



Native Plant Society of New Mexico

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July 12, 2026

U.S. Department of the Interior, Director (630)

Bureau of Land Management

Attention: Acting BLM Director

1849 C St. NW, Room 5646

Washington, DC 20240

RE: Revision of Regulations for Grazing Administration, Exclusive of Alaska

Uploaded via: <https://www.federalregister.gov/documents/2026/05/12/2026-09387/revision-of-regulations-for-grazing-administration-exclusive-of-alaska#open-comment>

Please accept the following comments from the Native Plant Society of New Mexico, which urges the Bureau of Land Management (“BLM”) to not finalize the proposed rule and instead begin a new process, supported by a full environmental impact statement with informed public participation under the National Environmental Policy Act (“NEPA”), that will better protect public lands, imperiled species, and rare plants from the harm caused by overgrazing and improperly managed grazing that the proposed regulatory changes likely would cause.

The Native Plant Society of New Mexico strives to educate the public about native plants by promoting knowledge of plant identification, ecology, and uses; fostering plant conservation and the preservation of natural habitats; supporting botanical research; and encouraging the appropriate use of native plants to conserve water, land, and wildlife. The Society and its members have been actively involved in rare plant conservation efforts in New Mexico, and our members use and enjoy the public lands throughout New Mexico, including lands where the BLM has issued permits and leases authorizing grazing of livestock.

In 1934, as the Dust Bowl’s devastating storms swept across America, Congress responded to six decades of damage from unregulated livestock grazing on the public lands by passing the Taylor Grazing Act, meant to “stop injury” to the public lands from “overgrazing and soil deterioration” and finally regulate grazing by allowing livestock use of the public lands only under permits or leases. Today, the Bureau of Land Management (“BLM”) manages livestock grazing under regulations that were promulgated in 1995 to bring about an “accelerated restoration” of grazed lands, make grazing management “more compatible with ecosystem

management,” and increase the accountability of grazing permit holders for their livestock’s damage to the environment. *Public Lands Council v. Babbitt*, 529 U.S. 728, 738–39 (2000).

Despite the laudable goals of the 1995 regulations, livestock grazing has continued to damage public lands: a 2024 analysis found that more than 56 million acres of BLM-managed public lands failed to meet the agency’s Land Health Standards for minimum quality of water, vegetation, and soils. This was nearly half of the 119 million acres of land for which BLM had actually conducted assessments (another 36 million acres were not assessed by the agency). On 37 million of the 56 million acres that failed to meet the Standards, livestock grazing was the biggest cause of land health failure.¹

Overgrazing (*e.g.* grazing in excess of permitted times, seasons, or numbers of livestock) or improperly managed grazing (*e.g.* grazing in excess of the forage limits set in the grazing permits or within grazing districts) threaten rare plants, including those listed under the federal Endangered Species Act, those which BLM considers to be Sensitive Species, and those listed by individual states, such as New Mexico, as endangered. After grazing occurs, and plants have been grazed once, re-grazing plants before they recover adequately from the previous grazing event threatens the localized survival of plant species. Overgrazing and improperly managed grazing can increase the percentage of bare ground, leading to increased wind erosion and water runoff, along with higher soil temperatures that cause faster rates of evaporation; reduce water infiltration rates and water holding capacity; increase soil compaction; and cause loss of soil nutrients and fertility, causing lower organic matter levels.

While New Mexico has the fourth highest floral diversity in the nation, over 12% of vascular plants in the state are considered at risk. The state hosts over two hundred rare and imperiled plant species, including 17 federally listed species, 46 plant species listed as endangered by the State of New Mexico, 57 species listed as sensitive by the BLM, and 75 species listed as sensitive by the U.S. Forest Service.² Across the West, more than 800 rare plants live on public lands managed by the BLM. Livestock grazing poses a significant threat to many of these plants. Cattle will preferentially graze and aggressively target highly nutritious, high-protein broadleaf plants (forbs) and native legumes. When these preferred plants are rare or endangered, their palatability often leads to overgrazing and localized extinction.

For example, rare clovers, such as the Mogollon Clover (*Trifolium longipes* var. *neurophyllum*), change their growth habits in response to grazing pressures.³ Wright's Marsh

¹ <https://peer.org/much-of-us-rangeland-in-poor-ecological-condition/>.

² <https://www.blm.gov/programs/natural-resources/native-plant-communities/rare-and-cultural-plant-conservation/new-mexico>.

