permit will specify the number of years you can graze reindeer.

§ 4300.41 What will the permit say about the number of reindeer and where I can graze them?

(a) The permit will indicate the maximum number of reindeer you can graze on the permit area based on range conditions. BLM can adjust this number if range conditions change, as for example, by natural causes, overgrazing, or fire.

(b) The permit will restrict grazing to a definitely described area which BLM feels is usable and adequate for your needs.

§ 4300.42 If I have existing improvements on the land, will these be allowed in the initial permit?

Yes, any improvements existing on the land will be allowed.

§ 4300.43 What should I do if I want to construct and maintain improvements on the land?

(a) You should file an application (Form 4120-7) with BLM for a permit to do this. A permit will allow you to construct, maintain, and use any fence, building, corral, reservoir, well or other improvement needed for grazing under the grazing permit; and

(b) You must comply with Alaska state law in the construction and maintenance of fences, but any fence must be constructed to permit ingress and egress of miners, mineral prospectors, and other persons entitled to enter the area for lawful purposes.

§ 4300.44 Are there any major restrictions on my grazing permit that I might otherwise think are allowed?

Yes. You must not:

(a) Enclose roads, trails and highways as to disturb public travel there;

(b) Interfere with existing communication lines or other improvements;

(c) Prevent legal hunting, fishing or trapping on the land;

(d) Prevent access by persons, such as miners and mineral prospectors, entitled to lawfully enter; or

(e) Graze reindeer without complying with applicable State and Federal laws on livestock quarantine and sanitation.

§ 4300.45 Must I submit any reports?

Yes. Before April 1 of the second permit year and each year afterwards, you must submit a report in duplicate to BLM which describes your grazing operations during the preceding year. Reports do not have to be on a BLM-approved form nor in a particular format.

Changes That Can Affect Your Permit*Other Uses of the Land***§ 4300.50 Are there other uses of the land that may affect my permit?**

Yes. The lands described in your grazing permit and the subsurface can be affected by uses that BLM considers more important than grazing. Your permit can be modified or reduced in size or canceled by BLM to allow for:

(a) Protection, development and use of the natural resources, e.g., minerals, timber, and water, under applicable laws and regulations;

(b) Agricultural use;

(c) Applications for and the acquisition of homesites, easements, permits, leases or other rights and uses, or any disposal or withdrawal, under the applicable public land laws; or

(d) Temporary closing of portions of the permitted area to grazing whenever, because of improper handling of reindeer, overgrazing, fire or other cause, BLM judges this necessary to restore the range to its normal condition.

§ 4300.51 Will I be notified if another use, disposal or withdrawal occurs on the land?

Yes. If there is a settlement, location, entry, disposal, or withdrawal on any lands described in your permit, BLM will notify you and will reduce your permit area by the amount of the area involved.

§ 4300.52 Can other persons use the land in my permit for mineral exploration or production?

Yes. Unless the land is otherwise withdrawn, the land in your permit is subject to lease or leasing under the mineral leasing laws and under the Geothermal Steam Act, and mineral materials disposal under the Materials Act. Also, it can be prospected, located, and purchased under the mining laws and applicable regulations at 43 CFR Group 3800.

Changes in the Size of the Permit Area**§ 4300.53 Can BLM reduce the size of the land in my permit?**

Yes. BLM may reduce it at any time but must notify you at least 30 days before taking this action. BLM can reduce the area when:

(a) BLM determines that the area is too large for the number of reindeer you are grazing; or

(b) When disposal, withdrawal, natural causes, such as drought or fire, or any other reason in § 4300.50 so requires.

§ 4300.54 Can BLM increase the size of the land in my permit?

Yes. BLM may increase the area on its own initiative or by your request if BLM determines that the area is too small for the number of reindeer you are grazing. BLM will give you at least 30 days' notice of this action.

§ 4300.55 What if I don't agree with an adjustment of my permit area?

You must contact BLM within the notice period to show cause why the area should not be adjusted. After the BLM field office manager makes a decision on the adjustment, you have the right to appeal that decision to the Interior Board of Land Appeals (IBLA) under 43 CFR part 4. The IBLA makes the final decision.

Permit Renewals**§ 4300.57 How do I apply for a renewal of my permit?**

You must submit an application for renewal, using the same form as the original application, between four and eight months before the permit expires. A \$10 filing fee must accompany the application.

§ 4300.58 Will the renewed permit be exactly the same as the old permit?

At its discretion, BLM may offer you a renewed grazing permit with such terms, conditions, and duration that it determines are in the public interest.

Assigning Your Permit to Another Party**§ 4300.59 If I want to assign my permit to another party, when must I notify BLM?**

You must file a proposed assignment of your permit, in whole or in part, in duplicate with BLM within 90 days of the assignment execution date. No particular format is required. The assignment is effective when BLM approves it.

§ 4300.60 What must be included in my assignment document?

Assignments must contain:

(a) All terms and conditions agreed to by the parties;

(b) A showing under §§ 4300.11 and 4300.12 that the assignee is qualified to hold a permit;

(c) A showing under § 4300.21(a) regarding a reindeer allotment; and

(d) The assignee's statement agreeing to be bound by the provisions of the permit.

§ 4300.61 Can I sublease any part of the land in my permit?

No.

