

## **FSM 2200 - RANGE MANAGEMENT**

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ZERO CODE

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### **2230.1 - Authority**

Refer to 36 CFR 222, subparts A and C for the authority to administer the grazing and livestock use permit system.

### **2230.2 - Objective**

To administer the grazing permit system consistent with range resource management objectives found in forest land management plans, and to best serve the public's long-term economic and social needs.

### **2230.3 - Policy**

1. Authorize all livestock grazing and other livestock use on lands under Forest Service administration or control by written grazing permit or agreement except for the following types of grazing use, which may be exempted from this requirement:
  - a. Noncommercial pack and saddle stock use by Forest visitors.
  - b. Pack and saddle stock used in the management of permitted livestock.
  - c. Livestock trailed over an established driveway where there will be no overnight stops on land administered by the Forest Service.
  - d. Livestock used as a management tool to achieve other resource objectives if use is authorized under another type of document such as a contract, a working agreement, or other type of written instrument.
2. Grazing permits authorize livestock grazing on National Forest System (NFS) lands. The holding of such permits is a privilege, not a property right. Permit holders may not assign or transfer grazing privileges in whole or in part.
3. Issue grazing permits where grazing use helps promote local economic stability and meets resource management objectives stated in land management plans.
4. Issue grazing permits or agreements to any local, State, or Federal Agency or affiliated lending organization only when there is a mortgage foreclosure on a livestock operation involving a grazing permit.
5. Issue Livestock Use Permits if the primary purpose is for other than livestock production.
6. Develop memorandums of understanding with agencies (Inter-agency agreement if a Federal agency) to permit grazing for specific research projects or for administrative purposes.

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7. Develop memorandums of understanding with Indian Tribes for grazing of livestock on NFS lands based on specific language and conditions of the tribal treaties.

8. If the permittee furnished the required information and acted in good faith, a grazing permit issued in error by a Forest Officer may be continued if correction of the error would have an adverse effect on the permittee's business. Otherwise, the error must be corrected.

9. If livestock owned by a grazing permit holder are allowed to graze outside the permitted area, or at times other than specified in the permit, modify, suspend or cancel the permit rather than take criminal action against the permit holder (FSM 5333.02).

#### **2230.4 - Responsibilities**

(See FSM 2204).

The Washington Office, Forest and Rangeland Staff annually computes applicable grazing fee rates, grazing values, and indices including unauthorized use and transportation use rates and furnishes them to the Regional Foresters prior to the start of each grazing fee year.

Within the limits of delegated authority and Chief's policy, the Regional Forester may prescribe special grazing permit provisions and requirements for Region-wide use in issuing grazing permits.

The Forest Supervisor may include provisions and requirements in grazing permits as necessary to obtain proper management of livestock and resources.

#### **2230.5 - Definitions**

(See 36 CFR 222.1).

Authorized Use is the use specified on the annual Bill(s) for Collection and verified by permittee's payment of fees.

Base Property is land and improvements owned and used by the permittee for a farm or ranch operation and specifically designated by him to qualify for a term grazing permit. See FSH 2209.13, sec. 12.21.

Cancellation is permanently repealing a grazing permit in whole or in part.

Escrow Waiver is a document with specific clauses executed by a permittee who mortgages permitted livestock or base property, waiving all preferred applicant privileges (except the privilege of continuing to graze livestock) regarding future waivers to the United States. Until the escrow waiver is released, the lender will be recognized as the preferred applicant.



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Excess Livestock is any livestock owned by the holder of a National Forest System grazing permit, but grazing on NFS lands in greater numbers, or at times or places other than permitted in Part 1 of the grazing permit or authorized on the annual Bill for Collection.

Grant Process is the procedure designed to identify preferred applicants for a grazing permit to be issued when grazing capacity becomes available.

