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Subchapter I—Grazing

PART 71—GENERAL GRAZING REGULATIONS

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NOTE: For the text of sections listed in the above table and not appearing in this supplement, see 25 CFR Part 71.

§ 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) of this section, 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 may grant grazing privileges on the restricted allotments or fractions thereof owned by Indian orphan minors, Indians non compos mentis and on restricted inherited or devised allotments when the heirs or devisees of such deceased allottees have not been determined. The Superintendent may also grant grazing privileges when the heirs or devisees of such deceased allottees have been determined and the lands are not in use by any of the heirs or devisees and the heirs or devisees have not been able for a 3-months' period to agree upon the granting of grazing privileges by reason of the number of heirs or devisees, their absence from the reservation, or for other cause; *Provided,* That the Superintendent or his authorized representative shall notify absentee heirs and devisees by mailing to their last known address notice that the heirs have a 3-months' period from the date of the notice to reach an agreement with respect to the granting of grazing privileges on their inherited or devised restricted allotments. The authority of this section, particularly with respect to the granting of grazing privileges on inherited and devised restricted allotments of adults shall be exercised with the greatest degree of care to insure the heirs and devisees their right to grant grazing privileges on their inherited and devised restricted allotments. The proceeds derived from such grazing privileges granted pursuant to this section shall be credited to the individual Indian money accounts of the estates or other accounts of the individuals entitled thereto in accordance to their respective interests.

(e) The person or persons granting the

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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, 26 Stat. 795, 28 Stat. 305, 30 Stat. 85, 31 Stat. 229, 36 Stat. 856, 39 Stat. 128, 41 Stat. 1232, 48 Stat. 986, 987, 988, 54 Stat. 745; 5 U.S.C. 22, 25 U.S.C. 9, 397, 402, 395, 403, 394, 393, 466, 476, 477, 478) [Reg., Sec. Int., Nov. 5, 1940; 5 F.R. 4532]

§ 71.16 *Grazing permits for organized and unorganized tribes.* (a) Permits may be issued by the person or persons duly authorized to grant grazing privileges, as defined in § 71.10, with the approval of the Superintendent and the concurrence of the Regional Forester, on range units exceeding 3,200 acres of allotted and tribal lands of organized tribes and in all other cases when the annual grazing fees exceed $500. Permits may be issued with the approval of the Superintendent only on range units of 3,200 acres or less of allotted and tribal lands when the annual grazing fees do not exceed $500.

(b) Permits may be issued by the Superintendent or other authorized person or persons with the concurrence of the Regional Forester on range units exceeding 3,200 acres of allotted and tribal Indian lands of unorganized tribes, or Government lands as defined in § 71.27, and in all other cases when the annual grazing fees exceed $500. Permits may be issued by the Superintendent without the concurrence of the Regional Forester on range units of 3,200 acres or less when the annual grazing fees do not exceed $500.

(c) All permits not requiring concurrence or approval of the Regional Forester shall be issued pursuant to advertisement concurred in by the Regional Forester. The Superintendent shall mail promptly to the Commissioner of Indian Affairs and the Regional Forester a copy of each permit upon issuance thereof.

The Commissioner of Indian Affairs, subject to the provisions of § 71.18, may modify or cancel any permit after written notice to the permittee, when necessary to protect and conserve the range. (R.S. 161, 465, 26 Stat. 795, 30 Stat. 85, 31 Stat. 229, 36 Stat. 856, 41 Stat. 1232, 48 Stat. 986, 987, 988; 5 U.S.C. 22, 25 U.S.C. 9, 397, 395, 403, 393, 466, 476, 477, 478) [Reg., Sec. Int., June 10, 1942; 7 F.R. 4645]

§ 71.17 *Bond requirements.* Permits must provide for the payment of grazing fees annually or semi-annually in advance. The total amount of the fees for annual permits must be paid in advance.

