

Calendar No. 589

105TH CONGRESS
2D SESSION**H. R. 2493**

IN THE SENATE OF THE UNITED STATES

OCTOBER 31, 1997

Received; read twice and referred to the Committee on Energy and Natural
Resources

SEPTEMBER 18, 1998

Reported by Mr. MURKOWSKI, without amendment

AN ACT

To establish a mechanism by which the Secretary of Agriculture and the Secretary of the Interior can provide for uniform management of livestock grazing on Federal lands.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Forage Improvement Act of 1997”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Rules of construction.
 Sec. 3. Coordinated administration.

TITLE I—MANAGEMENT OF GRAZING ON FEDERAL LANDS

Sec. 101. Application of title.
 Sec. 102. Definitions.
 Sec. 103. Monitoring.
 Sec. 104. Subleasing.
 Sec. 105. Cooperative allotment management plans.
 Sec. 106. Fees and charges.

TITLE II—MISCELLANEOUS

Sec. 201. Effective date.
 Sec. 202. Issuance of new regulations.

1 **SEC. 2. RULES OF CONSTRUCTION.**

2 (a) LIMITATION ON APPLICATION.—Nothing in this
 3 Act shall be construed to affect grazing in any unit of the
 4 National Park System, in any unit of the National Wildlife
 5 Refuge System, in any unit of the National Forest System
 6 managed as a National Grassland by the Secretary of Ag-
 7 riculture under the Bankhead-Jones Farm Tenant Act (7
 8 U.S.C. 1010 et seq.), on any lands that are not Federal
 9 lands (as defined in section 102), or on any lands that
 10 are held by the United States in trust for the benefit of
 11 Indians.

12 (b) MULTIPLE USE ACTIVITIES NOT AFFECTED.—
 13 Nothing in this Act shall be construed to limit or preclude
 14 the use of Federal lands (as defined in section 102) for
 15 hunting, fishing, recreation, or other multiple use activi-
 16 ties in accordance with applicable Federal and State laws
 17 and the principles of multiple use.

1 (c) VALID EXISTING RIGHTS.—Nothing in this Act
2 shall be construed to affect valid existing rights, reserva-
3 tions, agreements, or authorizations under Federal or
4 State law.

5 (d) ACCESS TO NONFEDERALLY OWNED LANDS.—
6 Section 1323 of Public Law 96–487 (16 U.S.C. 3210)
7 shall continue to apply with regard to access to nonfeder-
8 ally owned lands.

9 **SEC. 3. COORDINATED ADMINISTRATION.**

10 To the maximum extent practicable, the Secretary of
11 Agriculture and the Secretary of the Interior shall provide
12 for consistent and coordinated administration of livestock
13 grazing and management of Federal lands (as defined in
14 section 102) consistent with the laws governing such
15 lands.

16 **TITLE I—MANAGEMENT OF**
17 **GRAZING ON FEDERAL LANDS**

18 **SEC. 101. APPLICATION OF TITLE.**

19 (a) FOREST SERVICE LANDS.—This title applies to
20 the management of grazing on National Forest System
21 lands, by the Secretary of Agriculture under the following
22 laws:

23 (1) The 11th undesignated paragraph under the
24 heading “SURVEYING THE PUBLIC LANDS” under the
25 heading “UNDER THE DEPARTMENT OF THE

1 INTERIOR” in the Act of June 4, 1897 (commonly
2 known as the Organic Administration Act of 1897)
3 (30 Stat. 35, second full paragraph on that page; 16
4 U.S.C. 551).

5 (2) Sections 11, 12, and 19 of the Act of April
6 24, 1950 (commonly known as the Granger-Thye
7 Act of 1950) (64 Stat. 85, 88, chapter 97; 16
8 U.S.C. 580g, 580h, 580l).

9 (3) The Multiple-Use Sustained-Yield Act of
10 1960 (16 U.S.C. 528 et seq.).

11 (4) The Forest and Rangeland Renewable Re-
12 sources Planning Act of 1974 (16 U.S.C. 1600 et
13 seq.).

14 (5) The National Forest Management Act of
15 1976 (16 U.S.C. 472a et seq.).

16 (6) The Federal Land Policy and Management
17 Act of 1976 (43 U.S.C. 1701 et seq.).

18 (7) The Public Rangelands Improvement Act of
19 1978 (43 U.S.C. 1901 et seq.).

