

class of livestock or if the name and address of the owner thereof are unknown, such livestock will be impounded anytime 15 days after the date of a General Notice of Intent to Impound unauthorized livestock is first published in the local newspaper, posted at the nearest chapter house, and in one or more local trading posts.

(c) Unauthorized livestock on the Hopi Partitioned Lands which are owned by persons given notice under paragraph (a) of this section, and any unauthorized livestock in areas for which a notice has been posted and published under paragraph (b) of this section, will be impounded without further notice anytime within the twelve-month period immediately following the effective date of the notice.

(d) Following the impoundment of unauthorized livestock a notice of sale of impounded livestock will be published in the local newspaper, posted at the nearest chapter house, and in one or more local trading posts. The notice will describe the livestock and specify the date, time and place of sale. The date set shall be at least 5 days after the publication and posting of such notice.

(e) The owners or their agent may redeem the livestock anytime before the time set for the sale by submitting proof of ownership and paying for all expenses incurred in gathering, impounding and feeding or pasturing the livestock and any trespass fees and/or damages caused by the animals.

(f) Livestock erroneously impounded shall be returned to the rightful owner and all expenses accruing thereto shall be waived.

(g) If the livestock are not redeemed before the time fixed for their sale, they shall be sold at public sale to the highest bidder, provided his bid is at or above the minimum amount set by the Superintendent based upon U.S.D.A.'s current Agricultural Statistic's Report for Arizona. If a bid at or above the minimum is not received the livestock may be sold at private sale at or above the minimum amount, reoffered at public sale, condemned and destroyed, or otherwise disposed of. When livestock are sold pursuant to this regulation, the superintendent shall furnish

the buyer a bill of sale or other written instrument evidencing the sale.

(h) The proceeds of any sale of impounded livestock shall be applied as follows:

(1) To the payment of all expenses incurred by the United States in gathering, impounding, and feeding or pasturing the livestock;

(2) In payment of any penalties or damages assessed pursuant to §168.14 of this part which penalties or damages shall be credited to the Hopi tribe as provided in said section;

(3) Any remaining amount shall be paid over to the owner of said livestock upon his submitting proof of ownership.

Any proceeds remaining after payment of the first and second items noted above not claimed with one year from the date of sale, will be credited to the Hopi Tribe.

#### § 168.17 Concurrence procedures.

(a) *Definitions.* As used in this section, terms shall have the meaning set forth as follows:

(1) *Concurrence* means agreement by the Area Director and the Hopi Tribe, speaking through the Chairman of the Tribe (or his designee).

(2) *Non-concurrence* means disagreement between the Area Director and the Hopi Tribe, speaking through the Chairman of the Hopi Tribe (or his designee), or a failure of the Hopi Tribe to respond to a proposal by the Area Director in a timely manner.

(3) *Timely manner* means a period of thirty days, unless this period is shortened by the existence of an emergency. Upon request by the Tribal Council, the Area Director may extend the 30 day period. In instances where this period applies to the Area Director, he may extend the period by so notifying the Tribe.

(4) *An emergency* is a condition that the Area Director finds threatens the rights and property of life tenants and persons awaiting relocation or one that the Area Director finds is causing the condition of the range land to deteriorate.

(5) *Conservation practice* is a program consisting of a series of acts in conformance with the Bureau's range management policies and procedures which

maintains or seeks to achieve the grazing potential of range lands on a continuing basis.

(6) *Range restoration activities* is a program consisting of a series of range management acts, including but not limited to procedures which increase range forage production, reduce erosion, improve range usability and reduce stocking by issuing grazing permits to persons residing on Hopi partitioned lands at rates which maximize the carrying capacity of the range lands on a continuing basis.

(7) *Grazing control* is a program consisting of a series of range management acts, including but not limited to procedures by which grazing permits are issued to persons residing on Hopi partitioned lands, which limit the grazing on range lands to its carrying capacity.

(b) The Area Director will seek the participation of the Hopi Tribe in his investigation, formulation and planning of conservation practices for Hopi partitioned lands. The Area Director will submit, in writing, the proposed plan to the Hopi Tribe.

(c) Upon receipt of the Area Director's proposed conservation practices, the Hopi Tribe will deliver, in writing, to the Area Director its concurrence or non-concurrence on all of the proposed conservation practices in a timely manner. The Area Director will continue to seek Hopi Tribal participation during the review process.

(d) Concurrence of the Hopi Tribe will be sought on all conservation practices, range restoration activities, and grazing control programs on the Hopi Partitioned Lands.

(1) If the Area Director and the Hopi Tribe concur on all or part of the proposed conservation practices in writing in a timely manner, those practices concurred upon may be immediately implemented.

(2) If the Hopi Tribe does not concur on all or part of the proposed conservation practices in a timely manner, the Area Director will submit in writing to the Hopi Tribe a declaration of non-concurrence. The Area Director will then notify the Hopi Tribe in writing of a formal hearing to be held not sooner than 15 days from the date of the non-concurrence declaration.

(i) The formal hearing on non-concurrence will permit the submission of written evidence and argument concerning the proposal. Minutes of the hearing will be taken. Following the hearing, the Area Director may amend, alter or otherwise change his proposed conservation practices. Except as provided in §168.17(d)(1) of this section, if following the hearing, the Area Director altered or amends portions of his proposed plan of action, he will submit those individual altered or amended portions of the plan to the Tribe in a timely manner for their concurrence.

(ii) In the event the Tribe fails or refuses to give its concurrence to the proposal at the hearing, then the implementation of such proposal may only be undertaken in those situations where the Area Director expressly determines in a written order, based upon findings of fact, that the proposed action is necessary to protect the rights and property of life tenants and/or persons awaiting relocation.

#### § 168.18 Appeals.

Appeals from decisions issued under this part will be in accordance with procedures in 25 CFR part 2.

#### § 168.19 Information collection.

The information collection requirement(s) contained in this regulation have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1076-0027. The information is being collected in order to ascertain eligibility for the issuance of a grazing permit. Response is mandatory in order to obtain a permit.

## PART 169—RIGHTS-OF-WAY OVER INDIAN LAND

### Subpart A—Purpose, Definitions, General Provisions

#### Sec.

- 169.1 What is the purpose of this part?  
 169.2 What terms do I need to know?  
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