Grazing Permit is a document authorizing livestock to use NFS lands or other lands under Forest Service control for livestock production.

a. Grazing Permit With Term Status is a permit issued for periods up to 10 years. It grants the permittee priority for renewal. Types include the Term Grazing Permit (FSM 2231.11), Term Grazing Association Permit (FSM 2231.12), Term Permit with, On-and-Off Provision (FSM 2231.14), Term Private Land Grazing Permit (FSM 2231.13), and Grazing Agreement (FSM 2232).

b. Temporary Permits are issued for a period not to exceed 1 year to graze specified number, kind, and class of livestock for a specific season and area of use (FSM 2233).

Head Month is one month's use and occupancy of the range by one animal. For grazing fee purposes, it is a month's use and occupancy of range by one weaned or adult cow with or without calf, bull, steer, heifer, horse, burro, or mule, or 5 sheep or goats.

Livestock are foraging animals of any kind kept or raised for use or pleasure.

Livestock Use Permits are issued for a period not to exceed 1 year if the primary use is for other than livestock production.

Modification is a revision of the terms and conditions of an issued permit.

Permitted Livestock are those livestock presently being grazed under a permit or those that were grazed under a permit during the preceding season, including their offspring retained for herd replacement.

Permittee is any entity that has been issued a grazing permit.

Permitted Use is the number of animals, period of use, and location of use specified in Part 1 of the grazing permit (see also definition for authorized use).

Special Limit is an approved number of livestock greater than the established upper limit, approved for grazing permits with term status.

Suspension is temporarily withholding the grazing permit privilege, in whole or in part.

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Term Period is the period for which permits with term status are issued, the maximum being 10 years.

Transportation Livestock are animals used as pack and saddle stock for travel on NFS lands.

Unauthorized Livestock is any cattle, sheep, goat, hog, or equine not defined as a wild free-roaming horse or burro by 36 CFR 222.20(b)(13), which is not authorized by permit (or Bill for Collection) to be upon the land on which the livestock is located and which is not related to use authorized by a grazing permit (livestock owned by other than a National Forest grazing permit holder). Noncommercial pack and saddle stock used by recreationists, travelers, other forest visitors for occasional trips, as well as livestock to be trailed over an established driveway when there is no overnight stop on Forest Service administered land do not fall under this definition.

Upper Limit is an established maximum number of livestock, other than those permitted under term private land grazing permit, that can be permitted to an individual, partnership, or corporation under a grazing permit with term status, to graze upon NFS lands at any given time without approved special limit.

Validation of a Permit is the issuance of the Bill for Collection; payment of fees, and placing 90 percent of permitted livestock on the permitted area the first grazing season after the permit is issued.

### **2230.6 - Lands Not Under Jurisdiction of Forest Service**

The United States is not responsible for intrusion of permitted livestock upon private lands or for the settlement of controversies between the owner of the livestock and the owner of the land. Federal courts have rendered decisions (Shannon v. United States, 160 Fed. 870 (Cir. 9 1908); Light v. United States, 220 U.S., 523; United States v. Gurley, 279 Fed. 874 (N.D. GA. 1922); United States v. Johnston, 38 F. Supp. 4 (S.D.W.VA. 1941)) holding that the United States is not required to fence its lands to protect them against unauthorized livestock or to control the livestock permitted to graze on the National Forest.

### **2231 - GRAZING PERMITS WITH TERM STATUS (EXCEPT GRAZING AGREEMENTS)**

A grazing permit with term status is the document, which authorizes use and management, for a period of up to 10 years, of the grazing resource on NFS lands or other lands under Forest Service control for purposes of livestock production.

#### **2231.02 - Objectives**

The objectives of issuing grazing permits with term status are to:

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1. Provide for the orderly utilization of forage resources by livestock, and for coordination of livestock grazing with other uses.
2. Provide stability for livestock operations dependent on NFS lands and other livestock operations in the vicinity.

