

## § 222.52

Wyoming. (National Grasslands are excluded, see § 222.52.)

(b) Notwithstanding the provisions of § 222.50, paragraph (b), the calculated grazing fee for 1988 and subsequent grazing fee years represents the economic value of the use of the land to the user and is the product of multiplying the base fair market value of \$1.23 by the result of the annual Forage Value Index, added to the sum of the Beef Cattle Price Index minus the Prices Paid Index and divided by 100; provided, that the annual increase or decrease in such fee for any given year shall be limited to not more than plus or minus 25 percent of the previous year's fee, and provided further, that the fee shall not be less than \$1.35 per head per month. The indexes used in this formula are as follows:

(1) Forage Value Index means the weighted average estimate of the annual rental charge per head per month for pasturing cattle on private rangelands in the 11 Western States (Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming) (computed by the National Agricultural Statistics Service) from the June Enumerative Survey) divided by \$3.65 per head month and multiplied by 100;

(2) Beef Cattle Price Index means the weighted average annual selling price for beef cattle (excluding calves) in the 11 Western States (Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming) (computed by the National Agricultural Statistics Service) for November through October (computed by the National Agricultural Statistics Service) divided by \$22.04 per hundred weight and multiplied by 100; and

(3) Prices Paid Index means the following selected components from the National Agricultural Statistics Service "Annual National Index of Prices Paid by Farmers for Goods and Services" adjusted by the weights indicated in parentheses to reflect livestock production costs in the Western States:

1. Fuels and Energy (14.5);
2. Farm and Motor Supplies (12.0);
3. Autos and Trucks (4.5);
4. Tractors and Self-Propelled Machinery (4.5);

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5. Other Machinery (12.0);
6. Building and Fencing Materials (14.5);
7. Interest (6.0);
8. Farm Wage Rates (14.0);
9. Farm Services (18.0).

[44 FR 24843, Apr. 27, 1979, as amended at 53 FR 2984, Feb. 2, 1988]

### § 222.52 National Grasslands.

Grazing fees for National Grasslands will be established under concepts and principles similar to those in § 222.51(b).

[44 FR 24843, Apr. 27, 1979]

### § 222.53 Grazing fees in the East—non-competitive procedures.

(a) *Scope.* Except as provided in § 222.54 of this subpart, the fee charged for commercial livestock grazing use and occupancy on National Forest System (NFS) lands in the States of New York, Missouri, Vermont, West Virginia, and in the Southern Region shall be determined through noncompetitive, fair market value procedures. These rules do not apply to grazing fees on National Forest System lands in Oklahoma or National Grasslands in Texas. Grazing permits under the non-competitive fee method in the East are subject to the rules governing grazing permit administration in Subpart A of this part.

(b) *Applicability.* The rules of this section apply to the establishment of grazing fees for existing permittees in the Eastern and Southern Regions on National Forest System lands, including grazing associations in New York and Missouri as of March 1, 1990, to any livestock on-and-off permits defined in Subpart A of this part; and to any allotments advertised for competitive bidding which were not bid on (§ 222.54(h)). Noncompetitive permits vacated or terminated by an existing permittee and any new allotments created after the effective date of this rule shall be offered on a competitive bid basis as specified in § 222.54 of this subpart. As provided in subpart A of this part, holders of term permits have first priority for receipt of a new permit.

(c) *Fee System.* The grazing fee charged under this section shall be based on fair market value, as determined by: Using comparable private grazing lease rates, adjusted for the

difference in the costs of grazing comparable private leased lands and National Forest System lands, or by reference to prevailing prices in competitive markets for other Federal or State leased grazing lands that are the same or substantially similar to grazing lands offered or administered by the Forest Service in the East with comparability adjustments as appropriate. Comparable grazing lease rates shall be adjusted for the difference between the total costs of operating on leased grazing lands and the total costs (other than grazing fee costs) of operating on National Forest System lands.

(1) *Establishing Base Grazing Value.* (i) The Chief of the Forest Service, or an authorized officer to whom such authority has been delegated, shall determine an estimated base market value of grazing use and occupancy on National Forest System lands in the Eastern States for the following designated subregions:

(A) Corn Belt (Illinois, Indiana, Missouri, and Ohio);

(B) Lake States (Michigan, Minnesota, and Wisconsin);

(C) Northeast (Maine, New Hampshire, New York, Pennsylvania, and Vermont);

(D) Appalachia (Kentucky, North Carolina, Tennessee, Virginia, and West Virginia);

(E) Southeast/Delta (Alabama, Arkansas, Georgia, Louisiana, Mississippi, South Carolina, and Texas); and

(F) Florida.

(ii) The Chief or authorized officer shall revise or update estimated market values of grazing use and occupancy, as necessary to respond to significant changes in the agricultural economy in the East, and to ensure that fees represent fair market value.

(iii) The Chief, or an authorized officer to whom authority has been delegated, where sufficient market data exist, may establish the base grazing value for grazing allotments using comparable, local lease rates for private grazing lands.

(2) *Annual Adjustment of Base Grazing Value.* To maintain currency with the private grazing lease market, the respective base grazing value(s) established for grazing permits under this

section shall be annually adjusted through a hay price index, by respective subregion. The hay price index means the weighted average selling price of "other baled hay," computed by the National Agricultural Statistics Service of the U.S. Department of Agriculture, by designated State and subregion. This index shall be based on 3-year average hay prices and annually reflect the percentage change in the cost of alternative livestock feed.

(3) *Computation of Annual Grazing Fee—(i) Annual Fee Basis.* The annual grazing fee shall equal the base grazing value, adjusted by the current period's hay price index, less the value of any agency required range improvements.

(ii) *Grazing Fee Credits for Range Improvements.* Any requirements for permittee construction or development of range improvements shall be identified through an agreement and incorporated into the grazing permit, with credits for such improvements to be allowed toward the annual grazing fee. Fee credits shall be allowed only for range improvements which the Forest Service requires an individual permittee to construct or develop on a specific allotment to meet the management direction and prescriptions in the relevant forest land and resource management plan and allotment management plan. These improvements must involve costs which the permittee would not ordinarily incur under the grazing permit, must be of tangible public benefit, and must enhance management of vegetation for resource protection, soil productivity, riparian, watershed, and wetland values, wildlife and fishery habitat, or outdoor recreation values. Maintenance of range improvements specified in allotment management planning documents or the grazing permit, and other costs incurred by the permittee in the ordinary course of permitted livestock grazing, do not qualify for grazing fee credits.

(4) *Implementation.* The grazing fee formula provided by this section shall be used to calculate fees for the 1990 grazing fee year. Where implementation would raise fees, the increase shall be phased in over a 5-year period. Full fair market value will be reached in 5 years, beginning in 1990.

[55 FR 2650, Jan. 26, 1990]