

§ 161.1

25 CFR Ch. I (4–1–10 Edition)

Subpart E—Reissuance of Grazing Permits

- 161.400 What are the criteria for reissuing grazing permits?
- 161.401 Will new permits be granted after the initial reissuance of permits?
- 161.402 What are the procedures for reissuing permits?
- 161.403 How are grazing permits allocated within each range unit?

Subpart F—Modifying A Permit

- 161.500 May permits be transferred, assigned or modified?
- 161.501 When will a permit modification be effective?
- 161.502 Will a special land use require permit modification?

Subpart G—Permit Violations

- 161.600 What permit violations are addressed by this subpart?
- 161.601 How will BIA monitor permit compliance?
- 161.602 Will my permit be canceled for non-use?
- 161.603 Can mediation be used in the event of a permit violation or dispute?
- 161.604 What happens if a permit violation occurs?
- 161.605 What will a written notice of a permit violation contain?
- 161.606 What will BIA do if the permittee doesn't cure a violation on time?
- 161.607 What appeal bond provisions apply to permit cancellation decisions?
- 161.608 When will a permit cancellation be effective?
- 161.609 Can BIA take emergency action if the rangeland is threatened?
- 161.610 What will BIA do if livestock is not removed when a permit expires or is cancelled?

Subpart H—Trespass

- 161.700 What is trespass?
- 161.701 What is BIA's trespass policy?
- 161.702 Who will enforce this subpart?

NOTIFICATION

- 161.703 How are trespassers notified of a trespass determination?
- 161.704 What can a permittee do if they receive a trespass notice?
- 161.705 How long will a written trespass notice remain in effect?

ACTIONS

- 161.706 What actions does BIA take against trespassers?
- 161.707 When will BIA impound unauthorized livestock or other property?
- 161.708 How are trespassers notified of impoundments?

- 161.709 What happens after unauthorized livestock or other property are impounded?
- 161.710 How can impounded livestock or other property be redeemed?
- 161.711 How will BIA sell impounded livestock or other property?

PENALTIES, DAMAGES, AND COSTS

- 161.712 What are the penalties, damages, and costs payable by trespassers?
- 161.713 How will BIA determine the amount of damages to Navajo Partitioned Lands?
- 161.714 How will BIA determine the costs associated with enforcement of the trespass?
- 161.715 What will BIA do if a trespasser fails to pay penalties, damages and costs?
- 161.716 How are the proceeds from trespass distributed?
- 161.717 What happens if BIA does not collect enough money to satisfy the penalty?

Subpart I—Concurrence/Appeals/Amendments

- 161.800 How does the Navajo Nation provide concurrence to BIA?
- 161.801 May decisions under this part be appealed?
- 161.802 How will the Navajo Nation recommend amendments to this part?

AUTHORITY: 25 U.S.C. 2; 5 U.S.C. 301; 25 U.S.C. 640d *et seq.*

SOURCE: 70 FR 58888, Oct. 7, 2005, unless otherwise noted.

Subpart A—Definitions, Authority, Purpose, and Scope

§ 161.1 What definitions do I need to know?

Agricultural Act means the American Indians Agricultural Resource Management Act (AIARMA) of December 3, 1993 (107 Stat. 2011, 25 U.S.C. 3701 *et seq.*), and amended on November 2, 1994 (108 Stat. 4572).

Agricultural resource management plan means a 10-year plan developed through the public review process specifying the tribal management goals and objectives developed for tribal agricultural and grazing resources. Plans developed and approved under AIARMA will govern the management and administration of Indian agricultural resources and Indian agricultural lands by BIA and Indian tribal governments.

Bureau of Indian Affairs, Interior

§ 161.1

Allocation means the number of animal units authorized in each grazing permit.

Animal Unit (AU) means one adult cow and her 6-month-old calf or the equivalent thereof based on comparable forage consumption. Thus as defined in the following:

(1) One adult sheep or goat is equivalent to one-fifth (0.20) of an AU;

(2) One adult horse, mule, or burro is equivalent to one and one quarter (1.25) AU; or

(3) One adult llama is equivalent to three-fifths (0.60) of an AU.

Appeal means a written request for review of an action or the inaction of an official of the Bureau of Indian Affairs that is claimed to adversely affect the interested party making the request.

Appeal Bond means a bond posted upon filing of an appeal that provides a security or guaranty if an appeal creates a delay in implementing our decision that could cause a significant and measurable financial loss to another party.

BIA means the Bureau of Indian Affairs within the Department of the Interior.

Bond means security for the performance of certain permit obligations, as furnished by the permittee, or a guaranty of such performance as furnished by a third-party surety.

Business day means Monday through Friday, excluding federally or tribally recognized holidays.

Carrying capacity means the number of livestock and/or wildlife, which may be sustained on a management unit compatible with management objectives for the unit.

Concurrence means the written agreement of the Navajo Nation with a policy, action, decision or finding submitted for consideration by BIA.

Conservation practice refers to any management measure taken to maintain or improve the condition, productivity, sustainability, or usability of targeted resources.

