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Thursday
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Highlights

Briefings on How To Use the Federal Register—For details on briefings in Washington, D.C., see announcement in the Reader Aids Section at the end of this issue.

6915 National Poison Prevention Week, 1980
Presidential proclamation

7208 Food Stamps USDA/FNS issues rule on provision of social security numbers, and fraud disqualification and recovery (Part XI of this issue)

7224 China Treasury/Foreign Assets Control Office issues rule unblocking assets blocked because of an interest therein of the People's Republic of China or its Nationals; effective 1-31-80 (Part XII of this issue)

7029 Public Service Archeology Grant Program DOT/FHWA offers grants for academic year 1980-81

7003, 7004 Family Planning HEW/HSA announces project grants on general training and nurse practitioner training; apply by 4-1 and 5-1-80 (2 documents)

7004 Occupational Cutaneous Hazards and Diseases HEW/PHS announces competitive grants for research and demonstrations; apply by 3-1, 7-1, and 11-1-80

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

General Grazing Regulations; Livestock Trespass

January 23, 1980.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: It is proposed to amend 25 CFR 151.24 by deleting that portion of the per diem penalty in states subject to the Eight Circuit ruling in *United States ex rel. Chase* v. *Wald*, 557 F.2d 157 (8th Cir. 1977), namely North Dakota, South Dakota, Nebraska, and Minnesota; and to strengthen the means of coping with livestock grazing trespass by providing for impoundment and sale of trespass livestock. The expenses incurred in gathering, impounding, caring for, and disposing of livestock shall be included in any settlement with the trespasser.

The circumstances which created this need include the decision of the United States Court of Appeals of the Eight Circuit, *United States ex rel. Chase* v. *Wald, supra*. That court ruled that existing regulations which provide for a penalty of $1 per head for each animal thereof for each day of trespass (25 CFR 151.24) were invalid and held that a civil penalty for livestock trespass on Indian lands of one dollar per animal for each day of trespass is an invalid exercise of the Secretary of the Interior's rulemaking authority and conflicts with the provision codified in 25 U.S.C. 179, which the court read as limiting such trespass penalty to one dollar per animal and imposing no per diem penalty.

The Eighth Circuit's decision is in direct conflict with the decision of the Tenth Circuit in *United States ex rel. Whitehorse* v. *Briggs*, 555 F.2d 283 (10th Cir. 1977) which upheld the per diem penalty. Despite the direct conflict between the circuits the Supreme Court refused certiorari. 434 U.S. 1002 (1977). The intended effect of this action is to assure compliance with a decision of the United States Court of Appeals for the Eighth Circuit while enforcing the per diem penalty in the other circuits; to discourage unauthorized use and abuse of Indian trust lands, and to provide for reimbursement of all expenses incurred in gathering, impounding, caring for, and disposing of trespass livestock.

DATES: Comments must be received on or before: April 29, 1980.

ADDRESSES: Written comments should be directed to: Director, Office of Trust Responsibilities, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: George E. Davis, Range Conservationist, Division of Trust Services, Office of Trust Responsibilities, Bureau of Indian Affairs, Washington, D.C. 20245. Telephone: (202) 343-4004.

SUPPLEMENTARY INFORMATION: The primary author of this document is George E. Davis whose address and telephone number are provided above.

This notice is published pursuant to the authority of 25 U.S.C. 466 and 25 U.S.C. 179, delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The Department of the Interior has determined that this proposed revision does not significantly affect the quality of the environment and does not require an environmental impact statement under section 102 (2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332 (2)(c).

It is proposed to revise § 151.24 of subchapter N-Grazing, of Chapter I, Title 25, of the Code of Federal Regulations to read as follows:

§ 151.24 Livestock trespass.

(a) *Acts prohibited on Indian trust, restricted or Government lands.* The following acts are prohibited on Indian trust or restricted lands under the jurisdiction of the Bureau of Indian Affairs:

(1) The grazing upon or driving across any individually owned, tribal, or Government lands of any livestock without an approved grazing or crossing permit.