20 (b) BUREAU OF LAND MANAGEMENT LANDS.—This
21 title applies to the management of grazing on Federal
22 lands administered by the Secretary of the Interior under
23 the following laws:

1 (1) The Act of June 28, 1934 (commonly
2 known as the Taylor Grazing Act) (48 Stat. 1269,
3 chapter 865; 43 U.S.C. 315 et seq.).

4 (2) The Act of August 28, 1937 (commonly
5 known as the Oregon and California Railroad and
6 Coos Bay Wagon Road Grant Lands Act of 1937)
7 (50 Stat. 874, chapter 876; 43 U.S.C. 1181a et
8 seq.).

9 (3) The Federal Land Policy and Management
10 Act of 1976 (43 U.S.C. 1701 et seq.).

11 (4) The Public Rangelands Improvement Act of
12 1978 (43 U.S.C. 1901 et seq.).

13 (5) The Bankhead-Jones Farm Tenant Act (7
14 U.S.C. 1010 et seq.).

15 (c) CERTAIN OTHER UNITED STATES LANDS.—This
16 title also applies to the management of grazing by the Sec-
17 retary concerned on behalf of the head of another depart-
18 ment or agency of the Federal Government under a memo-
19 randum of understanding.

20 **SEC. 102. DEFINITIONS.**

21 In this title:

22 (1) AUTHORIZED OFFICER.—The term “author-
23 ized officer” means a person authorized by the Sec-
24 retary concerned to administer this title, the laws

1 specified in section 101, and regulations issued
2 under this title and such laws.

3 (2) FEDERAL LANDS.—The term “Federal
4 lands” means lands outside the State of Alaska that
5 are owned by the United States and are—

6 (A) included in the National Forest Sys-
7 tem; or

8 (B) administered by the Secretary of the
9 Interior under the laws specified in section
10 101(b).

11 (3) GRAZING PERMIT OR LEASE.—The term
12 “grazing permit or lease” means a document author-
13 izing use of Federal lands for the purpose of grazing
14 livestock—

15 (A) within a grazing district under section
16 3 of the Act of June 28, 1934 (commonly
17 known as the Taylor Grazing Act) (48 Stat.
18 1270, chapter 865; 43 U.S.C. 315b);

19 (B) outside grazing districts under section
20 15 of the Act of June 28, 1934 (commonly
21 known as the Taylor Grazing Act) (48 Stat.
22 1275, chapter 865; 43 U.S.C. 315m); or

23 (C) on National Forest System lands
24 under section 19 of the Act of April 24, 1950
25 (commonly known as the Granger-Thye Act of

1 1950) (64 Stat. 88, chapter 97; 16 U.S.C.
2 580l).

3 (4) LAND USE PLAN.—The term “land use
4 plan” means—

5 (A) a land and resource management plan
6 prepared by the Forest Service pursuant to sec-
7 tion 6 of the Forest and Rangeland Renewable
8 Resources Planning Act of 1974 (16 U.S.C.
9 1604) for a unit of the National Forest System;
10 or

11 (B) a resource management plan (or a
12 management framework plan that is in effect
13 pending completion of a resource management
14 plan) developed in accordance with the Federal
15 Land Policy and Management Act of 1976 (43
16 U.S.C. 1701 et seq.) for Federal lands adminis-
17 tered by the Bureau of Land Management.

18 (5) NATIONAL FOREST SYSTEM.—The term
19 “National Forest System” has the meaning given
20 such term in section 11(a) of the Forest and Range-
21 land Renewable Resources Planning Act of 1974 (16
22 U.S.C. 1609(a)), except that the term does not in-
23 clude any lands managed as a National Grassland
24 under the Bankhead-Jones Farm Tenant Act (7
25 U.S.C. 1010 et seq.).

1 (6) SECRETARY CONCERNED.—The term “Sec-
2 retary concerned” means—

3 (A) the Secretary of Agriculture, with re-
4 spect to the National Forest System; and

5 (B) the Secretary of the Interior, with re-
6 spect to Federal lands administered by the Sec-
7 retary of the Interior under the laws specified
8 in section 101(b).

9 (7) SIXTEEN CONTIGUOUS WESTERN STATES.—
10 The term “sixteen contiguous Western States”
11 means the States of Arizona, California, Colorado,
12 Idaho, Kansas, Montana, Nebraska, Nevada, New
13 Mexico, North Dakota, Oklahoma, Oregon, South
14 Dakota, Utah, Washington, and Wyoming.

15 **SEC. 103. MONITORING.**

16 (a) MONITORING.—The monitoring of resource condi-
17 tions and trends on Federal lands within allotments shall
18 be performed only by qualified persons from the following
19 groups:

20 (1) Federal, State, and local government per-
21 sonnel.

