

Public Law 95-514
95th Congress

An Act

To improve the range conditions of the public rangelands.

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

SECTION 1. That this Act may be cited as the "Public Rangelands Improvement Act of 1978".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds and declares that—

(1) vast segments of the public rangelands are producing less than their potential for livestock, wildlife habitat, recreation, forage, and water and soil conservation benefits, and for that reason are in an unsatisfactory condition;

(2) such rangelands will remain in an unsatisfactory condition and some areas may decline further under present levels of, and funding for, management;

(3) unsatisfactory conditions on public rangelands present a high risk of soil loss, desertification, and a resultant underproductivity for large acreages of the public lands; contribute significantly to unacceptable levels of siltation and salinity in major western watersheds including the Colorado River; negatively impact the quality and availability of scarce western water supplies; threaten important and frequently critical fish and wildlife habitat; prevent expansion of the forage resource and resulting benefits to livestock and wildlife production; increase surface runoff and flood danger; reduce the value of such lands for recreational and esthetic purposes; and may ultimately lead to unpredictable and undesirable long-term local and regional climatic and economic changes;

(4) the above-mentioned conditions can be addressed and corrected by an intensive public rangelands maintenance, management, and improvement program involving significant increases in levels of rangeland management and improvement funding for multiple-use values;

(5) to prevent economic disruption and harm to the western livestock industry, it is in the public interest to charge a fee for livestock grazing permits and leases on the public lands which is based on a formula reflecting annual changes in the costs of production;

(6) the Act of December 15, 1971 (85 Stat. 649, 16 U.S.C. 1331 et seq.), continues to be successful in its goal of protecting wild free-roaming horses and burros from capture, branding, harassment, and death, but that certain amendments are necessary thereto to avoid excessive costs in the administration of the Act, and to facilitate the humane adoption or disposal of excess wild free-roaming horses and burros which because they exceed the carrying capacity of the range, pose a threat to their own habitat, fish, wildlife, recreation, water and soil conservation, domestic livestock grazing, and other rangeland values;

(b) The Congress therefore hereby establishes and reaffirms a national policy and commitment to:

(1) inventory and identify current public rangelands conditions and trends as a part of the inventory process required by section 201(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711);

Oct. 25, 1978
[H.R. 10587]

Public
Rangelands
Improvement Act
of 1978.
43 USC 1901
note.
43 USC 1901.

(2) manage, maintain and improve the condition of the public rangelands so that they become as productive as feasible for all rangeland values in accordance with management objectives and the land use planning process established pursuant to section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712);

(3) charge a fee for public grazing use which is equitable and reflects the concerns addressed in paragraph (a) (5) above;

(4) continue the policy of protecting wild free-roaming horses and burros from capture, branding, harassment, or death, while at the same time facilitating the removal and disposal of excess wild free-roaming horses and burros which pose a threat to themselves and their habitat and to other rangeland values;

(c) The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation, and shall be construed as supplemental to and not in derogation of the purposes for which public rangelands are administered under other provisions of law.

Definitions.

43 USC 1902.

SEC. 3. As used in this Act—

(a) The terms "rangelands" or "public rangelands" means lands administered by the Secretary of the Interior through the Bureau of Land Management or the Secretary of Agriculture through the Forest Service in the sixteen contiguous Western States on which there is domestic livestock grazing or which the Secretary concerned determines may be suitable for domestic livestock grazing.

(b) The term "allotment management plan" is the same as defined in section 103(k) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1702(k)), except that as used in this Act such term applies to the sixteen contiguous Western States.

(c) The term "grazing permit and lease" means any document authorizing use of public lands or lands in national forests in the sixteen contiguous Western States for the purpose of grazing domestic livestock.

(d) The term "range condition" means the quality of the land reflected in its ability in specific vegetative areas to support various levels of productivity in accordance with range management objectives and the land use planning process, and relates to soil quality, forage values (whether seasonal or year round), wildlife habitat, watershed and plant communities, the present state of vegetation of a range site in relation to the potential plant community for that site, and the relative degree to which the kinds, proportions, and amounts of vegetation in a plant community resemble that of the desired community for that site.

(e) The term "native vegetation" means those plant species, communities, or vegetative associations which are endemic to a given area and which would normally be identified with a healthy and productive range condition occurring as a result of the natural vegetative process of the area.

(f) The term "range improvement" means any activity or program on or relating to rangelands which is designed to improve production of forage; change vegetative composition; control patterns of use; provide water; stabilize soil and water conditions; and provide habitat for livestock and wildlife. The term includes, but is not limited to,

structures, treatment projects, and use of mechanical means to accomplish the desired results.