(2) Allowing livestock to drift and graze on trust or restricted Indian lands without an approved permit.

(3) The grazing of livestock upon trust or restricted Indian lands within an area closed to grazing of that class of livestock.

(4) The grazing of livestock by permittee upon an area of trust or restricted Indan lands withdrawn from use for grazing purposes to protect it from damage by reason of the improper handling of livestock, after the receipt of notice from the Superintendent of such withdrawal, or refusal to remove livestock upon instructions from the Superintendent when an injury is being done to the Indian lands by reasons of improper handling of livestock.

(b) *Unauthorized grazing.* The owner of any livestock grazing in trespass on trust or restricted Indian lands is liable to a penalty of $1 per head for each animal thereof for each day of trespass (except in North Dakota, South Dakota, Nebraska and Minnesota where the penalty shall be $1 per head of cattle regardless of the number of days of trespass), together with the reasonable value of the forage consumed by their livestock and damages to property injured or destroyed, and for expenses incurred in impoundment and disposal. The Superintendent shall take action to collect all such penalties and damages, reimbursement for expenses incurred in impoundment and disposal, and seek injunctive relief when appropriate. All payments for such penalties and damages shall be credited to the landowners where the trespass occurs, and reimbursement for expenses incurred in impoundment and disposal shall be credited as appropriate.

(c) *Notice and order to remove.* (1) When it has been determined that a violation exists and the owner of the unauthorized livestock is known, written notice shall be served upon the alleged violator or his agent by certified mail with return receipt requested, or personal delivery and a copy of the notice shall be sent to any known lien holder. The notice shall set forth the act constituting the violation, the legal description of the land where the livestock were observed, the verification of brands in the State Brand Book, and the regulation alleged to have been violated. The notice shall also instruct the alleged violator to remove the livestock within a specified time, allow a specified time from receipt of the notice to show that there has been no violations, or to make settlement under § 151.24(d). If the alleged violator fails to comply with the notice, the Superintendent may impound the livestock under § 151.24(f).

(2) When neither the owner of the unauthorized livestock nor his representative is known, the Superintendent may proceed to impound the livestock under § 151.24(f).

(d) *Settlement.* The amount due the Indian landowner and/or the United States in settlement for unauthorized grazing use shall be determined by the Superintendent as follows:

(1) A penalty of $1 for each animal thereof for each day of trespass, except in the states of Minnesota, Nebraska, North Dakota, and South Dakota where the penalty shall be $1 for each animal

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without regard to the number of days of trespass.

(2) A reasonable value of forage consumed based upon the average rate reveived per month for comparable grazing privileges on the reservation for the kind of livestock concerned, or the estimated commercial value for such privileges if no comparable grazing privileges are sold.

(3) Damages to Indian or Government property injured or destroyed.

(4) All expenses incurred in gathering, impounding, caring for, and disposing of livestock in cases which necessitate impoundment under § 151.24(f).

(5) Neither the imposition of any civil penalty nor any action by the Secretary of the Interior shall preclude either any civil action by the United States, an Indian, or an Indian tribe for damages caused by trespassing livestock or prosecution for any offense involved with such trespass.

(e) *Demand for Payment.* Where the livestock have been removed, but satisfactory settlement has not been made within the time prescribed under § 151.24(c), a certified letter, return receipt requested, shall be sent or personally delivered to the livestock owner or his agent, and a copy of the letter shall be sent to any known lien holder. The letter shall demand immediate settlement and advise the violator that unless settlement is received within five working days from date of receipt, the case may be referred to the Department of Justice for appropriate action.

(f) *Impoundment and disposal.* Unauthorized livestock remaining on trust or restricted Indian or Government lands which are not removed therefrom within the period prescribed in § 151.24(c) may be impounded and disposed of by the Superintendent as provided herein:

(1) A written notice of intent to impound shall be sent by certified mail, return receipt requested, or personally delivered to the owner, or his agent, and a copy of the notice shall be sent to any known lien holder. Any time after five days of delivery of the notice, the unauthorized livestock may be impounded.

