

CRS Report for Congress

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Grazing Fees: An Overview and Current Issues

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Summary

Charging fees for grazing private livestock on federal lands is a long-standing but contentious practice. Generally, livestock producers who use federal lands want to keep fees low, while conservation groups and others believe fees should be increased. The formula for determining the grazing fee for lands managed by the Bureau of Land Management and the Forest Service uses a base value adjusted annually by the lease rates for grazing on private lands, beef cattle prices, and the cost of livestock production. The collected fees are divided among the Treasury, states, and federal agencies. Fee reform was attempted but not adopted in the 1990s. Current issues include instances of grazing without paying fees, efforts to retire certain grazing permits, and a broad approach to buy out grazing permittees. This report will be updated as needed.

Introduction

Charging fees for grazing private livestock on federal lands is statutorily authorized and has been the policy of the Forest Service (FS, Department of Agriculture) since 1906, and of the Bureau of Land Management (BLM, Department of the Interior) since 1936. Today, fees are charged for grazing on approximately 160 million acres of BLM land and 95 million acres of FS land basically under a fee formula established in the Public Rangelands Improvement Act of 1978 (PRIA) and continued administratively.¹ Forage grazed on these lands represents approximately 2% of the total feed consumed by beef cattle in the 48 contiguous states and 12% of the forage consumed by beef cattle in the 16 western states (identified in 43 U.S.C. §1902(i)).

¹ P.L. 95-514, 92 Stat. 1803. 43 U.S.C. §§1901, 1905. Executive Order 12548, 51 *Fed. Reg.* 5985 (February 19, 1986). These authorities govern grazing on BLM and FS lands in 16 contiguous western states, which is the focus of this report. Forest Service grasslands and “nonwestern” states have different fees. In addition, grazing occurs on other federal lands, not required to be governed by PRIA fees, including areas managed by the National Park Service, Fish and Wildlife Service, Department of Defense, and Department of Energy.

On BLM rangelands, in FY2003, there were 15,597 operators authorized to graze livestock, and they held 18,021 grazing permits and leases. Under these permits and leases, a maximum of 12,643,498 animal unit months (AUMs) of grazing could have been authorized for use. Instead, 6,718,454 AUMs were used. The remainder were not used due to resource protection needs, forage depletion caused by drought or fire, and economic and other factors. An AUM is defined for fee purposes as a month's use and occupancy of the range by one animal unit, which includes one yearling, one cow and her calf, one horse, or 5 sheep or goats. On FS rangelands, in FY2002, there were 7,750 livestock operators authorized to graze stock.² A maximum of 10,102,436 head months (HD-MOs) of grazing were under permit; 6,809,388 HD-MOs were authorized to graze. Like AUM, HD-MO is a measure of use and occupancy of agency lands.

Federal grazing fees are significantly lower than those charged for grazing on state and private land. For instance, while the 2004 federal grazing fee is \$1.43 per AUM, and the 2005 fee (effective March 1, 2005) is \$1.79 per AUM, the 2003 average rate of grazing on private lands in 11 western states was \$13.40 per head. Further, the BLM and the FS typically spend far more managing their grazing programs than they collect in grazing fees. For example, the BLM estimates *spending* directly attributable to the grazing program for FY2003 at \$45.1 million and collections of about \$12.8 million. The FS approximates *appropriations* directly attributable to the grazing program at roughly \$61 million for FY2003 and \$68 million for FY2004. The agency estimates FY2003 receipts at \$4.8 million. Receipts for both agencies are relatively low, apparently because drought in the West has contributed to reduced livestock grazing.

Other estimates of the cost of livestock grazing on federal lands are much higher. For instance, a study by the Center for Biological Diversity estimates the federal cost, including indirect and direct expenditures that benefit grazing or compensate for impacts of grazing, at roughly \$500 million annually. Together with the non-federal cost, the total cost of livestock grazing could be as high as \$1 billion annually, according to the study.³

Grazing fees have been contentious since their introduction in 1906. Generally, livestock producers who use federal lands want to keep fees low. They argue that federal fees are not comparable to fees for leasing private rangelands, because public lands often are less productive; must be shared with other public users; and often lack water, fencing, or other amenities thereby increasing operating costs. They argue that fee increases may force many small and medium-sized ranchers out of business. Conservation groups generally assert that low fees contribute to overgrazing and deteriorated range conditions. Critics assert that low fees subsidize ranchers and contribute to budget shortfalls because federal fees are lower than private grazing land lease rates and do not cover the costs of range management. They further contend that, because part of the collected fees is used for range improvements, higher fees could enhance the productive potential and environmental quality of federal rangelands.