(g) The term "court ordered environmental impact statement" means any environmental statements which are required to be prepared by the Secretary of the Interior pursuant to the final judgment or subsequent modification thereof as set forth on June 18, 1975, in the matter of Natural Resources Defense Council against Andrus.

(h) The term "Secretary" unless specifically designated otherwise, means the Secretary of the Interior.

(i) The term "sixteen contiguous Western States" means the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

RANGELANDS INVENTORY AND MANAGEMENT

SEC. 4. (a) Following enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall update, develop (where necessary) and maintain on a continuing basis thereafter, an inventory of range conditions and record of trends of range conditions on the public rangelands, and shall categorize or identify such lands on the basis of the range conditions and trends thereof as they deem appropriate. Such inventories shall be conducted and maintained by the Secretary as a part of the inventory process required by section 201(a) of the Federal Land Policy and Management Act (43 U.S.C. 1711), and by the Secretary of Agriculture in accordance with section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1603); shall be kept current on a regular basis so as to reflect changes in range conditions; and shall be available to the public. 43 USC 1903.

(b) The Secretary shall manage the public rangelands in accordance with the Taylor Grazing Act (43 U.S.C. 315-315(o)), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701-1782), and other applicable law consistent with the public rangelands improvement program pursuant to this Act. Except where the land use planning process required pursuant to section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712) determines otherwise or the Secretary determines, and sets forth his reasons for this determination, that grazing uses should be discontinued (either temporarily or permanently) on certain lands, the goal of such management shall be to improve the range conditions of the public rangelands so that they become as productive as feasible in accordance with the rangeland management objectives established through the land use planning process, and consistent with the values and objectives listed in sections 2 (a) and (b) (2) of this Act. Public availability.

RANGE IMPROVEMENT FUNDING

SEC. 5. (a) In order to accomplish the purposes of this Act, there are hereby authorized to be appropriated the sum of an additional \$15,000,000 annually in fiscal years 1980 through 1982; for fiscal years 1983 through 1986 an amount no less than the amount authorized for 1982; and for fiscal years 1987 through 1999 an amount not less than \$5,000,000 annually more than the amount authorized for fiscal year 1986. Such funds shall be in addition to any range, wildlife, and soil and water management moneys which have been requested by the Appropriation authorization. 43 USC 1904.

43 USC 1748.

Secretary under the provisions of section 318 of the Federal Land Policy and Management Act, and in addition to the moneys which are available for range improvements under section 401 of the Federal Land Policy and Management Act (43 U.S.C. 1751).

(b) Any amounts authorized by this section not appropriated in one or more fiscal years shall be available for appropriation in any subsequent years.

Distribution,
consultation and
coordination.

(c) No less than 80 per centum of such funds provided herein shall be used for on-the-ground range rehabilitation, maintenance and the construction of range improvements (including project layout, project design, and project supervision). No more than 15 per centum of such funds provided herein shall be used to hire and train such experienced and qualified personnel as are necessary to implement on-the-ground supervision and enforcement of the land use plans required pursuant to section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712) and such allotment management plans as may be developed. Such funds shall be distributed as the Secretary deems advisable after careful and considered consultation and coordination, including public hearings and meetings where appropriate, with the district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753), and the advisory councils established pursuant to section 309 of the Federal Land Policy and Management Act (43 U.S.C. 1739), range user representatives, and other interested parties. To the maximum extent practicable, and where economically sound, the Secretary shall give priority to entering into cooperative agreements with range users (or user groups) for the installation and maintenance of on-the-ground range improvements.

Environmental
assessment
record.

(d) Prior to the use of any funds authorized by this section the Secretary shall cause to have prepared an environmental assessment record on each range improvement project. Thereafter, improvement projects may be constructed unless the Secretary determines that the project will have a significant impact on the quality of human environment, necessitating an environmental impact statement pursuant to the National Environmental Policy Act prior to the expenditure of funds.

42 USC 4321
note.

GRAZING FEES

43 USC 1905.

SEC. 6. (a) For the grazing years 1979 through 1985, the Secretaries of Agriculture and Interior shall charge the fee for domestic livestock grazing on the public rangelands which Congress finds represents the economic value of the use of the land to the user, and under which Congress finds fair market value for public grazing equals the \$1.23 base established by the 1966 Western Livestock Grazing Survey multiplied by the result of the Forage Value Index (computed annually from data supplied by the Economic Research Service) added to the Combined Index (Beef Cattle Price Index minus the Price Paid Index) and divided by 100: *Provided*, That the annual increase or decrease in such fee for any given year shall be limited to not more than plus or minus 25 per centum of the previous year's fee.