³ <https://nmrareplants.unm.edu/node/182>.

Thistle (*Cirsium wrightii*) was listed as threatened by the U.S. Fish & Wildlife Service in 2023 with 159 acres protected as critical habitat, and is listed as endangered by the State of New Mexico.⁴ This critically imperiled plant depends on specific, rare wetland ciénegas. It is highly susceptible to trampling, water development, and being eaten by cattle, which has driven the plant to near-extinction in the foreseeable future.

The new rapid landscape-scale assessments that replace Land Health Standards are inadequate to identify threats to individual rare plant populations, whether from livestock grazing itself or from new populations of invasive plant species, which often are present in only small areas on individual grazing allotments. The proposed rule would remove Land Health Standards (currently in 43 C.F.R. Subpart 4800 (1995)) from the regulations, replacing them with rapid landscape-scale condition assessment (proposed Section 1700.3). Grazing management will be less tied to measurable land health outcomes and it will reduce accountability for the agency and livestock operators when public lands are not meeting standards for healthy soils, vegetation, water quality, and plant and wildlife habitat. *The Native Plant Society of New Mexico is deeply concerned that relying only on landscape-scale assessments will make it more difficult to ensure that livestock grazing is not damaging public lands.*

Assessments at both the landscape and local levels are important. Threats to individual sensitive plant populations or new populations of invasive plants are unlikely to be detected using only a landscape-scale assessment. The staffing at BLM has already been reduced to such an extent that monitoring is often neglected. Landscape-scale evaluations can be useful for detecting larger-scale disturbances including large-scale overgrazing by wildlife and livestock, drought or wildfire impacts on vegetation, etc. The new rules do appear to allow the BLM to limit some authorized uses when landscape-level disturbances occur (Section 1700.4(f)). However, even if livestock grazing is determined to be a significant causal factor in degraded land health, grazing use might not be limited if another causal factor can be addressed (Section 1700.4(f)-(g)). The landscape-scale evaluations may be helpful for addressing landscape-scale concerns, but both landscape-scale and individual allotment level evaluations are important for addressing rare plant conservation.

The proposed regulations would remove “water quality” from among the fundamentals of land health that grazing management must facilitate achievement of (Section 1700.1), and would remove the 1995 regulatory requirement that grazing must be modified to ensure that “[w]ater quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.” 43 C.F.R. § 4180.1(c) (1995). The BLM’s rationale for this removal—that state

⁴ <https://nmrareplants.unm.edu/node/52>.

agencies are responsible for enforcing state water quality standards—violates the Clean Water Act, which expressly requires that “[e]ach . . . agency . . . of the Federal Government . . . engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants . . . shall be subject to, and comply with, all Federal, State, interstate, and local requirements . . . respecting the control and abatement of water pollution” just as any private party must (33 U.S.C. § 1323(a)). There is no reasonable dispute that domestic livestock grazing—by trampling streambanks, increasing sedimentation, and introducing feces and urine into streams and rivers—is an “activity” that may result in the discharge or runoff of pollutants, and that the BLM, in authorizing livestock grazing on federal lands, has an obligation under Clean Water Act Section 313 to comply with state water quality standards. It therefore is improper for BLM to remove “water quality” from the fundamentals that livestock grazing management on federal public lands should seek to achieve.

The new rules would also significantly weaken the BLM’s obligations towards federal proposed, candidate, and other special status species. The new fundamentals section would only require management of livestock grazing “to facilitate achievement” of the fundamental that “[h]abitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered, Federal candidate, and other special status species” (Section 1700.1), whereas the 1995 regulations required that “grazing management needs to be modified to ensure that” this fundamental condition “exist.” 43 C.F.R. § 4180.1(d) (1995). And then the proposed rules omit any requirement, under Section 1700.2, that BLM establish conservation standards for proposed, candidate, and other special status species, removing the 1995 regulatory requirement that standards address “[r]estoring, maintaining or enhancing habitats of Federal Proposed, Category 1 and 2 Federal candidate, and other special status species to promote their conservation.” 43 C.F.R. § 4180.2(d)(9) (1995). *The same substantive protections for water quality and for proposed, candidate, and other special status species and their habitats that are present in the 1995 regulations should be included in the new rules.*