22 (2) Grazing permittees and lessees.

23 (3) Professional consultants retained by the
24 United States or a permittee or lessee.

1 (b) MONITORING CRITERIA AND PROTOCOLS.—Such
2 monitoring shall be conducted according to regional or
3 state criteria and protocols selected by the Secretary con-
4 cerned. The monitoring protocols shall be site specific, sci-
5 entifically valid, and subject to peer review. Monitoring
6 data shall be periodically verified.

7 (c) TYPES AND USE OF DATA COLLECTED.—

8 (1) USE OF PREVIOUSLY COLLECTED DATA AND
9 INFORMATION.—In addition to using data collected
10 from monitoring conducted under the authority of
11 this section, the Secretary concerned shall consider
12 data and information collected before the date of the
13 enactment of this Act, if available, so long as the
14 historical data and information is objective and reli-
15 able.

16 (2) APPLICATION OF CRITERIA AND PROTO-
17 COLS.—The Secretary concerned shall not accept
18 monitoring data that does not meet the requirements
19 of subsection (a) or (b).

20 (3) USE OF DATA.—The data and information
21 collected from such monitoring shall be used to
22 evaluate—

23 (A) the effects of ecological changes and
24 management actions on resources over time;

1 (B) the effectiveness of actions in meeting
2 management objectives contained in applicable
3 land use plans; and

4 (C) the appropriateness of resource man-
5 agement objectives.

6 (d) NOTICE.—In conducting such monitoring, the
7 Secretary concerned shall provide reasonable notice of the
8 monitoring to affected permittees or lessees, including
9 prior notice to the extent practicable of not less than 48
10 hours.

11 **SEC. 104. SUBLEASING.**

12 A person issued a grazing permit or lease may not
13 enter into an agreement with another person to allow graz-
14 ing on the Federal lands covered by the grazing permit
15 or lease by livestock that are neither owned nor controlled
16 by the person issued the grazing permit or lease.

17 **SEC. 105. COOPERATIVE ALLOTMENT MANAGEMENT**
18 **PLANS.**

19 (a) WRITTEN AGREEMENTS FOR OUTCOME-BASED
20 STANDARDS.—An allotment management plan or a graz-
21 ing permit or lease under section 402(d) of the Federal
22 Land Policy and Management Act of 1976 (43 U.S.C.
23 1752(d)) may include a written agreement with a qualified
24 grazing permittee or lessee described in subsection (b) (or
25 a group of qualified grazing permittees or lessees) that

1 provides for outcome-based standards, rather than pre-
2 scriptive terms and conditions, for managing grazing ac-
3 tivities in a specified geographic area. At the request of
4 a qualified grazing permittee or lessee, the Secretary con-
5 cerned shall consider including such a written agreement
6 in an allotment management plan or a grazing permit or
7 lease.

8 (b) QUALIFIED GRAZING PERMITTEE OR LESSEE
9 DESCRIBED.—A qualified grazing permittee or lessee re-
10 ferred to in subsection (a) is a person issued a grazing
11 permit or lease who has demonstrated sound stewardship
12 by meeting or exceeding the forage and rangeland goals
13 contained in applicable land use plans and in that person's
14 grazing permit or lease for the previous five-year period.

15 (c) INCLUSION OF PERFORMANCE GOALS.—A written
16 agreement authorized under subsection (a) shall contain
17 performance goals that—

18 (1) are expressed in objective, quantifiable, and
19 measurable terms;

20 (2) establish performance indicators to be used
21 in measuring or assessing the relevant outcomes;

22 (3) provide a basis for comparing management
23 results with the established performance goals; and

24 (4) describe the means to be used to verify and
25 validate measured values.

1 (d) APPLICATION OF OTHER LAWS.—All require-
2 ments of law applicable to an allotment management plan
3 and a grazing permit or lease under section 402(d) of the
4 Federal Land Policy and Management Act of 1976 (43
5 U.S.C. 1752(d)), including the prohibition against extend-
6 ing the term of an existing grazing permit or lease, shall
7 apply to a written agreement entered into under sub-
8 section (a).

9 (e) FEDERAL ADVISORY COMMITTEE ACT.—Activi-
10 ties under this section shall be exempt from the Federal
11 Advisory Committee Act (5 U.S.C. App.).

