

NATIONAL PUBLIC LANDS GRAZING CAMPAIGN

Multiple-Use Conflict Resolution Act *Annotated*

The Multiple-Use Conflict Resolution Act is listed in the left column. NPLGC's explanatory notes are in the right column.

<p>Purposes</p> <p>To provide compensation to livestock operators who voluntarily relinquish a grazing permit or lease on Federal lands where conflicts with other multiple uses render livestock grazing impractical, and for other purposes.</p> <p>Section 1. Short Title and Table of Contents.</p> <p>(a) Short Title- This Act may be cited as the 'Multiple-Use Conflict Resolution Act of 2005'.</p> <p>(b) Table of Contents- The table of contents for this Act is as follows:</p> <p>Sec. 1. Short title and table of contents.</p> <p>Sec. 2. Findings.</p> <p>Sec. 3. Definitions.</p> <p>Sec. 4. Multiple-use conflict resolution program.</p> <p>Sec. 5. Compensation for waived grazing permit or lease.</p> <p>Sec. 6. Donation of grazing permit or lease.</p> <p>Sec. 7. Effect of waiver or donation of grazing permit or lease.</p> <p>Sec. 8. Retirement of grazing allotments for which no valid grazing permit or lease exists.</p> <p>Sec. 9. Effect of nonuse or reduced use.</p> <p>Sec. 10. County transition payments.</p> <p>Sec. 11. Authorization of appropriation.</p>	
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Section 2. Findings.

The Congress finds the following:

(1) The use of Federal lands by grazing permittees and lessees for commercial livestock grazing is increasingly difficult due to growing conflicts with other legitimate multiple uses of the lands, such as environmental protection and burgeoning recreational use, and with congressionally mandated goals of wildlife and habitat protection and improved water quality and quantity.

(2) The recreational use of Federal lands often leads to conflicts with commercial livestock grazing on the same lands because some recreational users of the lands cause damage to range developments or disturb livestock, which renders many grazing operations on Federal lands uneconomical.

(3) A combination of sustained drought, foreign competition, changing domestic markets, industry restructuring, and individual ranch situations has resulted in Federal grazing permits and leases becoming stranded investments for many permittees and lessees.

(4) Attempts to resolve grazing conflicts with other multiple uses often require extensive range developments, intensive herd management, and continuous monitoring that greatly increases costs to both permittees and lessees and taxpayers, far out of proportion to the benefit received.

(5) Certain grazing allotments on Federal lands have, or are likely to become, unsuitable for commercial livestock production as a result of the combined effect of the factors referred to in paragraphs (1) through (4) and other factors.

(6) The cost of the Federal grazing program greatly exceeds revenues to the Federal treasury from grazing receipts.

(7) Many permittees and lessees have indicated their willingness to end their commercial livestock grazing on Federal lands in exchange for a one-time payment to reasonably compensate them for the effort and investment that they have made in a grazing allotment.

Legislative findings for the Multiple-Use Conflict Resolution Act, stating the environmental, economic, fiscal and social policy reasons for enacting the legislation.

<p>(8) Compensating permittees and lessees who relinquish their grazing permit or lease and end commercial livestock grazing on Federal lands would help recapitalize an ailing sector of rural America, by providing economic options to permittees and lessees that do not presently exist and allowing them to restructure their ranch operations, start new businesses, or retire with security.</p> <p>(9) Reasonable compensation for the relinquishment of a grazing permit or lease will help alleviate the need for permittees and lessees to sell or subdivide their private lands.</p> <p>(10) The cost of compensating permittees and lessees for voluntarily waiving permits and leases is significantly less than the cost to the taxpayers of continuing to administer, monitor, assess, and mitigate for the environmental and other impacts of commercial livestock grazing on Federal lands.</p>	
<p>Section 3. Definitions.</p> <p>In this Act:</p> <p>(1) The term `animal unit month' means the amount of forage needed to sustain one animal unit for one month, as determined by the Secretary issuing the grazing permit or lease.</p> <p>(2) The term `commercial livestock grazing' means the grazing of domestic livestock on Federal lands as authorized by a grazing permit or lease. The term does not include grazing by private or commercial pack or saddle stock.</p> <p>(3) The term `grazing allotment' means the designated portion of Federal land upon which domestic livestock are permitted to graze by a grazing permit or lease.</p> <p>(4) The terms `grazing permit or lease' and `grazing permit and lease' mean any document authorizing the use of Federal lands for the purpose of grazing domestic livestock.</p> <p>(5) The terms `permittee or lessee' and `permittee and lessee' mean a livestock operator who holds a valid term grazing permit or lease.</p>	<p>Definitions of terms used in the Multiple-Use Conflict Resolution Act.</p> <p>Note that the definition of “commercial livestock grazing” excludes horses and other stock that grazing permittees or the general public might use for personal recreation or as part of a permitted activity on federal lands, such as camping, hunting, fishing, packing, guiding, etc.</p> <p>The definition of “commercial livestock grazing” also preserves the option for federal agencies to use livestock for vegetation management on federal lands pursuant to existing authority, even on allotments that have been retired under the Multiple-Use Conflict Resolution Act.</p>