(a) Full performance of all permits for periods exceeding one year shall be guaranteed by corporate surety bond of a company holding a certificate of authority from the Secretary of the Treasury or a satisfactory personal surety bond of not less than four solvent sureties in a penal sum of not less than the annual grazing fees. Each personal surety must own unencumbered real estate of a value equal to twice the amount of the bond and must furnish satisfactory evidence of such unencumbered real estate. If married the spouse of the surety must also sign the bond and each signature must be witnesed by at least two individuals and their post office addresses must appear in the instrument. It shall be the duty of the Superintendent to determine the qualifications of each personal surety. Attorneys-in-fact for corporate surety bonds must furnish satisfactory evidence of authority to execute bonds for and on behalf of the surety company.

(b) In lieu of furnishing a surety bond, a permittee may in addition to paying the grazing fees annually in advance, deposit at the time of the first payment of the fees a sum equal to one-half of the annual grazing fees. This sum shall be held by the Superintendent as a cash penal bond and may be applied to the grazing fees due for the last six months of the permit provided that no breach of the permit has taken place. In all cases where a cash deposit is made in lieu of a surety bond, the permittee shall in writing at the time of making the deposit, authorize the Superintendent to use the amount so deposited as liquidated damages in the event of any breach of the permit. Except for the first year, grazing fees on permits supported by cash penal bonds are due and payable at least three months prior to the commencement of the annual period described in the permit.

(c) Negotiable United States Treasury bonds or other negotiable Treasury obligations may be pledged in lieu of a cash penal or surety bond under the same conditions and stipulations for cash penal bonds. Such Government securities shall be forwarded to the Commissioner of

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Indian Affairs for deposit with the United States Treasury and must be accompanied with a proper power of attorney authorizing disposal thereof by the Commissioner of Indian Affairs as liquidated damages in the event of any breach of the permit.

(d) The Superintendent may waive the bond requirements on permits issued to Indians when the livestock to be grazed under the permit is branded with the I. D. or approved reservation brand, and the Indian permittee executes an agreement to sell the livestock grazed under the permit in accordance with regulations governing the sale of livestock so branded and authorizes the Superintendent in writing to deduct from the proceeds of any sales of such livestock sufficient funds to pay the grazing fees due under the permit. (R.S. 161, 465, 26 Stat. 795, 30 Stat. 85, 31 Stat. 229, 36 Stat. 856, 41 Stat. 9, 41 Stat. 1232; 5 U.S.C. 22, 25 U.S.C. 9, 397, 395, 403, 214, 393) [Reg., Sec. Int., June 10, 1942; 7 F.R. 4645]

§ 71.21 *Trespass.* The owner of any livestock grazing in trespass on restricted Indian lands is liable to a penalty of $1 per head for each animal thereof together with the reasonable value of the forage consumed and damages to property injured or destroyed.

The following acts are prohibited:

(a) The grazing upon or driving across any restricted Indian lands of any livestock without an approved grazing or crossing permit, except such Indian livestock as may be exempted from permit.

(b) Allowing livestock not exempt from permit to drift and graze on restricted Indian lands without an approved permit.

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

(d) The grazing of livestock by a permittee upon an area of restricted Indian lands withdrawn from use for grazing purposes to protect it from damage by reason of the improper handling of the 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 reason of improper handling of livestock. (R.S. 2117; 25 U.S.C. 179) [Reg., Sec. Int., Mar. 24, 1942; 7 F.R. 2757]

§ 71.23 *Fees for execution of grazing permits.* The following fees must be charged to cover the approximate cost to the Government of preparing and issuing permits:

(a) *To be paid by the permittee, subpermittee, or assignee for each permit.*

Total rental for full term of permit:	*Fees payable*
Not to exceed $100	$1.00
$101–$250	2.50
$251–$500	5.00
For each additional $500 or fraction thereof	1.00

In the case of a subpermit or assignment the fee shall be based on the total amount yet to accrue under the instrument from the effective date thereof. When the permit is extended with the mutual consent of the parties concerned the fee shall be computed from the effective date on the same basis as the original instrument.