**2231.03 - Policy**

1. Issue grazing permits with term status for 10 complete grazing seasons unless:
  - a. The land is pending disposal (for example; a land exchange or townsite application is under consideration).
  - b. The land will be devoted to a public purpose that will preclude livestock grazing prior to the end of 10 years.
  - c. It is in the best interest of sound land management to specify a shorter term. Absence of an allotment management plan is not basis for a shorter-term period.
  - d. The range management objectives outlined in the Allotment Management plan on developing ranges in the East are accomplished in a shorter timeframe.
2. Issue a grazing permit with term status to the purchaser of permitted livestock and/or base property, provided the purchaser is qualified and the previous permittee has waived the original permit to the United States.
3. Issue new permits with term status to previous holders at the end of each term permit period, provided they continue to meet eligibility and qualifications.
4. Cancel existing and issue new grazing permits with term status at the mid-decade (that is, 1985, 1995, and so on), if necessary to update provisions and requirements (36 CFR 222.3(c)(1)(iii)).
5. Holders of grazing permits with term status shall not lease base property or permitted livestock to someone else and allow the lessee to use the grazing permit.
6. Permittees must validate grazing permits with term status (see definition No. 23) before waiving grazing privileges.
7. Use upper limits to promote equitable distribution of available grazing capacity.
8. In emergencies where resources are being seriously damaged by livestock use or by such other occurrences as fire, drought, or insect infestation, the Forest Supervisor may withhold validation of a permit or require that livestock be removed from the range without advance notice to the permittee.

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9. Do not reduce a permit solely because it is being waived to the United States in connection with the sale of base property and/or livestock. Stocking adjustments needed for resource protection must be carried out as planned without relation to reissuance of grazing permits.

### **2231.1 - Kinds of Grazing Permits With Term Status**

There are four kinds of permits that provide for livestock grazing for term periods up to 10 years. Grazing Agreements also provide term grazing (FSM 2232).

#### **2231.11 - Term Grazing Permit**

A term grazing permit is the document used to authorize individuals, partnerships, or corporations to graze livestock if only NFS grazing capacity is involved. Issue term permits to livestock operators for a period up to 10 years, to graze a specified number, kind, and class of livestock, for a specific season and area of use.

#### **2231.12 - Term Grazing Association Permit**

Issue association grazing permits to grazing associations organized in accordance with 36 CFR 222.7 to promote cooperative efforts in management of NFS lands. The permit specifies the number, kind, and class of livestock, the specific season, and area of use. They may contain special rules. Details are in FSH 2209.13, Chapter 10.

#### **2231.13 - Term Private Land Grazing Permit**

Issue term private land grazing permits to persons who control grazing lands adjacent to National Forest System lands and who waive exclusive grazing use of these lands to the United States for the full period the permit is to be issued. Term of the permit may not exceed 10 years or the term of the lease.

#### **2231.14 - Term Grazing Permit With On-and-Off Provisions**

Permits with on-and-off provisions are issued when a portion of a logical grazing area contains NFS lands or other lands under Forest Service control and lands controlled by the permit holder. The intent is to promote efficient use of intermingled ownership. The permit specifies the number, kind, and class of livestock, the specific season, and area of use, for a period of up to 10 years. Details are in FSH 2209.13, Chapter 10.

### **2231.2 - Requirements For Permits With Term Status**

The following requirements apply to permits with term status; requirements differ for grazing agreements.

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### **2231.21 - Eligibility Requirements**

Subject to limitations and to the legal age requirements contained in State Statutes, the following are eligible to hold grazing permits with term status:

1. Any citizen of the United States.
2. Any alien who has demonstrated intent to become a citizen by having filed petition for naturalization with the clerk of the U.S. District Court.
3. Any legal entity. For corporations or partnerships, U.S. citizens must own 80 percent of the capital stock; otherwise, the qualifications applying to individuals also apply to corporations and partnerships.

Details on eligibility guidelines are in FSH 2209.13, Chapter 10.

### **2231.22 - Qualification Requirements**

#### **2231.22a - Term Permits**

To qualify for a term grazing permit, an applicant must own base property and livestock (except leased breeding sires - FSM 2234.17) to be permitted. For specific conditions on National Grasslands see FSM 2232 and FSH 2209.13, Chapter 20.