(b) The second sentence of section 401(b)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751(b)(1)) is hereby amended by adding the words "or \$10,000,000 per annum, whichever is greater" after the words "50 per centum", and by substituting the word "sixteen" for the word "eleven" before the words "contiguous Western States".

GRAZING LEASES AND PERMITS

SEC. 7. (a) Section 402(b)(3) of the Federal Land Policy and Management Act (43 U.S.C. 1752) is amended by striking the period at the end of the proviso and adding “: *Provided further*, That the absence of completed land use plans or court ordered environmental statements shall not be the sole basis for establishing a term shorter than ten years unless the Secretary determines on a case-by-case basis that the information to be contained in such land use plan or court ordered environmental impact statement is necessary to determine whether a shorter term should be established for any of the reasons set forth in items (1) through (3) of this subsection.”.

(b) Section 402(a) of the Federal Land Policy and Management Act is hereby amended by substituting the word “sixteen” for the word “eleven” before the words “contiguous Western States”.

ALLOTMENT MANAGEMENT PLANS

SEC. 8. Sections 402 (d) and (e) (43 U.S.C. 1752 (d) and (e)) are hereby amended—

(a) by changing subsection (d) to read as follows:

“(d) All permits and leases for domestic livestock grazing issued pursuant to this section may incorporate an allotment management plan developed by the Secretary concerned. However, nothing in this subsection shall be construed to supersede any requirement for completion of court ordered environmental impact statements prior to development and incorporation of allotment management plans. If the Secretary concerned elects to develop an allotment management plan for a given area, he shall do so in careful and considered consultation, cooperation and coordination with the lessees, permittees, and landowners involved, the district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753), and any State or States having lands within the area to be covered by such allotment management plan. Allotment management plans shall be tailored to the specific range condition of the area to be covered by such plan, and shall be reviewed on a periodic basis to determine whether they have been effective in improving the range condition of the lands involved or whether such lands can be better managed under the provisions of subsection (e) of this section. The Secretary concerned may revise or terminate such plans or develop new plans from time to time after such review and careful and considered consultation, cooperation and coordination with the parties involved. As used in this subsection, the terms ‘court ordered environmental impact statement’ and ‘range condition’ shall be defined as in the ‘Public Rangelands Improvement Act of 1978.’”

Consultation
and
cooperation.

Definitions.

Ante, p. 1803.

(b) by deleting in subsection (e) the words “Prior to October 1, 1988, or thereafter, in” and by inserting “In”.

APPROPRIATIONS

SEC. 9. Notwithstanding any other provision of this Act, authority to enter into cooperative agreements and to make payments under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

43 USC 1906.

GRAZING ADVISORY BOARDS

SEC. 10. Section 403(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1753) is amended by substituting the word "sixteen" for the word "eleven" before the words "contiguous Western States".

NATIONAL GRASSLAND EXEMPTIONS

43 USC 1907. SEC. 11. All National Grasslands are exempted from the provisions of this Act.

EXPERIMENTAL STEWARDSHIP PROGRAM

43 USC 1908. SEC. 12. (a) The Secretaries of Interior and Agriculture are hereby authorized and directed to develop and implement, on an experimental basis on selected areas of the public rangelands which are representative of the broad spectrum of range conditions, trends, and forage values, a program which provides incentives to, or rewards for, the holders of grazing permits and leases whose stewardship results in an improvement of the range condition of lands under permit or lease. Such program shall explore innovative grazing management policies and systems which might provide incentives to improve range conditions. These may include, but need not be limited to—

(1) cooperative range management projects designed to foster a greater degree of cooperation and coordination between the Federal and State agencies charged with the management of the rangelands and with local private range users,

(2) the payment of up to 50 per centum of the amount due the Federal Government from grazing permittees in the form of range improvement work,

(3) such other incentives as he may deem appropriate.

Report to
Congress.

(b) No later than December 31, 1985, the Secretaries shall report to the Congress the results of such experimental program, their evaluation of the fee established in section 6 of this Act and other grazing fee options, and their recommendations to implement a grazing fee schedule for the 1986 and subsequent grazing years.

ADVISORY COUNCILS

SEC. 13. The first line of section 309(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739) is amended by deleting "is authorized to" and inserting in lieu thereof "shall".

WILD HORSES AND BURROS

Inventory and
determinations.