(b) *To be paid by each permitter for each allotment and for the tribal land under each permit.*

Total annual rental involved:	
$26–$50	$0.50
$51–$100	1.00
$101–$250	2.50
$251–$500	5.00
$501–$750	7.50
$751 and over	10.00

A minimum fee of 25 cents on income derived from each permit shall be charged in each case where the individual annual rental for each allotment under each permit is less than $26, except that in any case where the individual income accruing from each allotment under any permit is less than 25 cents per annum, such lesser sum shall constitute the total fee due from each individual permitter. (47 Stat. 1417; 25 U.S.C. 413) [Reg., Sec. Int., Aug. 27, 1941; 6 F.R. 4655]

§ 71.27 *Administration of Government lands.* Insofar as applicable the regulations of this part are hereby adopted for the administration of the lands the jurisdiction over which was transferred to the Secretary of the Interior by Executive Orders Nos. 7792 and 7868 of January 15, 1938, and April 15, 1938 (3 F.R. 161, 903), respectively, and by such supplemental orders that have been or may be issued subsequent thereto. Until otherwise provided grazing permits may be issued on these lands by the superintendent with the concurrence of the regional forester. Any fees

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collected for such grazing privileges shall be held in special deposit until further order. (E.O. 7792, 7868; R.S. 161, 465; 5 U.S.C. 22, 25 U.S.C. 9) [Reg., Sec. Int., Apr. 8, 1941; 6 F.R. 2053]

PART 72—GRAZING, NAVAJO AND HOPI RESERVATIONS

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NOTE: For the text of sections listed in the above table and not appearing in this supplement, see 25 CFR Part 72.

SOURCE: §§ 72.6 to 72.14, inclusive, contained in Regulations, Secretary of the Interior, Apr. 13, 1943; 8 F.R. 5702. Exception is noted in brackets following section affected.

§ 72.6 *Carrying capacities.* The Commissioner of Indian Affairs shall promulgate for each land management district the carrying capacity for livestock.

Carrying capacities shall be stated in terms of sheep units yearling, in the ratio of, horses, mules and burros 1 to 5, cattle 1 to 4, goats 1 to 1. The latter figure in each case denotes sheep units. Sheep and goats 6 months of age or older and cattle, horses, mules and burros one year of age or older shall be counted against the carrying capacity. Carrying capacities shall be determined in accordance with the methods now in use by the Navajo Service and approved by the "Inter-Agency Range Survey Committee for the Southwestern States." (R.S. 161, 465, 48 Stat. 986; 5 U.S.C. 22, 25 U.S.C. 9, 466)

§ 72.7a *Grazing rights and permits.* The Superintendent shall determine grazing rights of bona fide livestock owners. Grazing rights shall be recognized for those family heads having ownership records as established in accordance with § 72.7, and who have made substantial use of the reservation range prior to the year 1937, or who have acquired grazing rights subsequent to that year by marriage, inheritance, purchase, division of permit or assignment of rights from a district grazing pool as herein provided.

Ownership and rights in livestock and permits in cases of divorce, separation, or threatened family disruption shall be determined by the Superintendent and District Council. In the event that the Superintendent and District Council cannot agree all facts and circumstances shall be referred to the Commissioner of Indian Affairs for final decision.

All livestock grazing on the Navajo Reservation must be authorized by a grazing permit issued by the Superintendent and held in the possession of the permittee. The number of livestock that may be grazed under each permit shall be determined through maximum limit and base preference numbers which shall be established for each land management district by the Superintendent as defined in § 72.13, (e) and (f). No permittee shall be authorized to graze more than 10 head of horses in excess of one year of age.

Upon recommendation of the District Council, and with the approval of the Superintendent, one or more permittees may establish an area of range for their exclusive use: *Provided,* That the carrying capacity of the designated area does not exceed their total permitted stock.

With the approval of the Superintendent permits may be transferred from one permittee to another, or may be inherited; *Provided,* That the permitted holdings of any individual permittee shall not exceed three hundred fifty (350) sheep units or the equivalent thereof. Should inheritance or other acquisition of permits increase the holdings of any permittee to more than 350 sheep units, said permittee shall dispose of all livestock in excess of 350 sheep units not later than November 15 following date of inheritance or other acquisition, and that portion of his or her permit in excess of 350 sheep units within one (1) year from date of inheritance or other acquisition. Failure to do so on the part of any permittee will result in forfeiture of excess grazing rights under authority of this section, which shall be assigned to the district grazing pool as defined in § 72.13 (j).

Failure of a permittee to make full use of his permit for one (1) year shall con-

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