Forest Supervisors shall, within limits established by the Regional Forester, establish minimum base property requirements (FSH 2209.13). If a National Forest adopts revised higher base property requirements, give permittees not meeting revised requirements written notice that they have 3 years in which to fully meet revised requirements unless the revision specifically exempts some existing term permit holders. Do not allow permittees who are below minimum requirements and who subsequently acquire sufficient property to meet the requirements to drop below the requirements (FSM 2231.62b).

#### **2231.22b - Term Grazing Association Permit**

Associations must be formulated and recognized by the Forest Supervisor in accordance with 36 CFR 222.7. Individual members shall meet term grazing permit qualifications.

#### **2231.22c - Term Private Land Grazing Permit**

Holders of term private land grazing permits need not own base property or permitted livestock, nor must they own the land waived but shall demonstrate control.

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### **2231.22d - Term Grazing Permit With On-and-Off Provisions**

Qualifications are the same for the "On", or NFS lands, part of the permit as for a term grazing permit. Permittee is not required to own base property or livestock to qualify for "Off" part of permit.

### **2231.23 - Limitations (Upper or Special Limits) on Livestock Numbers**

Upper or special limits apply to permits with term status issued to individuals, partnerships, and corporations. Upper limits are established to:

1. Prevent a grazing permittee or a small percentage of grazing permittees in a particular area from obtaining a disproportionate share of permitted use on NFS land.
2. Help stabilize local communities by maintenance of a wide distribution of grazing use on NFS lands among qualified livestock producers.

Guidelines relating to upper and special limits are in FSH 2209.13, Chapter 10.

### **2231.24 - Establishing Upper and Special Limits**

There is no fixed formula for determining upper or special limits. Regional Foresters specify upper limits for Forests based on Forest Supervisor recommendations developed in cooperation with local permittees and other individuals or groups. Where conditions are comparable, upper limits on adjoining Forest and Regions should be similar.

### **2231.25 - Carryover of Special Limits**

Regional Foresters may carry over a special limit to a new permittee who is issued a permit on the basis of purchase of all the base property of a former permittee. Purchase of only part of the base property does not justify such a carryover. If the purchaser already holds a term permit, the new permit may not exceed the size of the special limit held by the seller.

A special limit will not be carried over on the basis of purchase of livestock alone.

### **2231.26 - Termination of Special Limits**

When changes occur that break up the base property of an operation for which a special limit has been established, terminate the special limit or reduce it to a level commensurate with distribution of the remaining base property.

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When a change of ownership of base property occurs, making it necessary to terminate or reduce a special limit, the holder of the permit should be given no more than 3 years to adjust the operation to the reduced permitted use. When downward adjustments of permitted numbers are made because of resource condition, the special limit shall be reduced to the new permitted number.

### **2231.3 - Acquiring Grazing Permits With Term Status**

Qualified applicants may be issued permits with term status through prior use, the grant process, purchase of base property or livestock with waiver, or interchange of permits with other agencies. Changes in ownership involving waivers and foreclosures are covered in FSM 2231.8.

Procedures involved in acquisition, application and issuance of permits are in FSH 2209.13, Chapter 10.

### **2231.4 - Application for Grazing Permits With Term Status**

The Forest Supervisor shall require written application and documentation for issuance of any new grazing permit with term status. The issuing officer has the discretion to require a written application for permit renewal.

### **2231.41 - Annual Authorization of Grazing Permits With Term Status**

Annual grazing under a permit with term status is authorized by Forest Service issuance of a Bill for Collection and acknowledged by the permittee's payment of fees. Use authorized on the bill for collection may be different than shown on Part 1 of the grazing permit.

### **2231.5 - Issuance of Grazing Permits With Term Status**

Permits with term status listed in FSM 2231 generally have similar terms and conditions. Use terms and conditions in Parts 1 and 2 (form FS-2200-10) of the grazing permit Service-wide.

