THE CODE OF FEDERAL REGULATIONS

OF THE

UNITED STATES OF AMERICA

Having General Applicability and Legal Effect
in Force June 1, 1938

FIRST EDITION

Published by the Division of the Federal Register, the National Archives, Pursuant to Section 11 of the Federal Register Act as Amended June 19, 1937

TITLE 22—FOREIGN RELATIONS
TITLE 23—HIGHWAYS
TITLE 24—HOUSING CREDIT
TITLE 25—INDIANS

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1939

HeinOnline -- 0 Fed. Reg. i 1935

and first-class credit rating. Credit on shipments of forest products sold on open account must not be extended beyond 60 days from date of receipt of car by buyer. A cash discount of 2 percent of mill value may be allowed when the shipment is paid for within 10 days of receipt of car by consignee as evidenced by the original paid freight bill.*† [Sec. 8]

63.9 Traveling salesmen. Traveling salesmen other than the Mill Manager may be employed only with prior approval by the Commissioner of Indian Affairs.*† [Sec. 9]

63.10 Commission sales agents. Sales may be made through commission sales agents for which they may be paid a 5 percent commission on the f. o. b. mill value of the shipment; or when 5 percent does not equal 75¢ per thousand feet board measure a maximum commission of 75¢ per thousand board feet may be allowed the salesman. All such commissions shall be paid only after the mill has been paid in full for the products sold. Sales may be made to wholesalers on which a discount of not more than 8 percent of the f. o. b. mill value may be allowed.*† [Sec. 10]

63.11 Deposits. On all agreements to purchase for future delivery a deposit of not less than 10 percent of the estimated amount of the purchase may be required in the discretion of the Manager, to be forfeited if the purchaser does not comply with the terms of sale; and no agreement for sale and future delivery shall be made for a longer period than 60 days, except with the approval of the Superintendent.*† [Sec. 11]

63.12 Statements. A monthly statement will be mailed to the Commissioner of Indian Affairs giving a summary statement of all products sold during the preceding month and the average price received for each main class of material.*† [Sec. 12]

Subchapter I—Grazing

PART 71—GENERAL GRAZING REGULATIONS

Sec.
71.1 General authority.
71.2 Act of June 18, 1934.
71.3 Objectives.
71.4 Regulations: scope; exceptions.
71.5 Carrying capacity of reservation.
71.6 Establishment of range units.
71.7 Carrying capacities of range units and grazing seasons.
71.8 Record of grazing permits.
71.9 Free grazing privileges.
71.10 Authority to sell grazing privileges on tribal and allotted land.
71.11 Indian competitive bidding.
71.12 Appraisal of grazing privileges.
71.13 Authority for advertising grazing privileges.
71.14 Advertisement of grazing privileges.
71.15 Grazing permits; how prepared.
71.16 Grazing permits for organized and unorganized tribes.
71.17 Bonding requirements.
71.18 Assignment or modification of grazing permits.
71.19 Permits and leases issued without powers of attorney.
71.20 On-and-off grazing permits.
71.21 Trespass.
71.22 Control of livestock diseases.
71.23 Fees for execution of grazing leases and permits.
71.24 Court action for collection of grazing fees and damages.
71.25 Nonconcurrence between the Superintendent and the Regional Forester.
71.26 Definitions of terms.

*†For statutory and source citations, see note to § 63.1.

HeinOnline -- 0 Fed. Reg. 792 1935

CROSS REFERENCES

Agricultural and grazing leases, Osage Nation, Oklahoma: See Part 177.
Grazing, Navajo and Hopi reservations: See Part 72.
Leasing of Indian allotted and tribal lands for farming, grazing, and business: See Part 171.
Leasing of restricted lands of Five Civilized Tribes for agriculture and grazing: See Part 174.

Section 71.1 General authority. It is within the authority of the Secretary of the Interior to protect Indian tribal lands against waste. Overgrazing, which threatens destruction of the soil, is properly considered waste. Subject to regulations authorized by law, the right exists for Indian tribes and individual Indians to lease or grant permits upon their own tribal land or individual allotments.† (R.S. 161, 465, sec. 6, 48 Stat. 986; 5 U.S.C. 22, 25 U.S.C. 9, 466) [Par. 1]

†The source of §§ 71.1 to 71.26, inclusive, (except for amendments noted in the text,) is General grazing regulations, Secretary of the Interior, Dec. 28, 1935.