² Data for FY2003, as well as the number of permits held, were not readily available.

³ A copy of the report was available on February 4, 2005 at [http://www.biologicaldiversity.org/swcbd/Programs/grazing/Assessing_the_full_cost.pdf].

Current Grazing Fee Formula and Distribution of Receipts

The Fee Formula. The fee charged by the FS and BLM is based on the grazing on federal rangelands of a specified number of animals for one month. PRIA states a policy of charging a grazing fee that is “equitable” and prevents economic disruption and harm to the western livestock industry. The law requires the Secretaries of Agriculture and the Interior to set a fee annually that is the estimated economic value of grazing to the livestock owner. The fee is to represent the fair market value of grazing, beginning with a 1966 base value of \$1.23 per AUM. The base value is adjusted for three factors pertaining to the costs in western states of: the rental charge for pasturing cattle on private rangelands, the sales price of beef cattle, and the cost of livestock production. Congress also established that the annual fee adjustment could not exceed plus or minus 25% of the previous year’s fee.

PRIA required a seven-year trial (1979-1985) of the formula while the FS and BLM undertook a grazing fee study to help Congress determine a permanent fee or fee formula. President Reagan issued Executive Order 12548 (February 14, 1986) to continue indefinitely the PRIA fee formula, and established a minimum fee of \$1.35 per AUM. The annual grazing fees since 1981, when the FS and BLM began charging the same fee, are shown in **Table 1**. The fee has ranged from \$1.35 (for ten years) to a high of \$2.31 in 1981. A fee of \$1.43 per AUM is in effect through February 28, 2005, with an increase to \$1.79 from March 1, 2005, through February 28, 2006. Without the 25% cap on fee changes from one year to the next, the 2005 fee would have risen to \$1.99 per AUM.

Table 1. Grazing Fees from 1981 to 2005 (dollars per AUM)

1981.....\$2.31	1990.....\$1.81	1999.....\$1.35
1982.....\$1.86	1991.....\$1.97	2000.....\$1.35
1983.....\$1.40	1992.....\$1.92	2001.....\$1.35
1984.....\$1.37	1993.....\$1.86	2002.....\$1.43
1985.....\$1.35	1994.....\$1.98	2003.....\$1.35
1986.....\$1.35	1995.....\$1.61	2004.....\$1.43
1987.....\$1.35	1996.....\$1.35	2005.....\$1.79
1988.....\$1.54	1997.....\$1.35	
1989.....\$1.86	1998.....\$1.35	

Distribution of Receipts. Fifty percent of all fees collected, or \$10 million — whichever is greater — go to a range betterment fund in the Treasury. The fund is used for range rehabilitation, protection, and improvement including grass seeding and reseeding, fence construction, weed control, water development, and fish and wildlife habitat. Under law, one-half of the fund is to be used as the respective Secretary directs, and the other half is authorized to be spent in the district, region, or forest that generated

the fees, as the Secretary determines after consultation with user representatives.⁴ Agency regulations contain additional detail. BLM regulations provide that half of the fund is to be allocated by the Secretary on a priority basis, and the rest is to be spent in the state or district where derived. Forest Service regulations provide that half of the monies are to be used in the national forest where derived, and the rest in the region where derived. In general, the FS returns all range betterment funds to the forest that generated them.

The agencies allocate the remaining 50% of the collections differently. For the FS, 25% of the funds are deposited in the Treasury and 25% are given to the states (16 U.S.C. §500; see **Figure 1**). For the BLM, states receive 12.5% of monies collected from lands defined in §3 of the Taylor Grazing Act of 1934⁵ and the remaining 37.5% of the collections is deposited in the Treasury. Section 3 lands are those within grazing districts for which the BLM issues grazing permits. (See **Figure 2**.) By contrast, states receive 50% of fees collected from BLM lands defined in §15 of the Taylor Grazing Act. Section 15 lands are those outside grazing districts for which the BLM leases grazing allotments. (See **Figure 3**.) For both agencies, any state share is to be used to benefit the counties that generated the receipts.