Customary Use Area refers to an area to which an individual traditionally confined his or her traditional grazing use and occupancy and/or an area traditionally inhabited by his or her ancestors.

Day means a calendar day, unless otherwise specified.

Enumeration means the list of persons living on and identified improvements located within the Former Joint Use Area obtained through interviews conducted by BIA in 1974 and 1975.

Former Joint Use Area means the area that was divided between the Navajo Nation and the Hopi Tribe by the Judgment of Partition issued April 18, 1979, by the United States District Court for the District of Arizona. This area was established by the United States District Court for the District of Arizona in *Healing v. Jones*, 210 F. Supp. 125 (1962), aff'd. 373 U.S. 758 (1963) and is located:

(1) Inside the Executive Order area (Executive Order of December 16, 1882); and

(2) Outside Land Management District 6.

Grazing Committee means the District Grazing Committee established by the Navajo Nation Council, that is responsible for enforcing and implementing tribal grazing regulations on the Navajo Partitioned Lands.

Grazing Permit means a revocable privilege granted in writing and limited to entering on and utilizing forage by domestic livestock on a specified range unit. The term as used herein shall include authorizations issued to enable the crossing or trailing of domestic livestock within an assigned range unit.

Historical Land Use see Customary Use Area.

Improvement means any structure or excavation to facilitate management of the range for livestock, such as: Fences, cattle guards, spring developments, windmills, stock ponds, and corals.

Livestock means horses, cattle, sheep, goats, mules, burros, donkeys, and llamas.

Management Unit is a subdivision of a geographic area where unique resource conditions, goals, concerns, or opportunities require specific and separate management planning.

Navajo Nation means all offices/entities/programs under the direct jurisdiction of the Navajo Nation Government.

Navajo Partitioned Lands (NPL) means that portion of the Former Joint Use

§ 161.2

25 CFR Ch. I (4–1–10 Edition)

Area awarded to the Navajo Nation under the Judgment of Partition issued April 18, 1979, by the United States District Court for the District of Arizona, and now a separate administrative entity within the Navajo Indian Reservation.

Non-Concurrence means the official written denial of approval by the Navajo Nation of a policy, action, decision, or finding submitted for consideration by BIA.

Range management plan is a statement of management objectives for grazing, farming, or other agriculture management including contract stipulations defining required uses, operations, and improvements.

Range Unit means a tract of land designated as a separate management subdivision for the administration of grazing.

Resident means a person who lives on the Navajo Partitioned Lands.

Resources Committee means the oversight committee for the Division of Natural Resources within the Navajo Nation Government. The Resources Committee of the Navajo Nation Council to whom authority is delegated to exercise the powers of the Navajo Nation with regards to the range development and grazing management of the Navajo Partitioned Lands.

Secretary means the Secretary of the Interior or his or her designated representative.

Settlement Act means the Navajo Hopi Settlement Act of December 22, 1974 (88 Stat. 1712, 25 U.S.C. 64d *et seq.*, as amended).

Sheep Unit means an adult ewe with un-weaned lamb. It is also the basic unit in which forage allocations are expressed.

Special land use means all land usage for purposes other than for grazing withdrawn in accordance with Navajo Nation laws, Federal laws, and BIA policies and procedures, such as but not limited to: Housing permits, farm leases, governmental facilities, rights-of-way, schools, parks, business leases, etc.

Stocking rate means the maximum number of sheep units, or animal units authorized to graze on a particular pasture, management unit, or range unit during a specified period of time.

Trespass means any unauthorized occupancy, grazing, use of, or action on the Navajo Partitioned Lands.

§ 161.2 What are the Secretary's authorities under this part?

(a) Under Section 640d–9(e) of the Settlement Act, lands partitioned under the Settlement Act are subject to the jurisdiction of the tribe to whom partitioned. The laws of the tribe apply to the partitioned lands as in paragraphs (a)(1) and (a)(2) of this section.

(1) Effective October 6, 1980:

(i) All conservation practices on the Navajo Partitioned Lands, including control and range restoration activities, must be coordinated and executed with the concurrence of the Navajo Nation; and

(ii) All grazing and range restoration matters on the Navajo Reservation lands must be administered by BIA, under applicable laws and regulations.

(2) Effective April 18, 1981, the Navajo Nation has jurisdiction and authority over any lands partitioned to it and over all persons on these lands. This jurisdiction and authority apply:

(i) To the same extent as is applicable to those other portions of the Navajo reservation; and

(ii) Notwithstanding any provision of law to the contrary, except where there is a conflict with the laws and regulations referred to in paragraph (a) of this section.

(b) Under the Agricultural Act, the Secretary is authorized to:

(1) Carry out the trust responsibility of the United States and promote Indian tribal self-determination by providing for management of Indian agricultural lands and renewable resources consistent with tribal goals and priorities for conservation, multiple use, and sustained yield;

(2) Take part in managing Indian agricultural lands, with the participation of the land's beneficial owners, in a manner consistent with the Secretary's trust responsibility and with the objectives of the beneficial owners;

(3) Provide for the development and management of Indian agricultural lands; and

(4) Improve the expertise and technical abilities of Indian tribes and their members by increasing the educational