71.2 Act of June 18, 1934. With respect to reservations upon which the Act of June 18, 1934, is applicable, the action of the Secretary must follow the directions laid down in Section 6 of that Act.† (Sec. 6, 48 Stat. 986; 25 U.S.C. 466) [Par. 2]

71.3 Objectives. It is the purpose of the regulations in this part to aid the Indians in the achievement of the following objectives:

(a) The preservation through proper grazing practice of the forest, the forage, the land, and the water resources on the Indian reservations, and the building up of these resources where they have deteriorated.

(b) The utilization of these resources for the purpose of giving the Indians an opportunity to earn a living through the grazing of their own livestock.

(c) The granting of grazing privileges on surplus range lands not needed by the Indians in a manner which will yield the highest return consistent with undiminished future use.

(d) The protection of the interests of the Indians from the encroachment of unduly aggressive and anti-social individuals.† (R.S. 161, 465, sec. 6, 48 Stat. 986; 5 U.S.C. 22, 25 U.S.C. 9, 466) [Par. 3]

71.4 Regulations: scope; exceptions. The grazing regulations in this part are hereby made effective as of the date of approval hereof, for all Indian lands under the jurisdiction of the Office of Indian Affairs, except as the regulations in this part may be superseded by special instructions to particular reservations or by provisions of any Tribal Constitution, By-Laws, Charter, heretofore or hereafter ratified, or any tribal action authorized thereunder.† (R.S. 161, 465, sec. 16, 48 Stat. 987; 5 U.S.C. 22, 25 U.S.C. 9, 476) [Par. 4]

71.5 Carrying capacity of reservation. The Commissioner of Indian Affairs will prescribe the maximum number of stock to be grazed on all Indian range lands. The number of stock authorized for each reservation will be based upon the most reliable estimate of the total carrying capacity which may be allowed without risking

†For source citation, see note to § 71.1.

HeinOnline -- 0 Fed. Reg. 793 1935

range deterioration. Any allotment may be used by the allottee for grazing or other purposes independently of the foregoing, but in case the use made thereof may threaten trespass upon or deterioration of adjacent Indian range lands that fact shall be submitted promptly by the Superintendent of the reservation for consideration and action by the Secretary of the Interior.† (R.S. 161, 465, 2119, sec. 6, 48 Stat. 986; 5 U.S.C. 22, 25 U.S.C. 9, 185, 466) [Sec. 1]

71.6 Establishment of range units. The conservation and effective utilization of grazing resources require a suitable division of the range area into range units. Such division shall be effected under the direction of the Superintendent and the Regional Forester, after consultation with the Indians, in accordance with the requirements of range management, land status, and Indian needs.† (R.S. 161, 465, sec. 6, 48 Stat. 986; 5 U.S.C. 22, 25 U.S.C. 9, 466) [Sec. 2]

71.7 Carrying capacities of range units and grazing seasons. The total carrying capacity of each range unit will be expressed in terms of animal months, and such figures will be equivalent to the number of animals which may safely graze on a unit without risking deterioration multiplied by the average number of months of the season. In determining the carrying capacity of range units, alienated lands of any character, areas closed to grazing, allotted lands for the use of which the allottee has not given his consent, and fenced allotments excluded from range units should not be considered, except where arrangements have been made with the owners of alienated lands for a joint use. All livestock, regardless of ownership and inclusive of wild horses and burros, will be counted against the total number of stock authorized for Indian lands under the jurisdiction of each Agency.† [R.S. 161, 465, sec. 6, 48 Stat. 986; 5 U.S.C. 22, 25 U.S.C. 9, 466) [Sec. 3]

71.8 Record of grazing permits. It will be the duty of the local officials on each reservation to prepare and keep current a register containing the names of all users of the range, the number of each kind of stock being grazed, the carrying capacity of each grazing unit, the periods when grazing should be permitted, and the fees paid. Reports embodying these facts and other information will be submitted to the Commissioner of Indian Affairs and the Regional Forester. An annual stock census will be taken to insure that the carrying capacity fixed by the Commissioner is not being exceeded.† (R.S. 161, 465; 5 U.S.C. 22, 25 U.S.C. 9) [Sec. 4]

71.9 Free grazing privileges. On reservations where sufficient tribal land is available, free grazing privileges may be granted to Indians. The number of livestock which may be grazed free of charge by any individual shall not exceed the number obtained by dividing the estimated carrying capacity of the tribal range by the total enrollment on the reservation. A family may be granted free grazing privileges for a number of livestock not exceeding the number accruing to each individual member thereof times the number of members in the family. A stock association may be granted free grazing privileges for a number of livestock not exceeding the number accruing to each individual times the number of individuals included in the families belonging to the livestock association. Such

†For source citation, see note to § 71.1.