The new regulatory provision that allows two years to take corrective action if BLM determines grazing is causing land health failures is unreasonable (Section 1700.4(e)): *BLM authorizes grazing levels on an annual basis, based on conferral with livestock operators, and therefore should take corrective action immediately in the year after damage from grazing has been identified, just as it is required to do under the 1995 regulations. 43 C.F.R. § 4180.1 (1995) (providing that modification to grazing “shall” take place “not later than the start of the next grazing year”).*

The proposed rule redefines grazing permits to only allow “production-oriented” livestock (Section 4130.2(a) and Form 4130-1). This precludes grazing for restoration purposes and grazing by bison, which in some areas, evolved alongside native plants and are more

beneficial than cattle to grassland plant communities, resulting in more diverse plant communities.⁵ The proposed rule removes longstanding references to conservation and stewardship from the grazing regulations, and the objectives section of the proposed regulations (Section 4100.0-2) eliminates the objective from the 1995 regulations that an objective of livestock grazing management is “to accelerate restoration and improvement of public rangelands to properly functioning conditions.” 43 C.F.R. § 4100.0-2 (1995). These changes shift the focus of public lands management toward maximizing livestock production rather than balancing grazing with other important public values—which is inconsistent with the Taylor Grazing Act and the BLM’s organic statute, the Federal Lands Policy and Management Act, and decades of law, policy, and precedent recognizing that public lands should be managed for multiple uses including plant and wildlife habitat, clean water, recreation, cultural resources, and healthy ecosystems. *As an organization that advocates for the protection and recovery of native plants, the removal from the regulations of the livestock operators’ obligation to conserve and steward the public lands, and the objective that grazing management accelerate restoration of public lands to their properly functioning conditions, is of serious concern to the Native Plant Society of New Mexico, because it increases the possibility of harm from livestock grazing to the rare plants our organization seeks to protect.*

The proposed rule severely limits who can participate in grazing management decisions and dramatically reduces the number of actions that will actually require any public engagement at all (e.g. Section 4110.3-3). Under the proposed regulations, the definition of “interested public” would be dramatically narrowed (Section 4100.0-5), cutting out conservation groups such as the Native Plant Society of New Mexico, Tribal Nations, scientists, and ordinary Americans from decisions about lands we all own. Requirements for public consultation would be eliminated for a wide range of grazing decisions, and the public would not be notified of the agency’s grazing decisions, even if they had previously registered as an “interested public” (Section 4160.1). Instead, grazing decisions would be sent only to the livestock operator or posted on the BLM website. The proposed rule would even expand grazing into allotments untouched for decades that serve as vital habitat for fish and wildlife, including threatened and endangered species, and which have served as refugia for rare plant species. The current resource advisory councils, made up of members representing different interests in public land uses (<https://www.blm.gov/get-involved/resource-advisory-council/near-you/new-mexico>) would be replaced with the BLM director making final decisions on how standards used to determine achievement of the fundamentals are developed and amended (Section 4120.2). *These limitations on public participation and involvement in grazing decisions threaten the interests of the general public, and the Native Plant Society of New Mexico, in the lands that*

⁵ <https://www.sciencedirect.com/science/article/abs/pii/S1550742413500716>.

belong to all Americans and which are essential to the survival of the rare plant species our organization seeks to protect.

Finally, BLM's proposal to use a categorical exclusion for the proposed regulations rather than to prepare an environmental impact statement under NEPA is short-sighted and unlawful. Significant, foreseeable, adverse impacts to rare plants and other elements of the public lands ecosystem are certain to occur if the regulations are implemented. The idea that BLM does not need to do an EIS at this point because NEPA review will occur later is belied by BLM's current practice of conducting NEPA analyses on fewer than 10% of the ten-year term permits that it renews annually. BLM should withdraw the proposed regulations and begin again with new proposed regulations that will actually be beneficial to the public lands, to rare plants thereon, to the interests of the general public, and not exclusively in the interests of livestock operators. BLM should conduct a full-scale NEPA analysis, including public participation informed by a draft EIS, before promulgating any regulations that replace the ones currently governing livestock grazing on the 155 million acres of public lands BLM manages on which grazing is permitted.

Sincerely,

A handwritten signature in dark ink, appearing to read "Sylvan Kaufman". The signature is fluid and cursive, with the first name "Sylvan" being more prominent than the last name "Kaufman".

Dr. Sylvan Kaufman
Conservation Co-Chair
Native Plant Society of New Mexico