<p>(6) The term `range developments' means structures, fences, and other permanent fixtures placed on Federal lands for the furtherance of the purpose of grazing domestic livestock. The term does not include rolling stock, livestock and diversions of water from Federal lands onto non-Federal lands.</p> <p>(7) The term `Secretary' means the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Energy, or the Secretary of Defense, as appropriate to the administration of the grazing permit or lease at issue.</p>	
<p>Section 4. Multiple-Use Conflict Resolution Program.</p> <p>(a) Waiver of Existing Grazing Permit or Lease – A permittee or lessee may waive to the Secretary, at any time, a valid existing grazing permit or lease authorizing commercial livestock grazing on Federal lands.</p>	<p>This provision <u>allows</u> (“may”) federal grazing permittees and lessees who graze domestic livestock (cattle, horses, sheep, goats) on federal lands to waive their grazing permit or lease to the appropriate managing federal agency (BLM, Forest Service, etc.). (Compensation for permit/lease waiver is authorized in Section 5.)</p>
<p>(b) Cancellation of Waived Grazing Permit or Lease – The Secretary shall cancel grazing permits and leases waived under this section and permanently retire the associated grazing allotments from commercial livestock grazing, notwithstanding any other provision of law.</p>	<p>This provision <u>requires</u> (“shall”) federal managing agencies to cancel grazing permits and leases waived under subsection (a). The associated federal lands grazing allotment(s) will be permanently closed to “commercial livestock grazing.</p>
<p>(c) Waiver Priority – If funds available to the Secretary to carry out this Act are insufficient to meet all of the offers submitted to the Secretary for the waiver of grazing permits and leases, the Secretary shall give priority to the waiver of grazing permits and leases that authorize commercial livestock grazing on the following Federal lands:</p> <ol style="list-style-type: none"> (1) A unit of the National Wilderness Preservation System. (2) A unit of the National Wild and Scenic River System. (3) A unit of the National Park System. (4) A unit of the National Wildlife Refuge System. (5) A grazing allotment that includes a trail in the National Trails System. (6) A unit of the National Landscape Conservation System. 	<p>In the event that funds appropriated for the permit/lease compensation program are insufficient to meet the demand for permit/lease buyout, the listed factors <u>will</u> (“shall”) be used to prioritize permit/lease retirement authorized by this act. Note that these factors are not listed in any order of importance. It is expected that the federal agencies charged with administering the permit/lease compensation program will establish their own rules interpreting subsection (c), using these fifteen factors as the basis for their prioritization system.</p>

<ul style="list-style-type: none"> (7) Any designated critical habitat for a species listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). (8) A designated wilderness study area. (9) Roadless and undeveloped areas identified in Forest Service, Roadless Area Conservation EIS, vol. 2 (Nov. 2000). (10) An area of critical environmental concern designated by the Bureau of Land Management. (11) A designated Research Natural Area. (12) A grazing allotment that includes a water-quality-limited stream identified by a State pursuant to section 303(d) of the Federal Water Pollution Control Act (33 U.S.C. 1313(d)). (13) A grazing allotment that includes a stream segment identified for study under section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)). (14) A grazing allotment that includes a stream segment identified by the Secretary under section 5(d)(1) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(d)(1)). (15) A grazing allotment featuring other scientific, ecological, scenic, watershed, or recreation values, as determined by the Secretary. 	
<p>(d) Relation to Other Authority – Nothing in this Act shall be construed to affect the ability of a permittee or lessee to renew or transfer a grazing permit or lease as provided by law.</p>	<p>This provision explicitly states, to avoid any misinterpretation, that grazing permittees and lessees who opt not to participate in the grazing permit/lease compensation program may continue grazing pursuant to the terms and conditions of their grazing permit/lease, and may renew or transfer their permit/lease as provided under the Taylor Grazing Act and other applicable authority. That is, it's business as usual for permittees and lessees who choose not to retire their grazing permit/lease. They can continue grazing and/or transfer their permit/lease to their heirs or other ranchers under existing rules.</p>
<p>(e) Relation to Eminent Domain – Nothing in this Act shall be construed to authorize the use of eminent domain for the purpose of acquiring a grazing permit or lease.</p>	<p>The federal government is not authorized in this legislation to use its powers of eminent domain to acquire private base properties for the purpose of retiring attached grazing permits or leases.</p>