The Regional Foresters and Forest Supervisors may include such special provisions in Part 3 (form FS-2200-10a) as needed to obtain compliance with grazing regulations and to secure proper management of livestock and resource.

Include a copy of the allotment management plan, and the annual operating plan, as part of the permit.

A permit is consummated when signed by both the permittee and the Forest Supervisor. The Forest Supervisor must not sign a permit if the permittee deletes, alters, or, otherwise, indicates in writing that any of the terms and conditions or other special provisions are unacceptable.

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When one permit is issued to authorize grazing on two National Forests or National Grasslands, regardless of Regional boundaries, the Forest Supervisor issuing the permit and Bill for Collection shall compute the total fee which will be earned by each National Forest or National Grassland where livestock graze. The Bill for Collection shall indicate the amount credited to each National Forest or National Grassland.

Guidelines for Parts 1 and 2 of the grazing permit and specific provisions for Part 3 of distinct types of grazing permits with term status are set forth in FSH 2209.13.

### **2231.6 - Changes in Grazing Permits**

Refer to FSM 2204 for delegations of authorities. Make changes in grazing permits for the following reasons (36 CFR 222.4):

1. For proper use of the forage resource by livestock.
2. To comply with forest land management plans, laws, regulations and policy.
3. To ensure permittee compliance with provisions and requirements of permit.

### **2231.61 - Modification of Grazing Permits**

Modify grazing permits at any time during the term period to:

1. Respond to permittee request.
2. Increase or decrease livestock numbers or period of use.
3. Change kind or class of livestock or area to be grazed.
4. Change or include Allotment Management Plan.
5. Modify other terms and conditions of the permit, including provision for construction or reconstruction, and/or maintenance of Range Improvements.
6. Comply with laws, regulations, executive orders, or other resource needs.
7. Devote lands to another public purpose when no change in permitted numbers or season of use is anticipated.

The permittee shall sign modifications to existing permits the same as the original permits, if the modifications change permit terms or conditions. Make necessary modifications even though the permittee does not agree with the change. Ordinarily, schedule not more than a 20 percent reduction in numbers or season in any 1 year to give the permittee ample time to make changes in their livestock operation.



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### **2231.62 - Suspension or Cancellation of Grazing Permits**

Grazing permits may be suspended or cancelled, in whole or in part, for various reasons. Consider circumstances and prevailing conditions in deciding the kind and extent of appropriate action.

Suspend a permit if a temporary change is necessary to accomplish a specific resource purpose. Suspensions may also be made as a penalty for violation of terms and conditions of a grazing permit. Consider suspension of a grazing permit, rather than cancellation, first. Often small percentage suspensions, lasting 1 to a maximum of 5 years, are effective in obtaining compliance with the grazing permit and allotment management plan. If violation persists, cancel the suspended portion of the permit. A temporary permit must not be issued to the permittee in lieu of the suspended term permit.

Approach permit cancellation with discretion. Cancellation applies if a permanent change in the permit is necessary. First offenses seldom justify total cancellation unless violation is flagrant and willful.

Do not suspend or cancel a permit until the permittee has been notified of the violation, in writing, and given an opportunity to "show cause" why the action should not be taken.

In addition to cancellation or suspension action, require the permittee to pay the unauthorized use rate for the additional use where there was grazing by more livestock than permitted, or where livestock grazed longer than the permitted season. Bill for such use in accordance with instructions in FSM 2238.

After the Forest Service issues a grazing permit resulting from the purchase of base property or permitted livestock, later discovery of defect, of which the new permittee has no knowledge, will not be cause for suspension or cancellation.

#### **2231.62a - For Nonuse Without Approval**

Cancel the permit in whole or in part for nonuse in excess of 10 percent, without approval. See FSM 2204 for delegations of authority.

#### **2231.62b - For Failure To Conform With Base Property Requirements**

When a permittee disposes of, or loses control of a part or all the base property on which the permit is based, the Forest Supervisor must provide written notice that the permittee has 1 year to meet base property requirements. If the permittee fails to meet qualification requirements after the lapse of 1 year, cancel the permit in whole or in part.