12 **SEC. 106. FEES AND CHARGES.**

13 (a) GRAZING FEES.—

14 (1) CALCULATION.—The fee for each animal
15 unit month in a grazing fee year for livestock graz-
16 ing on Federal lands in the sixteen contiguous west-
17 ern States shall be equal to the 12-year average of
18 the total gross value of production for beef cattle for
19 the 12 years preceding the grazing fee year, multi-
20 plied by the 12-year average of the United States
21 Treasury Securities six-month bill “new issue” rate,
22 and divided by 12. The gross value of production for
23 beef cattle shall be determined by the Economic Re-
24 search Service of the Department of Agriculture in
25 accordance with subsection (d)(1).

1 (2) FEE FOR FOREIGN-OWNED OR CONTROLLED
2 GRAZING PERMITS OR LEASES.—In the case of a
3 grazing permit or lease held or otherwise controlled
4 in whole or in part by a foreign corporation or a for-
5 eign individual, the fee shall be equal to the higher
6 of the following:

7 (A) The average grazing fee (weighted by
8 animal unit months) charged by the State dur-
9 ing the previous grazing year for grazing on
10 State lands in the State in which the lands cov-
11 ered by the grazing permit or lease are located.

12 (B) The average grazing fee (weighted by
13 animal unit months) charged for grazing on pri-
14 vate lands in the State in which the lands cov-
15 ered by the grazing permit or lease are located.

16 (b) DEFINITION OF ANIMAL UNIT MONTH.—For the
17 purposes of billing only, the term “animal unit month”
18 means one month’s use and occupancy of range by—

19 (1) one cow, bull, steer, heifer, horse, burro, or
20 mule, seven sheep, or seven goats, each of which is
21 six months of age or older on the date on which the
22 animal begins grazing on Federal lands;

23 (2) any such animal regardless of age if the
24 animal is weaned on the date on which the animal
25 begins grazing on Federal lands; and

1 (3) any such animal that will become 12
2 months of age during the period of use authorized
3 under a grazing permit.

4 (c) LIVESTOCK NOT COUNTED.—There shall not be
5 counted as an animal unit month the use of Federal lands
6 for grazing by an animal that is less than six months of
7 age on the date on which the animal begins grazing on
8 such lands and is the progeny of an animal on which a
9 grazing fee is paid if the animal is removed from such
10 lands before becoming 12 months of age.

11 (d) CRITERIA FOR ECONOMIC RESEARCH SERVICE.—

12 (1) GROSS VALUE OF PRODUCTION OF BEEF
13 CATTLE.—The Economic Research Service of the
14 Department of Agriculture shall continue to compile
15 and report the gross value of production of beef cat-
16 tle, on a dollars-per-bred-cow basis for the United
17 States, as is currently published by the Service in:
18 “Economic Indicators of the Farm Sector: Cost of
19 Production—Major Field Crops and Livestock and
20 Dairy” (Cow-calf production cash costs and re-
21 turns).

22 (2) AVAILABILITY.—For the purposes of deter-
23 mining the grazing fee for a given grazing fee year,
24 the gross value of production (as described above)
25 for the previous calendar year shall be made avail-

1 able to the Secretary concerned, and published in
2 the Federal Register, on or before February 15 of
3 each year.

4 (e) TREATMENT OF OTHER FEES AND CHARGES.—

5 (1) AMOUNT OF FLPMA FEES AND CHARGES.—

6 The fees and charges under section 304(a) of the
7 Federal Land Policy and Management Act of 1976
8 (43 U.S.C. 1734(a)) shall reflect processing costs
9 and shall be adjusted periodically as such costs
10 change, but in no case shall such fees and charges
11 exceed the actual administrative and processing
12 costs incurred by the Secretary concerned.

13 (2) NOTICE OF CHANGES.—Notice of a change
14 in a service charge shall be published in the Federal
15 Register.

16 **TITLE II—MISCELLANEOUS**

17 **SEC. 201. EFFECTIVE DATE.**

18 This Act and the amendments made by this Act shall
19 take effect on the first day of the first grazing season be-
20 ginning after the date of the enactment of this Act.

21 **SEC. 202. ISSUANCE OF NEW REGULATIONS.**

22 The Secretary of Agriculture and the Secretary of the
23 Interior shall—

24 (1) coordinate the promulgation of new regula-
25 tions to carry out this Act; and

1 (2) publish such regulations simultaneously not
2 later than 180 days after the date of the enactment
3 of this Act.

Passed the House of Representatives October 30,
1997.

Attest:

ROBIN H. CARLE,
Clerk.

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