<p>Section 5. Compensation for Waived Grazing Permit or Lease.</p> <p>(a) Compensation Required – A permittee or lessee who waives a grazing permit or lease (other than an ephemeral grazing permit or lease) under section 4(a) shall be compensated at a rate of \$175 per animal unit month based on the average of the highest three years of authorized animal unit months out of the last 10 years authorized to the permittee or lessee or the predecessors of the permittee or lessee. In the case of an ephemeral grazing permit or lease, the permittee or lessee shall be compensated for the average over the last 10 years of the actual animal unit months of grazing use.</p>	<p>This provision entitles grazing permittees and lessees who waive their permit or lease under subsection 4(a) to compensation at a rate of \$175 per animal unit month based on the formula described in the provision.</p> <p>Grazing permittees and lessees are also relieved from paying grazing fees for grazing permits/leases waived under subsection 4(a).</p>
<p>(b) Grazing Fees in Arrears – If a permittee or lessee is in arrears of Federal grazing fees, the amount of fees in arrears shall be deducted from the amount of compensation otherwise due the permittee or lessee under this section.</p>	<p>Grazing permittees and lessees who waive their permit or lease under subsection 4(a), but owe the federal government for past grazing fees, will have the aggregated amount deducted from their permit/lease compensation due under subsection 5(a).</p>
<p>(c) Waiver of Certain Permits or Leases Prohibited – A permittee or lessee who seeks to waive a grazing permit or lease under section 4(a) for a grazing allotment for which no valid grazing permit or lease exists as of the date of the introduction of this Act shall not be eligible for compensation under this section.</p>	<p>To avoid speculation and profiteering, grazing permittees and lessees who seek to retire a grazing permit or lease for a grazing allotment that was vacant on the date of <u>introduction</u> of this legislation <u>will</u> (“shall”) not be eligible for compensation under subsection 5(a).</p> <p>This purpose of this provision is to discourage people from attempting to profit from the permit/lease compensation program by acquiring permits and leases for grazing allotments after this legislation was introduced simply to cash them in for a quick payout.</p>
<p>(d) Relation to Other Authority – Nothing in this Act shall be construed to affect the Secretary's authority to otherwise modify or terminate grazing permits or leases without compensation. Compensation disbursed pursuant to this section shall not create a property right in grazing permits or leases.</p>	<p>This legislation does not affect in any way the federal government's authority to continue managing grazing permits/leases pursuant to existing law and regulations. The permit/lease compensation program authorized by this legislation does not create a new property right in federal grazing permits/leases.</p>

<p>Section 6. Donation of Grazing Permit or Lease.</p> <p>(a) Donation Authorized – A permittee or lessee may at any time waive a claim to compensation in whole or in part under section 5 and donate to the Secretary a valid existing grazing permit or lease authorizing commercial livestock grazing on Federal lands.</p>	<p>Rather than waive their permit or lease for compensation under section 4, this provision <u>allows</u> (“may”) grazing permittees and lessees who graze domestic livestock (cattle, horses, sheep, goats) on federal lands to simply donate their grazing permit or lease to the appropriate managing federal agency.</p> <p>Grazing permittees and lessees who donate their permit or lease to the federal government are relieved of paying grazing fees under the permit/lease.</p>
<p>(b) Acceptance of Other Compensation – A permittee or lessee may accept compensation from private or other sources in lieu of, or in addition to, receiving compensation under section 5.</p>	<p>Grazing permittees and lessees who donate their grazing permit/lease under subsection (a) may receive compensation from private or other sources, in lieu of, or in addition to, receiving compensation from the federal government under section 5.</p>
<p>(c) Cancellation of Donated Permits and Leases – The Secretary shall cancel grazing permits or leases donated under this section and permanently retire the associated grazing allotments from commercial livestock grazing.</p>	<p>This provision <u>requires</u> (“shall”) federal managing agencies to cancel grazing permits and leases waived under <i>this</i> section. The associated federal lands grazing allotment(s) will be permanently closed to “commercial livestock grazing.”</p>
<p>Section 7. Effect of Waiver or Donation of Grazing Permit or Lease.</p> <p>(a) Effect on Range Developments- A permittee or lessee who waives a grazing permit or lease to the Secretary under section 4 and receives compensation under section 5, or donates a grazing permit or lease under section 6, shall be deemed to have waived any claim to all range developments on the associated grazing allotments, notwithstanding any other provision of law.</p>	<p>Permittees and lessees who waive their permit or lease for compensation under section 4, or donate their lease under section 6, also waive any rights they may have in range improvements on the associated federal lands grazing allotment(s).</p>
<p>(b) Securing Retired Allotments Against Unauthorized Use- The Secretary shall ensure that grazing allotments retired from grazing under this Act are rendered reasonably secure from trespass grazing by domestic livestock.</p>	<p>Federal agencies that cancel a grazing permit/lease waived under section 4, or donated under section 6, <u>must</u> (“shall”) reasonably secure the associated federal lands grazing allotment(s) from trespass livestock grazing.</p> <p>The National Public Lands Grazing Campaign (NPLGC) anticipates that, where a grazing permittee or lessee has waived or donated a permit or lease to graze a shared or “common” allotment, the managing agency will secure a proportional area of the shared allotment from grazing representative of the amount of forage authorized</p>