HeinOnline -- 0 Fed. Reg. 794 1935

free grazing privileges or any fraction thereof shall only be granted if they are authorized by the Indians in general council or their duly authorized representatives. Free grazing privileges thus determined may be commuted for other free land use privileges or vice versa. No free grazing privileges may be allowed on allotted lands unless the allottee consents. Free grazing privileges on tribal lands within the boundaries of any unit shall not exceed the carrying capacity of the tribal lands in that unit. The Commissioner of Indian Affairs may, when in his discretion conditions warrant, subject to the consent of the Indians, grant Indian families free grazing privileges which shall not exceed 50 horses, 100 cattle, or 500 sheep, or a combined equivalent thereof in these proportions. (R.S. 161, 465; 5 U.S.C. 22, 25 U.S.C. 9) [Sec. 5, Regs., Dec. 28, 1935, as amended Mar. 29, 1937]

71.10 Authority to sell grazing privileges on tribal and allotted land. Grazing privileges may be sold for all Indian land, other than tribal land required to meet the Indian free grazing privileges, Provided That authority to do so has been granted in the following manner:

(a) Authority to sell grazing privileges on tribal lands shall be granted by a majority vote of the Indians in general council or their duly authorized representatives.

(b) Authority to sell grazing privileges on allotted land may be granted by the allottees, except those classes hereinafter described in paragraphs (c) and (d), by means of "Powers of Attorney" or "Authorities to Grant Grazing Privileges." In unorganized tribes these instruments may be made out to the Superintendent or to any tribal body that may be authorized by the Commissioner of Indian Affairs to receive such instruments. In organized tribes, such instruments may be accepted by any tribal agency or officer authorized, under the Constitution, bylaws, and charter of the tribe, to receive the same, or by the Superintendent.

(c) Authority to grant grazing privileges on the allotments of minors, other than orphans, shall be given by the head of the family.

(d) The Superintendent shall have the authority to grant grazing privileges on the allotments or fractions thereof owned by orphan minors, Indians non compos mentis, inherited allotments where the heirs have not been officially determined, and inherited allotments, after the heirs have been determined, where a majority in interest of such heirs consent to the granting of grazing privileges.

(e) The person or persons granting the authority to sell grazing privileges shall also determine the minimum rate which will be accepted for the land over which he has authority.† (R.S. 161, 465, sec. 3, 26 Stat. 795, sec. 1, 28 Stat. 305, sec. 1, 30 Stat. 85, sec. 1, 31 Stat. 229, sec. 4, 36 Stat. 856, sec. 1, 39 Stat. 128, sec. 1, 41 Stat. 1232, secs. 6, 16, 17, 18, 48 Stat. 986, 987, 988; 5 U.S.C. 22, 25 U.S.C. 9, 397, 402, 395, 403, 394, 393, 466, 476, 477, 478) [Sec. 6]

71.11 Indian competitive bidding. Indian families, as defined in § 71.26, who wish to run livestock in numbers not exceeding 250 head of cattle or 1,250 head of sheep, or a combined equivalent thereof in these proportions may obtain grazing permits requiring payment

†For source citation, see note to § 71.1.

HeinOnline -- 0 Fed. Reg. 795 1935

therefor at rates not less than those required by the provisions of § 71.12. Indian families obtaining such permits will not be required to enter the open competitive market to secure grazing privileges. Indian families who wish to run more than 250 head of cattle or 1,250 head of sheep will be required to enter the open competitive market for their entire holdings, except those for which they may receive free grazing privileges: Provided, That on reservations where only Indian livestock are grazing no competitive bidding will be required, but first consideration in the allocation of range shall be given to those Indians owning less than 250 head of cattle or 1,250 head of sheep; Provided further, That the Superintendent, with the approval of the Commissioner of Indian Affairs, may refuse to accept the bid of a white livestock owner competing with an Indian if such action appears in the best interest of the Indians.† (R.S. 161, 465; 5 U.S.C. 22, 25 U.S.C. 9) [Sec. 7, Regs., Dec. 28, 1935, as amended Mar. 29, 1937]