SEC. 14. (a) Subsections 3 (b), (c), and (d) of the Act of December 15, 1971 (85 Stat. 649; 16 U.S.C. 1333(b)(3)) are hereby amended to read as follows:

"(b) (1) The Secretary shall maintain a current inventory of wild free-roaming horses and burros on given areas of the public lands. The purpose of such inventory shall be to: make determinations as to whether and where an overpopulation exists and whether action should be taken to remove excess animals; determine appropriate management levels of wild free-roaming horses and burros on these areas of the public lands; and determine whether appropriate management levels should be achieved by the removal or destruction of excess animals, or other options (such as sterilization, or natural controls on

population levels). In making such determinations the Secretary shall consult with the United States Fish and Wildlife Service, wildlife agencies of the State or States wherein wild free-roaming horses and burros are located, such individuals independent of Federal and State government as have been recommended by the National Academy of Sciences, and such other individuals whom he determines have scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management.

Consultation.

“(2) Where the Secretary determines on the basis of (i) the current inventory of lands within his jurisdiction; (ii) information contained in any land use planning completed pursuant to section 202 of the Federal Land Policy and Management Act of 1976; (iii) information contained in court ordered environmental impact statements as defined in section 2 of the Public Range Lands Improvement Act of 1978; and (iv) such additional information as becomes available to him from time to time, including that information developed in the research study mandated by this section, or in the absence of the information contained in (i-iv) above on the basis of all information currently available to him, that an overpopulation exists on a given area of the public lands and that action is necessary to remove excess animals, he shall immediately remove excess animals from the range so as to achieve appropriate management levels. Such action shall be taken, in the following order and priority, until all excess animals have been removed so as to restore a thriving natural ecological balance to the range, and protect the range from the deterioration associated with overpopulation:

Overpopulation.

43 USC 1712.

“(A) The Secretary shall order old, sick, or lame animals to be destroyed in the most humane manner possible;

“(B) The Secretary shall cause such number of additional excess wild free-roaming horses and burros to be humanely captured and removed for private maintenance and care for which he determines an adoption demand exists by qualified individuals, and for which he determines he can assure humane treatment and care (including proper transportation, feeding, and handling): *Provided*, That, not more than four animals may be adopted per year by any individual unless the Secretary determines in writing that such individual is capable of humanely caring for more than four animals, including the transportation of such animals by the adopting party; and

“(C) The Secretary shall cause additional excess wild free-roaming horses and burros for which an adoption demand by qualified individuals does not exist to be destroyed in the most humane and cost efficient manner possible.

“(3) For the purpose of furthering knowledge of wild horse and burro population dynamics and their interrelationship with wildlife, forage and water resources, and assisting him in making his determination as to what constitutes excess animals, the Secretary shall contract for a research study of such animals with such individuals independent of Federal and State government as may be recommended by the National Academy of Sciences for having scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management. The terms and outline of such research study shall be determined by a research design panel to be appointed by the President of the

Research study.

Submittal to
Congress.

Title,
application.

National Academy of Sciences. Such study shall be completed and submitted by the Secretary to the Senate and House of Representatives on or before January 1, 1983.

"(c) Where excess animals have been transferred to a qualified individual for adoption and private maintenance pursuant to this Act and the Secretary determines that such individual has provided humane conditions, treatment and care for such animal or animals for a period of one year, the Secretary is authorized upon application by the transferee to grant title to not more than four animals to the transferee at the end of the one-year period.

"(d) Wild free-roaming horses and burros or their remains shall lose their status as wild free-roaming horses or burros and shall no longer be considered as falling within the purview of this Act—

"(1) upon passage of title pursuant to subsection (c) except for the limitation of subsection (c) (1) of this section; or

"(2) if they have been transferred for private maintenance or adoption pursuant to this Act and die of natural causes before passage of title; or

"(3) upon destruction by the Secretary or his designee pursuant to subsection (b) of this section; or

"(4) if they die of natural causes on the public lands or on private lands where maintained thereon pursuant to section 4 and disposal is authorized by the Secretary or his designee; or

"(5) upon destruction or death for purposes of or incident to the program authorized in section 3 of this Act; *Provided*, That no wild free-roaming horse or burro or its remains may be sold or transferred for consideration for processing into commercial products."

"Excess
animals."

(b) A new subsection (f) is added to section 2 of the Act of December 15, 1971, as amended (16 U.S.C. 1332) to read as follows:

"(f) 'excess animals' means wild free-roaming horses or burros (1) which have been removed from an area by the Secretary pursuant to applicable law or, (2) which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area."

Approved October 25, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1122 (Comm. on Interior and Insular Affairs) and No. 95-1737 (Comm. of Conference).

SENATE REPORT No. 95-1237 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 124 (1978):

June 29, considered and passed House.

Sept. 30, considered and passed Senate, amended.

Oct. 10, House agreed to conference report.

Oct. 11, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 43:

Oct. 27, Presidential statement.