AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

5 days from publishing and posting the notice.

[43 FR 29067, July 5, 1978. Redesignated and amended at 47 FR 41712, Sept. 21, 1982; 49 FR 6454, Feb. 21, 1984]

§ 4150.4–2 Impoundment.

After 5 days from delivery of the notice under § 4150.4–1(a) of this title or any time after 5 days from publishing and posting the notice under § 4150.4–1(b) of this title, unauthorized livestock may be impounded without further notice any time within the 12-month period following the effective date of the notice.

[47 FR 41712, Sept. 21, 1982, as amended at 49 FR 6454, Feb. 21, 1984; 49 FR 12705, Mar. 30, 1984]

§ 4150.4–3 Notice of public sale.

Following the impoundment of livestock under this subpart the livestock may be disposed of by the authorized officer under these regulations or, if a suitable agreement is in effect, they may be turned over to the State for disposal. Any known owners or agents, or both, shall be notified in writing by certified mail or by personal delivery of the sale and the procedure by which the impounded livestock may be redeemed prior to the sale.

[43 FR 29067, July 5, 1982. Redesignated and amended at 47 FR 41712, Sept. 21, 1982; 49 FR 6454, Feb. 21, 1984]

§ 4150.4–4 Redemption.

Any owner or his agent, or both, or lien-holder of record of the impounded livestock may redeem them under these regulations or, if a suitable agreement is in effect, in accordance with State law, prior to the time of sale upon settlement with the United States under § 4150.3 or adequate showing that there has been no violation.

[43 FR 29067, July 5, 1978. Redesignated at 47 FR 41712, Sept. 21, 1982]

§ 4150.4–5 Sale.

If the livestock are not redeemed on or before the date and time fixed for their sale, they shall be offered at public sale to the highest bidder by the authorized officer under these regulations or, if a suitable agreement is in effect, by the State. If a satisfactory bid is not received, the livestock may be re-offered for sale, condemned and destroyed or otherwise disposed of under these regulations, or if a suitable agreement is in effect, in accordance with State Law.

[43 FR 29067, July 5, 1978. Redesignated and amended at 47 FR 41712, Sept. 21, 1982]

Subpart 4160—Administrative Remedies

§ 4160.1 Proposed decisions.

(a) Proposed decisions shall be served on any affected applicant, permittee or lessee, and any agent and lien holder of record, who is affected by the proposed actions, terms or conditions, or modifications relating to applications, permits and agreements (including range improvement permits) or leases, by certified mail or personal delivery. Copies of proposed decisions shall also be sent to the interested public.

(b) Proposed decisions shall state the reasons for the action and shall reference the pertinent terms, conditions and the provisions of applicable regulations. As appropriate, decisions shall state the alleged violations of specific terms and conditions and provisions of these regulations alleged to have been violated, and shall state the amount due under §§ 4130.8 and 4150.3 and the action to be taken under § 4170.1.

(c) The authorized officer may elect not to issue a proposed decision prior to a final decision where the authorized officer has made a determination in accordance with §§ 4110.3–3(b), 4130.6–2(b), 4150.2(d), or 4190.1(a).

(d) A biological assessment or biological evaluation prepared by BLM for purposes of an ESA consultation or conference is not a proposed or final decision for purposes of protest or appeal.

[60 FR 9968, Feb. 22, 1995, as amended at 71 FR 39508, July 12, 2006]

§ 4160.2 Protests.

Any applicant, permittee, lessee or other interested public may protest the proposed decision under § 4160.1 of this

title in person or in writing to the authorized officer within 15 days after receipt of such decision.

[47 FR 41713, Sept. 21, 1982, as amended at 49 FR 6455, Feb. 21, 1984; 61 FR 4227, Feb. 5, 1996]

§ 4160.3 Final decisions.

(a) In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

(b) Upon the timely filing of a protest, the authorized officer shall reconsider her/his proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion to her/his review of the protest, the authorized officer shall serve her/his final decision on the protestant or her/his agent, or both, and the interested public.

(c) Notwithstanding the provisions of § 4.21(a) of this title pertaining to the period during which a final decision will not be in effect, the authorized officer may provide that the final decision shall be effective upon issuance or on a date established in the decision, and shall remain in effect pending the decision on appeal unless a stay is granted by the Office of Hearings and Appeals when the authorized officer has made a determination in accordance with §§ 4110.3–3(b), 4130.6–2(b), 4150.2(d), or 4190.1(a). Nothing in this section shall affect the authority of the Director of the Office of Hearings and Appeals, the Interior Board of Land Appeals, or an administrative law judge to provide that the decision becomes effective immediately as provided in §§ 4.21(a)(1) and 4.479(c) of this title.

[43 FR 29067, July 5, 1978, as amended at 46 FR 5791, Jan. 19, 1981; 47 FR 41713, Sept. 21, 1982; 47 FR 46702, Oct. 20, 1982; 49 FR 6455, Feb. 21, 1984; 49 FR 12705, Mar. 30, 1984; 60 FR 9969, Feb. 22, 1995; 61 FR 4227, Feb. 5, 1996; 71 FR 39508, July 12, 2006]

§ 4160.4 Appeals.

(a) Any person whose interest is adversely affected who wishes to appeal or seek a stay of a final BLM grazing decision must follow the requirements set forth in § 4.472 of this title. The appeal and any petition for stay must be filed with the BLM office that issued the decision within 30 days after its receipt or within 30 days after the proposed decision becomes final as provided in § 4160.3(a).

(b) When OHA stays all or a portion of a BLM grazing decision that affects a grazing permit or lease, BLM will authorize grazing use as follows:

(1) When OHA stays implementation of all or part of a grazing decision that cancels or suspends a permit or lease, changes any term or condition of a permit or lease during its current term, or renews a permit or lease, BLM will continue to authorize grazing under the permit or lease, or the relevant term or condition thereof, that was in effect immediately before the decision was issued, subject to any relevant provisions of the stay order. This continued authorization will expire upon the resolution of the administrative appeal. Such continued authorization is not subject to protest or appeal.

(2) When OHA stays implementation of a grazing decision that issues or denies issuance of a permit or lease to a preference transferee, BLM will issue the preference applicant a permit or lease with terms and conditions that are the same as the terms and conditions of the most recent permit or lease applicable to the allotment or portion of the allotment in question, subject to any relevant provisions of the stay order. This temporary permit will expire upon the resolution of the administrative appeal. Issuance of the temporary permit is not a decision subject to protest or appeal.

(3) When OHA stays implementation of a grazing decision that issues a permit or lease to a preference transferee with terms and conditions different from terms and conditions of the most recent permit or lease applicable to the allotment or portion of the allotment in question, BLM will issue the preference applicant a permit or lease that, with respect to any stayed term or condition, is the same as the terms and conditions of the most recent permit or lease applicable to the allotment or portion of the allotment in question, subject to any relevant provisions of the stay order. This temporary permit will expire upon the resolution of the administrative appeal. Issuance of the