71.12 Appraisal of grazing privileges. The total appraised rates for an entire unit, whether charged to Indian graziers or incorporated as a minimum in advertisements for competitive bidding, cannot be less than the sum of what the allottees will get for their allotted lands and the tribe for the tribal lands according to the rates established as heretofore described; provided that if the Indians in general council or their duly authorized representatives allow free grazing privileges on tribal lands, the total appraised value of the tribal range units shall be reduced accordingly to Indian graziers; provided further that the person authorized to award grazing privileges, as determined in § 71.14, shall have authority to eliminate single allotments or small groups of allotments from a range unit if the rates established by the allottees are unreasonably high and the inclusion of such tract or tracts will jeopardize the sale of grazing privileges for the entire unit.† (R.S. 161, 465, sec. 3, 26 Stat. 795, sec. 1, 30 Stat. 85, sec. 1, 31 Stat. 229, sec. 4, 36 Stat. 856, sec. 1, 41 Stat. 1232; 5 U.S.C. 22, 25 U.S.C. 9, 397, 395, 403, 393) [Sec. 8]

71.13 Authority for advertising grazing privileges. All surplus range units in which the sale of grazing privileges on the majority of the area has been authorized, as provided in § 71.10, shall be advertised for sale of grazing privileges and proposals received under sealed bids, unless otherwise directed by the Commissioner of Indian Affairs. At least 30 days prior to any advertisement for the sale of grazing privileges under this competitive system, the Indians in general council or their duly authorized representatives, with the advice of the Superintendent and the Regional Forester, shall determine the following:

(a) The allocation of range units to Indian permittees and the rate upon which such allocations are authorized, provided that such rates shall yield an income on the unit at least sufficient to pay the allottees the minimum rental stipulated in the "Powers of Attorney" or the "Authorities to Grant Grazing Privileges";

(b) The class or classes of livestock which will be allowed to graze on each range unit;

†For source citation, see note to § 71.1.

HeinOnline -- 0 Fed. Reg. 796 1935

(c) The average minimum rate per head which will be charged for tribal lands and recommended to the allottees for their lands;

(d) The number of years for which grazing privileges are to be authorized under both allocation and advertisement, subject to the maximum of 5 years prescribed by law, and subject further to the limitation that the period authorized must enable all permits to expire at the same time;

(e) The number of livestock which may be grazed free of charge by any individual, subject to the limitations of § 71.9;

(f) Whether or not Indians shall be granted the privilege of meeting the high bid on ranges for which they compete;

(g) Whether or not the previous permittee shall be given the privilege of meeting the high bid on a given unit, and if so whether or not this shall be given precedence over Indian preference.

The matters determined at this meeting will be entered in the official minutes thereof, and the action taken will be final for the period concerned, unless authority to alter such action is granted by the Commissioner of Indian Affairs. A copy of the minutes of the meeting, a schedule of the allocations to the Indian permittees, a schedule of units authorized for advertisement, a copy of the form of advertisement, and a map showing the location of all range units shall be submitted to the Commissioner of Indian Affairs and to the Regional Forester within 1 week after the close of this meeting.† (R.S. 161, 465, sec. 3, 26 Stat. 795, sec. 1, 30 Stat. 85, sec. 1, 31 Stat. 229, sec. 4, 36 Stat. 856, sec. 1, 41 Stat. 1232; 5 U.S.C. 22, 25 U.S.C. 9, 397, 395, 403, 393) [Sec. 9]

71.14 Advertisement of grazing privileges. Unless otherwise authorized by the Commissioner of Indian Affairs the sale of grazing privileges must be advertised for a period of 30 days, 6 months in advance of the expiration of existing permits, and proposals must be received under sealed bids. The minimum rate to be incorporated in the advertisement shall not be less than the one determined by the method provided in § 71.12. Proposals must be accompanied by money order, cashier's check, certified check, or draft drawn upon some solvent bank, payable to the Superintendent, for not less than 10 percent of the amount of the grazing fees due for the first year at the rate bid. Grazing privileges shall be awarded to the highest bidder, except when it appears to the person authorized to award such privileges that the best interests of the Indians would not be served by awarding the privilege to such bidder; then the high bid shall be rejected and the second high bid given consideration, Provided, That Indians who compete on a given unit and former permittees may be given the privilege of meeting the high bid if the Tribal Council so decided previous to the advertisement. In unorganized tribes grazing privileges may be awarded by the Superintendent or other person or persons authorized to act by the Commissioner of Indian Affairs, and authority to reject the high bid may be granted to the same person or persons subject to the concurrence of the Regional Forester. In organized tribes these duties shall be performed by the person or persons duly authorized to grant grazing privileges. (R.S. 161, 465, sec. 3, 26 Stat. 795, sec. 1, 30

†For source citation, see note to § 71.1.