	<p>for use under that permit or lease.</p> <p>NPLGC also expects that, where the managing agency is physically unable to secure a representative portion of a shared allotment from grazing, permittees or lessees who graze that allotment will not be permitted to participate in the voluntary grazing permit buyout program unless <u>all</u> permittees/lessees on the shared allotment agree to retire their permits or leases.</p>
<p>(c) Relation to Other Valid Existing Rights- Nothing in this Act affects the allocation, ownership, interest, or control, in existence on the date of enactment of this Act, of any water, water right, or any other valid existing right held by the United States, Indian tribe, State, or private individual, partnership or corporation.</p>	<p>The ownership and use of most surface and groundwater in the United States is controlled by state law. This provision ensures that this legislation is neutral on the question of ownership, interest or control of water on grazing allotments where a permit buyout/lease is waived or donated to the federal government.</p>
<p>Section 8. Retirement of Grazing Allotments for which No Valid Grazing Permit or Lease Exists.</p> <p>The Secretary shall not issue grazing permits or leases for grazing allotments for which no valid permit or lease exists as of the date of the enactment of this Act, and shall permanently retire the grazing allotments from commercial livestock grazing, notwithstanding any other provision of law.</p>	<p>To avoid speculation and profiteering, this provision prohibits federal agencies from issuing grazing permits/leases for grazing allotments that are vacant as of the date of enactment of this legislation, and permanently retires those allotments from commercial grazing use.</p>
<p>Section 9. Effect of Nonuse or Reduced Use.</p> <p>Notwithstanding any other provision of law, a permittee or lessee may opt not to graze a grazing allotment or to graze the grazing allotment at less than the minimum permitted level and still retain the grazing permit or lease for the remainder of its term. Such nonuse shall be considered to be in compliance with the terms of the grazing permit or lease when it becomes due for renewal.</p>	<p>This provision <u>allows</u> ("may") federal grazing permittees and lessees to choose not to graze their allotments for any period of years and still retain their grazing permit or lease for the duration of its term, regardless of any other law or regulation that might otherwise require the permit or lease to be re-assigned to another permittee or lessee. In other words, no permittee/lessee will lose their grazing permit/lease simply because they decide not to graze their allotment for any number of years due to any reason (fdrought, fire, financial or logistical considerations, etc.).</p>

<p>Section 10. County Transition Payments.</p> <p>(a) Payments Required – For each grazing permit or lease waived under section 4 (other than an ephemeral grazing permit or lease), the Secretary shall pay to the county in which the associated allotment is located \$10 per animal unit month based on the average of the highest three years of authorized animal unit months out of the last 10 years authorized to the permittee or lessee or the predecessors of the permittee or lessee. In the case of an ephemeral grazing permit or lease, the Secretary shall pay to the county in which the associated allotment is located \$10 per animal unit month based on the average over the last 10 years of the actual animal unit months of grazing use.</p> <p>(b) Proportional Allocation Among Counties – In cases where an allotment is located in more than one county, the payment under subsection (a) to each county in which the allotment is located shall be proportional to the allotment's land area located in that county.</p>	<p>This section would provide economic transition funds to counties where grazing permits/leases are retired by this legislation at a rate of \$10/AUM based on the formula described. The purpose of this provision is to assist rural counties that experience economic challenges due, in part, to grazing permit retirement.</p>
<p>Section 11. Authorization of Appropriation.</p> <p>There is authorized to be appropriated to the Secretaries \$100,000,000, to remain available until expended, to provide compensation to permittees and lessees under section 5 and to make transition payments to counties under section 10. None of the funds appropriated pursuant to this section shall be used by any Federal agency for administrative costs related to the purposes of this Act.</p>	<p>The \$100,000,000 appropriation is a place holder – Congressional appropriation committees rarely feel constrained to allocate the exact amount recommended in legislation that pass through their chambers, and frequently appropriate more or less than the original request based on budget, politics, public demand and other considerations.</p> <p>At a rate of \$175/AUM, plus \$10 per AUM for county transition payments, \$100,000,000 would be enough to compensate for the retirement of 540,540 AUMs on federal public lands.</p> <p>If demand for grazing permit/lease compensation exceeds the amount appropriated for the compensation program, then the prioritization scheme prescribed in section 4(c) would be used to allocate funds.</p> <p>Further, third parties (conservation organizations or others) may choose to compensate permittees/lessees to retire their permits (see section 7) after federal funds are exhausted or before more federal funds become available.</p>