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### **2231.62c - For Violation of Terms and Conditions of Grazing Permit**

Holders of grazing permits who violate terms and conditions of the grazing permit, including the allotment management plan, are subject to suspension or cancellation of the permit in whole or in part.

Suspension or cancellation is warranted in cases where permittees' livestock:

1. Graze outside the permitted grazing season;
2. Graze on lands outside the permitted area;
3. Graze in greater number than permitted;
4. Are under the permittee's control but are owned by someone else; or
5. Where the permittee is not following the approved allotment management plan.

### **2231.62d - To Devote Lands to Other Public Purpose**

Grazing permits on lands that are to be devoted to another public purpose may be canceled in whole or in part. Except in an emergency, do not cancel a permit without a 2-year notification (36 CFR 222.4(a)(1)). Provide such notification in all cases where reductions in permitted number and/or season of use is anticipated. Changes that do not require reduction in permitted number or season of use are considered permit modifications (FSM 2231.61), and do not require prior notification.

This provision applies to lands included in land exchanges or other disposal methods.

### **2231.62e - For Other Actions of the Permittee**

A grazing permit may be canceled if the permittee fails to take action to meet the terms and conditions necessary to maintain a valid permit. Do not take final cancellation action until the permittee has had an opportunity to respond. Examples of such permittee inaction include:

1. Permittee refuses to accept modification of the terms and conditions of existing permit to comply with State and Federal laws or regulations.
2. Permittee refuses or fails to comply with eligibility or qualification requirements (FSM 2231.2 and 2231.62b).
3. Permittee fails to pay grazing fees within established time limits or fails to pay bill of collection assessed for violation of the terms and conditions of the grazing permit.

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4. Permittee has failed to stock the allotted range after full extent of approved personal convenience nonuse has been exhausted or fails to stock after payment of fees. Cancel the permit to the extent of failure to stock the permitted numbers.

5. Permittee gives notice that the permit is no longer needed.

**2231.62f - For Making False Statement**

If at any time after issuing a grazing permit the Forest Service discovers the permittee secured or maintained the permit by deliberate misrepresentation or suppression of material facts, suspend or cancel the permit.

**2231.62g - For Conviction of Failure to Comply With Federal, State, or Local Laws**

A grazing permit may be suspended or canceled in whole or in part if the permittee is convicted for failure to comply with Federal laws or regulations, State or local laws relating to livestock control, protection of air, water, soil and vegetation, fish and wildlife, and other environmental values when exercising the grazing use authorized by the permit (36 CFR 222.4(a)(6)).

**2231.62h - To Conform With Upper Limits or Special Limits**

Permittees shall have a maximum of 3 years to adjust their livestock operation to conform to changes in upper or special limits. If use does not conform with approved upper or special limits within the three year limitation, take cancellation action.

**2231.62i - Cancellation of Grazing Agreements or Association Permits for Noncompliance With Title VI of Civil Rights Act**

Livestock grazing association permits or grazing agreements may be canceled for noncompliance with Title VI of the Civil Rights Act of 1964 and Department of Agriculture regulation promulgated thereunder.

**2231.63 - Changes Which Affect Lands Administered By Other Federal or State Agencies**

Where needed changes on NFS lands may affect grazing on BLM lands, the Forest Supervisor shall consult with the BLM about what is being planned or considered. The same instructions apply in principal to lands administered by other State and Federal agencies.

In cases of jurisdictional interchange of land between Federal agencies, the grazing authorization document in effect prior to the interchange remains in effect. It will be administered by the agency accepting jurisdictional responsibilities, but in accordance with the policies and procedures of the agency relinquishing jurisdiction.

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### **2231.64 - Status of Grazing Permits During Administrative Reviews**

If a decision of a Forest Officer is appealed under the Administrative Review procedures (36 CFR 211.18), the decision stands unless a stay is granted (FSM 1571.23).