HeinOnline -- 0 Fed. Reg. 797 1935

Stat. 85, sec. 1, 31 Stat. 229, sec. 4, 36 Stat. 856, sec. 1, 41 Stat. 1232; 5 U.S.C. 22, 25 U.S.C. 9, 397, 395, 403, 393) [Sec. 10, Regs., Dec. 28, 1935, as amended Mar. 29, 1937 and June 23, 1937]

71.15 Grazing permits; how prepared. Grazing privileges on range units shall be awarded through the medium of permits, executed in quintuplicate. Range Control Stipulations have been prepared to control the use of the range and shall be incorporated in and made a part of each grazing permit. A schedule of the allotted lands within the grazing unit and the amount to be paid on each allotment shall also be attached to and made a part of the permit.† (R.S. 161, 465, sec. 3, 26 Stat. 795, sec. 1, 30 Stat. 85, sec. 1, 31 Stat. 229, sec. 4, 36 Stat. 856, sec. 1, 41 Stat. 1232; 5 U.S.C. 22, 25 U.S.C. 9, 397, 395, 403, 393) [Sec. 11]

71.16 Grazing permits for organized and unorganized tribes. Permits for unorganized tribes may be issued by the Superintendent or other authorized person or persons with the concurrence of the Regional Forester. Permits for organized tribes will be issued by the person or persons duly authorized to grant grazing privileges. In case of nonconcurrence an appeal may be taken to the Commissioner. Upon issuance, a copy of each permit executed will be forwarded promptly to the Commissioner of Indian Affairs and to the Regional Forester for their information and files. Any permit, by whomsoever issued, may be cancelled by the Commissioner of Indian Affairs when necessary for the conservation of the range. Any permit may also be modified in such manner as may be required for range conservation, subject to the provisions of § 71.18.† (R.S. 161, 465, sec. 3, 26 Stat. 795, sec. 1, 30 Stat. 85, sec. 1, 31 Stat. 229, sec. 4, 36 Stat. 856, sec. 1, 41 Stat. 1232, secs. 6, 16, 17, 18, 48 Stat. 986, 987, 988; 5 U.S.C. 22, 25 U.S.C. 9, 397, 395, 403, 393, 466, 476, 477, 478) [Sec. 12]

71.17 Bonding requirements. Permits must provide that grazing fees shall be paid annually or semiannually in advance. All annual permits must be paid fully in advance. For longer permits, full performance shall be guaranteed by an acceptable corporate surety or other satisfactory bond in a penal sum of not less than the total payment due in any 1 year under the terms of the permit. However, the Superintendent, with the concurrence of the Regional Forester, may in his discretion waive the bond requirement for permits issued to Indian livestock associations, provided that the numbers of such associations brand their livestock with the government I. D. brand, sign agreements to sell such livestock in accordance with the regulations, and authorize the Superintendent to deduct from the proceeds of such sales sufficient funds to pay the grazing fees on their livestock grazed under permit. In lieu of corporate surety or other satisfactory bond a permittee who is given a permit for a longer period than 1 year may pay his grazing fees annually in advance and in addition deposit at the time of the first payment one half of the annual grazing fees to be held as a cash penal bond. This amount may be applied to grazing fees due for the last 6 months of the grazing permit. Except for the first year, the grazing fees will be due and payable at least 3 months prior to the com-

†For source citation, see note to § 71.1.