(2) Where the owner or his agent is unknown, or a known owner or his agent refuses to accept delivery of the notice, a notice of intent to impound shall be published in a local newspaper, posted at the nearest community building and tribal council headquarters, and at a post office near the Indian or Government lands involved. Any time after five days of posting of the notice, the unauthorized livestock may be impounded.

(3) Unauthorized livestock that are owned by persons given notice under paragraphs (f)(1) and (2) of this section may be impounded without further notice any time within the 12-month period following the effective date of a notice given under this subsection.

(g) *Notice of public sale.* Following the impoundment of unauthorized livestock, a notice of sale of impounded livestock shall be published in a local newpaper, posted at the nearest community building and tribal council headquarters, and at a post office near the Indian or Government lands involved. The notice will describe the livestock and specify the date, time and place of sale. The date set shall be at least five days after the publication and posting of such notice. Any known owners or agents and known lien holders shall be notified in writing by certified mail, return receipt requested, or by personal delivery of the sale, and the procedure by which the impounded livestock may be redeemed prior to the sale as described in § 151.24(h).

(h) *Redemption.* Any owner or known lien holder of the impounded livestock may redeem them an any time before the time set for the sale by submitting proof of ownership and the settlement of all obligations described in § 151.24(d).

(i) *Sale.* If the livestock are not redeemed before the time fixed for their sale, they shall be sold at public sale to the highest bidder. If a satisfactory bid is not received, the livestock may be reoffered for sale, condemned and destroyed, or otherwise disposed of. When livestock are sold by the Superintendent pursuant to these regulations, he shall furnish the purchaser a bill of sale or other written instrument evidencing the sale.

(j) *Distribution of proceeds.* The net proceeds of the sale, after deduction of the prescribed penalty and the deduction of the necessary costs and expenses of the Secretary of the Interior as provided in § 151.14(d), shall be paid to the owner of the animal upon satisfactory proof of ownership submitted within six months of the date of the sale. Net proceeds of the sale of an animal, not paid to the owner, shall be deposited in the United States Treasury to the credit of the landowners where the trespass occurred.

Rick Lavis,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 80-3057 Filed 1-30-80; 8:45 am]

BILLING CODE 4310-02-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Improving Government Regulations; Delay in Publication of Agenda of Significant Regulatory Activity

AGENCY: Equal Employment Opportunity Commission.

ACTION: Delay in Publication of Agenda of Significiant Regulatory Activity, January 31, 1980, Semiannual Agenda.

SUMMARY: The EEOC announced that it would publish its Agenda of Significant Regulatory Activity on January 31, 1980. This notice is to inform the public that it will not be published until February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Federick D. Dorsey, Director, Office of Policy Implementation, 2401 E. Street, NW., Washington, D.C. 20506, 202-634-7060.

Signed at Washington, D.C., this 24th day of January 1980.

Eleanor H. Norton,

Chair, Equal Employment Opportunity Commission.

[FR Doc. 80-3344 Filed 1-30-80; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 158

[CGD 77-029]

Ocean Dumping Surveillance System; Change in Comment Date

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule; change in comment date.

SUMMARY: The Coast Guard intended to establish a 60-day comment period for the proposed rule on ocean dumping surveillance system. The wrong data was published in the Federal Register dated December 13, 1979 (FR Doc. 79-38294, 44 FR 72188). Following a correction to the intended date of February 11, 1980, a request has been received to move the comment closing date back to the originally published date of March 3, 1980. Because the change may have created undue burden and hardship for the public, the Coast Guard is restoring the original date of March 3, 1980.

DATE: Comments must be received on or before March 3, 1980. For further information contact: Lt. (jg.) John M. Holmes, Regulations Officer, Marine

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