Figure 1. Distribution of Forest Service Grazing Fees

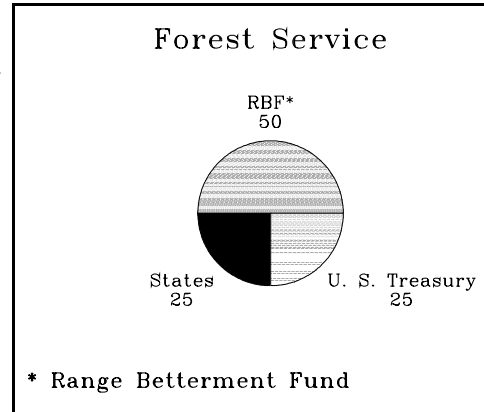


Figure 2. Distribution of BLM Grazing Fees: Section 3

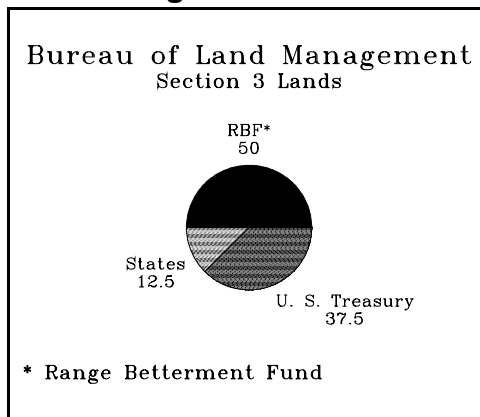
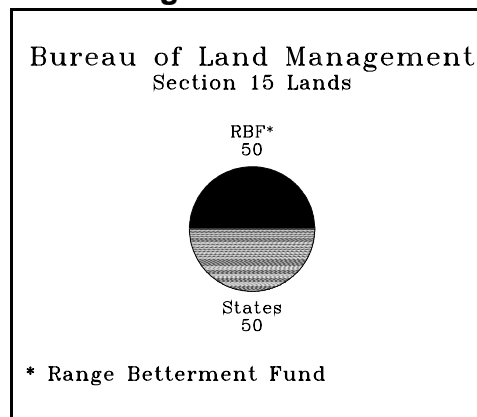


Figure 3. Distribution of BLM Grazing Fees: Section 15



Fee Evaluation and Reform Attempts

PRIA directed the Interior and Agriculture Secretaries to report to Congress, by December 31, 1985, on the results of their evaluation of the fee formula and other grazing fee options and their recommendations for implementing a permanent grazing fee. The Secretaries' report included (1) a discussion of livestock production in the western United

⁴ 43 U.S.C. §1751(b)(1). For the FS, see 36 CFR §222.10. For the BLM, see 43 CFR §4120.3-8.

⁵ Act of June 28, 1934; ch. 865, 48 Stat. 1269. 43 U.S.C. §§315, 315i.

States; (2) an estimate of each agency's cost for implementing its grazing programs; (3) estimates of the market value for public rangeland grazing; (4) potential modifications to the PRIA formula; (5) alternative fee systems; and (6) economic effects of the fee system options on permittees.⁶ A 1992 revision of the report updated the appraised fair market value of grazing on federal rangelands, determined the costs of range management programs, and recalculated the PRIA base value through the application of economic indices. The study results, criticized by some as using faulty evaluation methods, were not adopted and the report has not been updated since.

President Clinton proposed, and Congress considered, grazing fee reform in the 1990s, but no reforms were adopted. In 1993, the Clinton Administration proposed an administrative increase in the fee, and revisions of other grazing policies. The proposed fee formula started with a base value of \$3.96 per AUM, and was to be adjusted to reflect annual changes in private land lease rates in the West by using one index — the Forage Value Index — with 1996 as the base value. The current PRIA formula is adjusted using multiple indices, a practice that some criticize as double-counting ability-to-pay factors. Congressional objections forestalled an administrative increase, and new rules for BLM rangeland management that took effect on August 21, 1995, did not increase fees.

No grazing fee bills have passed either chamber for several years. In the 104th Congress, the Senate passed a bill to establish a new grazing fee formula and alter rangeland regulations. The formula was to be derived from the three-year average of the total gross value of production for beef and no longer indexed to operating costs and private land lease rates, as under PRIA. By one estimate, the measure would have resulted in an increase of about \$0.50 per AUM. In the 105th Congress, the House passed a bill with a fee formula based on a 12-year average of beef cattle production costs and revenues. The formula would have resulted in a 1997 fee of about \$1.84 per AUM.