HeinOnline -- 0 Fed. Reg. 798 1935

mencement of each annual period of the grazing permit.† (R.S. 161, 465, sec. 3, 26 Stat. 795, sec. 1, 30 Stat. 85, sec. 1, 31 Stat. 229, sec. 4, 36 Stat. 856, sec. 1, 41 Stat. 9, sec. 1, 41 Stat. 1232; 5 U.S.C. 22, 25 U.S.C. 9, 397, 395, 403, 214, 393) [Sec. 13]

71.18 Assignment or modification of grazing permits. No permit shall be assigned, sublet, modified, or transferred without the written consent of the contracting parties, of the sureties, and of the officials approving the original permit; provided that nothing herein shall be construed as preventing the Commissioner of Indian Affairs from taking any action necessary, without further consent of the parties, properly to regulate the range so as to prevent its deterioration. A copy of each assignment, subletting, modification, or transfer shall be promptly forwarded to the Commissioner of Indian Affairs.† (R.S. 161, 465, sec. 3, 26 Stat. 795, sec. 1, 30 Stat. 85, sec. 1, 31 Stat. 229, sec. 4, 36 Stat. 856, sec. 1, 41 Stat. 9, sec. 1, 41 Stat. 1232; 5 U.S.C. 22, 25 U.S.C. 9, 397, 395, 403, 214, 393) [Sec. 14]

71.19 Permits and leases issued without powers of attorney. Nothing contained in the foregoing sections relating to the issuance of permits by Superintendents or other authorized persons shall preclude any Indian tribe, individual, or group of individuals from leasing land for grazing purposes in accordance with law, without the use of powers of attorney. Any such lease shall contain proper clauses restricting the number of livestock grazed to the proper carrying capacity of the leased land, and otherwise safeguarding the interests of the lessors and other Indians of the reservation, and shall be submitted to the Superintendent of the Reservation and the Regional Forester for approval prior to execution; provided the leasing of such lands does not interfere with a balanced use of the range of the whole reservation.† (R.S. 161, 465, sec. 3, 26 Stat. 795, sec. 1, 30 Stat. 85, sec. 1, 31 Stat. 229, sec. 4, 36 Stat. 856, sec. 1, 41 Stat. 9, sec. 1, 41 Stat. 1232, sec. 6, 48 Stat. 986; 5 U.S.C. 22, 25 U.S.C. 9, 397, 395, 403, 214, 393, 466) [Sec. 15]

71.20 On-and-off grazing permits. On-and-off grazing permits will be granted to persons owning livestock which will graze on a range unit where only a part of such unit is Indian land. This permit will be granted for the total number of livestock to be grazed on the entire unit but the permittee will be required to pay grazing fees only for the estimated carrying capacity of the Indian lands involved.† (R.S. 161, 465, sec. 3, 26 Stat. 795, sec. 1, 30 Stat. 85, sec. 1, 31 Stat. 229, sec. 4, 36 Stat. 856, sec. 1, 41 Stat. 1232; 5 U.S.C. 22, 25 U.S.C. 9, 397, 395, 403, 393) [Sec. 16]

71.21 Trespass. Any Indian tribe may, with the approval of the Superintendent, grant a crossing permit to persons wishing to drive stock across any part of an Indian reservation and charge therefor such fees as it deems proper.† (R.S. 2117; 25 U.S.C. 179) [Sec. 17]

71.22 Control of livestock diseases. Whenever livestock on Indian lands become infected with contagious or infectious diseases, or has been exposed thereto, it must be dipped or treated and the movement thereof restricted to such extent as may be necessary to

†For source citation, see note to § 71.1.

HeinOnline -- 0 Fed. Reg. 799 1935

control and eradicate the disease.† (R.S. 161, 465, 45 Stat. 1185; 5 U.S.C. 22, 25 U.S.C. 9, 231) [Sec. 18]

71.23 Fees for execution of grazing leases and permits. The following fees must be paid to the Agency by the permittee to cover the approximate estimated cost to the Government of preparing and issuing the permit. If the total payment to be made under a permit does not exceed $100, the fee will be $1; if the total payment under the permit will exceed $100 but not exceed $250, the fee will be $2.50; and if the total payment under the permit will exceed $250, the fee will be $5.† (47 Stat. 1417; 25 U.S.C. 413) [Sec. 19]

71.24 Court action for collection of grazing fees and damages. Request for court action on permits to collect delinquent payments, damages, etc., shall be made by the Superintendent directly to the United States Attorney, accompanied by a copy of the permit. If, thereafter and prior to the actual filing of the case in court, the payment is made, the United States Attorney should be advised immediately. When a compromise is offered after suit has been filed, whether before or after judgment, the Superintendent should submit the matter to the United States Attorney. If the amount due is $500 or less and the United States Attorney approves, the Superintendent, with the approval of the interested Indians, may accept the compromise. However, if it is over $500, the Superintendent should refer the case with recommendations to the Commissioner of Indian Affairs for further action. All compromise offers must be exclusive of costs. Copies of all letters from a Superintendent to the United States Attorney should be forwarded promptly to the Commissioner of Indian Affairs, and to the Regional Forester and the report of the final disposition of the case should be made.† (R.S. 465, 2117, 161; 25 U.S.C. 9, 179, 5 U.S.C. 22) [Sec. 20]