Closing Out Your Permit**§ 4300.70 May I relinquish my permit?**

Yes. You may relinquish the permit by filing advance written notice with BLM. Your relinquishment will be effective on the date you indicate, as long as it is at least 30 days after the date you file.

§ 4300.71 Under what circumstances can BLM modify, reduce or cancel my permit?

(a) BLM may cancel the permit if:

- (1) BLM issued it improperly through error as to a material fact;
- (2) You fail to comply with any of the provisions of the permit or the regulations of this part; or
- (3) Disposal, withdrawal, natural causes, such as drought or fire, or any other reason in § 4300.50 so requires.

(b) BLM will not cancel the permit for failure to comply until BLM has notified you in writing of the nature of your noncompliance, and you have been given at least 30 days to show why BLM should not cancel your permit.

(c) BLM may modify or reduce a permit in accordance with § 4300.50.

§ 4300.72 May I remove my personal property or improvements when the permit expires or terminates?

(a) Yes. Within 90 days of the expiration or termination of the grazing permit, or within any extension period, you may remove all your personal property and any removable range improvements you own, such as fences, corrals, and buildings.

(b) Property that is not removed within the time allowed will become property of the United States.

Reindeer Crossing Permits**§ 4300.80 How can I get a permit to cross reindeer over public lands?**

(a) BLM may issue a crossing permit free of charge when you file an application with BLM at least 30 days before the crossing is to begin. Lands crossed may include lands under a grazing permit.

(b) The application does not have to be on a BLM-approved form nor in a particular format, but it must show:

- (1) The number of reindeer to be driven;
- (2) The start date;
- (3) The approximate period of time required for the crossing; and
- (4) The land to be crossed.

(c) You must comply with applicable State and Federal laws on livestock quarantine and sanitation when crossing reindeer on public land.

Trespass**§ 4300.90 What is a trespass?**

(a) A trespass is any use of Federal land for reindeer grazing purposes without a valid permit issued under the regulations of this part; a trespass is unlawful and is prohibited.

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

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DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

RIN 1018-AE47

Endangered and Threatened Wildlife and Plants; Final Rule to Establish an Additional Manatee Sanctuary in Kings Bay, Crystal River, Florida

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: With this final rule, the Fish and Wildlife Service (Service) establishes an additional West Indian manatee (*Trichechus manatus*) sanctuary in Citrus County, Florida, adjacent to Kings Bay/Crystal River at the confluence of the Three Sisters Spring run with a residential canal, and prohibits all waterborne activities in the sanctuary for a period of November 15 through March 31 of each year. This final action will prevent the taking of manatees by harassment resulting from waterborne activities "which includes, but is not limited to swimming, diving (including skin and scuba diving), snorkeling, water skiing, surfing, fishing, the use of water vehicles, and dredging and filling operations" during the winter months. This increases the number of sanctuaries in Kings Bay from six to seven and has been initiated to prevent harassment caused by increasing public use at this site. This action is taken under the authority of the Endangered Species Act of 1973, as amended, and the Marine Mammal Protection Act of 1972, as amended.

DATES: This rule is effective November 16, 1998.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Jacksonville Field Office, U.S. Fish and Wildlife Service, 6620

Southpoint Drive South, Suite 310, Jacksonville, Florida 32216-0912.

FOR FURTHER INFORMATION CONTACT:

Robert O. Turner at the above address, (904/232-2580, ext.117); or Vance Eaddy, Senior Resident Agent, U.S. Fish and Wildlife Service (813/893-3651); or Elizabeth Souheaver, Refuge Manager, Chassahowitzka National Wildlife Refuge, U.S. Fish and Wildlife Service (352/563-2088).

SUPPLEMENTARY INFORMATION:**Background**

Crystal River is a tidal river on the west coast of Florida. Forming the headwaters of Crystal River is Kings Bay, a lake-like body of water fed by numerous freshwater springs. The Kings Bay springs constitute one of the most important natural warm-water refuges for manatees, a federally listed endangered species. More than 250 animals may seek refuge in the Bay's warm waters during winter cold periods. With the winter presence of manatees and its sheltered, warm and clear waters. Kings Bay also attracts large numbers of waterborne users (boaters, recreational divers, snorkelers, and swimmers) most of whom seek out manatees for a close viewing experience. The influx of visitors, primarily there to see and interact with manatees, provides a major economic impact to the Crystal River community.

Large aggregations of manatees apparently did not exist in Kings Bay until recent times (Beeler and O'Shea 1988). The first careful counts were made in the late 1960s. Since then manatee numbers have increased significantly. In 1967-1968, Hartman (1979) counted 38 animals. By 1981-1982, the maximum winter count increased to 114 animals (Powell and Rathbun 1984). In December 1994, the count was 271 (U.S. Fish and Wildlife Service, unpublished data) and in January 1998, the count was 298. Both births and immigration of animals from other areas have contributed to the increases in manatee numbers at Crystal River.

The second revision of the Florida Manatee Recovery Plan (U.S. Fish and Wildlife Service, 1995) identifies the need to minimize disturbance and harassment of manatees in the wild. This concern for the welfare of manatees in Kings Bay has resulted in the establishment of a series of sanctuary areas to protect manatees from any potential negative impacts of human activities. The first three sanctuaries were created in 1980, encompassing a total of about 10 acres in Kings Bay. These were closed to all human access