Current Issues and Legislation

There is ongoing debate about the appropriate grazing fee, with several key areas of contention. First, there are differences over which criteria should prevail in setting fees: fair market value; cost recovery (whereby the monies collected would cover the government's cost of running the program); sustaining ranching, or resource-based rural economies generally; or diversification of local economies. Second, there is disagreement over the validity of fair market value estimates for federal grazing because federal and private lands for leasing are not always directly comparable. Third, whether to have a uniform fee, or varied fees based on biological and economic conditions, is an area of debate. Fourth, there are diverse views on the environmental costs and benefits of grazing on federal lands and on the environmental impact of changes in grazing levels. Fifth, it is uncertain whether fee increases would reduce the number of cattle grazing on sensitive lands, such as riparian areas. Sixth, some environmentalists assert that the fee is not the main issue, but that all livestock grazing should be barred to protect federal lands.

⁶ U.S. Dept. of Agriculture, Forest Service, and U.S. Dept. of the Interior, Bureau of Land Management, *Grazing Fee Review and Evaluation*, A Report from the Secretary of Agriculture and the Secretary of the Interior (Washington, DC: February 1986).

Recently, a handful of livestock owners in some western states have grazed cattle on federal land without getting a permit or paying the required fee. The BLM and FS have responded at times by fining and jailing the owners as well as impounding and selling the trespassing cattle. The livestock owners claim they do not need to have permits or pay grazing fees because the land is owned by the public; or that other rights, such as state water rights, extend to the accompanying forage; or the BLM improperly allowed wild horses and burros to graze the land. In general, owners have not prevailed in lawsuits raising these issues. A particularly long-running controversy involves grazing without permits by Western Shoshone Indians on land in Nevada they assert belongs to the tribe under a treaty, but which the federal government manages as public land. The BLM has confiscated and sold cattle belonging to two Shoshone sisters accused of trespassing. While not making a determination as to validity of the sisters' property claims, the Inter-American Commission on Human Rights of the Organization of American States concluded that the U.S. government's actions were not in compliance with standards under international human rights laws. Others have criticized the way the agencies have impounded any trespassing cattle. For instance, the Nevada Cattlemen's Association and the Nevada Woolgrowers Association have urged the BLM to obtain a court order authorizing change of ownership, to ensure due process, before impoundment of livestock. (For information on related legal issues, see CRS Report RL31081, *Impoundment and Sale of Cattle Trespassing on Federal Public Lands.*)

Another recent issue involves efforts to end livestock grazing on certain federal lands through voluntary retirement of permits and leases and subsequent closure of the allotments to grazing. This practice is opposed by those who support ranching on the affected lands, fear a widespread effort to eliminate ranching as a way of life, or question the legality of the process. Supporters seek to have ranchers relinquish their grazing permits to the government in exchange for compensation by third parties, particularly environmental groups. After acquiring the permits through transfer, the groups advocate agency amendments to land use plans to devote the grazing lands to other purposes, such as watershed conservation. These groups would not pay grazing fees under their permits if they opt not to graze during the amendment process, because fees are paid for actual grazing.

In the 108th Congress, legislation was introduced (H.R. 3324) to buy out federal grazing permittees (or lessees). No further action was taken. Permittees who voluntarily relinquished their permits would have been compensated at a rate of \$175 per AUM, estimated at more than twice the current market rate. The allotments would have been permanently closed to grazing. Such legislation, backed by the National Public Lands Grazing Campaign, is advocated to enhance resource protection, resolve conflicts between grazing and other land uses, provide economic options to permittees, and save money. According to proponents, a national buyout program would cost about \$2.9 billion, with net savings of between \$5.7 billion and \$9.9 billion. H.R. 3324 would have authorized \$100 million to compensate permit holders, and established priorities for compensation if funds were insufficient for all buyouts. Similar 108th Congress legislation (H.R. 3337) to establish a pilot program for grazing permit holders in Arizona, where there has been strong interest from some ranchers, also was not acted upon. Opponents of buyout legislation include those who support grazing, others who fear the creation of a compensable property right in grazing permits, some who contend the program would be too costly, or still others who support different types of grazing reform.