71.25 Nonconcurrence between the Superintendent and the Regional Forester. In the event of a nonconcurrence between the Superintendent and the Regional Forester with respect to any matters pertaining to the granting of grazing privileges in which joint authority is vested in these officers, such matters shall be referred to the Commissioner of Indian Affairs for final decision.† (R.S. 161, 465; 5 U.S.C. 22, 25 U.S.C. 9) [Sec. 21]

CROSS REFERENCE: For general forest regulations, see Part 61.

71.26 Definitions of terms. The following definitions shall apply wherever used in the regulations in this part. The term "Regional Forester" refers to the officer in charge of a regional forestry office or any of his subordinates whom he authorizes in writing to act for and in behalf of himself. The term "Superintendent" refers to the officer in charge of an Indian Agency or any of his subordinates whom he authorizes in writing to act for and in behalf of himself. An "Organized Tribe" refers to a tribe organized under the provisions of the Indian Reorganization Act (48 Stat. 984; 25 U.S.C. 461–479). An "Unorganized Tribe" is one not so organized. A "family" comprises all persons occupying a single

†For source citation, see note to § 71.1.

HeinOnline -- 0 Fed. Reg. 800 1935

habitation, or living in a single domestic group, whatever the age or relationship of the persons may be; Provided, That the Indians in general council or their duly authorized representatives may determine in cases of doubt who are members of a given family; Provided, That such determination may be appealed by any aggrieved Indians to the Commissioner of Indian Affairs, Provided further, That the Indians in general council or their duly authorized representatives, subject to the approval of the Commissioner of Indian Affairs, may establish a different definition of a family which must be generally applicable to all Indians of a reservation.† (R.S. 161, 465, secs. 16, 17, 18, 48 Stat. 987, 988; 5 U.S.C. 22, 25 U.S.C. 9, 476, 477, 478) [Sec. 22]

PART 72—GRAZING, NAVAJO AND HOPI RESERVATIONS

Sec.
72.1 Authority.
72.2 General regulations.
72.3 Objectives.
72.4 Regulations: scope; exceptions.
72.5 Land management districts.
72.6 Carrying capacities.
72.7 Records.
72.8 Livestock reduction.
72.9 Trespass.
72.10 Control of livestock diseases.
72.11 Fences.
72.12 Construction near wells and springs.
72.13 Definitions.

CROSS REFERENCES

General grazing regulations: See Part 71.
Penalties for failure of Navajos and Hopis to follow grazing regulations: See §§ 161.76NH–161.86NH.
Regulations governing the leasing of grazing lands: See Part 174.

Section 72.1 Authority. The Secretary of the Interior has the authority to regulate the grazing of livestock on tribal lands within Indian reservations so as to prevent overgrazing and the destruction of the soil through erosion.†† (R.S. 161, 465, sec. 6, 48 Stat. 986; 5 U.S.C. 22, 25 U.S.C. 9, 466) [Par. 1]

††The source of §§ 72.1 to 72.13. inclusive, is Grazing Regulations for the Navajo and Hopi reservations, Secretary of the Interior, June 2, 1937.

72.2 General regulations. Part 71 authorizes the Commissioner of Indian Affairs to regulate the grazing of livestock on Indian lands under conditions set forth therein. In accordance with this authority and that of the Grazing Committee of the Navajo Tribal Council acting in accordance with a resolution of the Navajo Tribal Council dated November 24, 1936, the grazing of livestock on the Navajo and Hopi Reservations shall be governed by the regulations in this part.†† (R.S. 161, 465, sec. 6, 48 Stat. 986; 5 U.S.C. 22, 25 U.S.C. 9, 466) [Par. 2]

72.3 Objectives. It is the purpose of the regulations in this part to aid the Navajo and Hopi Indians in the achievement of the following objectives:

(a) The preservation of the forage, the land, and the water resources on the Navajo and Hopi Indian Reservations, and the building up of those resources where they have deteriorated.

†For source citation, see note to § 71.1.
††For source citation, see note to § 72.1.

HeinOnline -- 0 Fed. Reg. 801 1935