### **2231.7 - Nonuse of Grazing Permits With Term Status**

Nonuse applies to numbers of livestock only. Permittees must graze at least 90 percent of the number of livestock under term permit each year unless the Forest Supervisor approves nonuse. Issuing officers shall not use nonuse provisions to test changes in kind or class of livestock.

Nonuse of a term permit, in whole or in part, may be approved for the following:

1. Permittee convenience.
2. Resource protection or development.
3. Range research.

Specific guidelines for handling nonuse are in FSH 2209.13.

### **2231.8 - Waiver and Reissuance of Grazing Permits With Term Status Because of Changes in Ownership**

Subject to restrictions imposed by eligibility, qualifications, or upper and special limits, a purchaser of either permitted livestock, base property, or both, may be issued a term grazing permit provided that the grazing permit holder waives the permit to the United States in the favor of the purchaser.

Before a purchaser of only permitted livestock receives a term grazing permit, the Forest Supervisor must be satisfied that the purchaser owns the required amount of property needed to fulfill base property requirements (FSM 2231.22a).

A purchaser of only base property must own livestock before a permit is issued.

Livestock purchased and grazed on NFS lands may not be subsequently resold to the original owner or assignee, or someone acting in concert with the original owner, within 24 months of the purchase without prior approval of the Forest Supervisor.

When a purchaser of only base property or permitted livestock fails to meet qualification requirements through no personal fault, a conditional term grazing permit may be issued. Transmit conditional permits to the holder by letter from the Forest Supervisor. Clearly state that the permit is issued on condition that the permittee fully meets qualification requirements within 1 year.

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In cases involving estate settlement, the permit shall remain in the name of the estate (original permittee) until settlement of the estate and execution of waivers has been completed. Give no special consideration of qualification requirements for those estates operating without progressive attempts to bring about a settlement.

Renew a permit, or that portion of a permit, under personal convenience nonuse or suspension only in connection with sale of base property.

The holder may waive a term grazing permit under nonuse agreement for resource development with the sale of the livestock. Agreements for nonuse for resource development and improvement that are in effect at the time of sale are binding and shall be reflected in the new term permit.

If a grazing association purchases base property associated with a term grazing permit, the Forest Supervisor may, in accordance with provisions included in FSM 2232, enter into a grazing agreement with the association for lands formerly grazed by livestock under term grazing permit to the seller.

If a holder of a term permit wishes to become a member of a grazing association and waives the permit to the United States, the Forest Supervisor may include the lands formerly grazed by the permitted livestock in a grazing agreement with the association. The grazing permit thus relinquished may be returned to the permittee if the Forest Supervisor subsequently terminates or does not renew the grazing agreement.

### **2231.81 - Transactions With Permit Waiver**

Documented changes in ownership, with a permit waiver from the seller in favor of the purchaser, are the basis for issuance of Permits With Term Status. Transactions are detailed in FSH 2209.13, Chapter 10, and include:

1. Sale/Purchase of permitted livestock and/or base property. This includes contracts to purchase and sales within the family.
2. Inheritance.
3. Partnership agreements.
4. Changes in ownership of corporation and companies.
5. Division of interest.

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### **2231.82 - Escrow Waivers**

Escrow waivers of grazing permits recognize the mortgage holder and hold the permit in escrow pending satisfaction of the mortgage, or a statement from the lending entity that it no longer relies on the escrow arrangement. Permits may not be waived until an escrow waiver is released.

Only one escrow waiver against a grazing permit can exist at any one time. The Forest Supervisor shall recognize no other escrow waivers until any prior escrow waiver has been released.

An escrow waiver may involve two parties. Consider the second party the preferred applicant only after the first party is satisfied. Procedures for escrow waivers are in accordance with the Memorandum of Understanding (MOU) between the Department of Agriculture and the Farm Credit Administration, dated February 10, 1938. The MOU and specific guidelines are in FSH 2209.13, section 18.32.

### **2231.83 - Foreclosures In Connection With Grazing Permits**

Foreclosure of mortgages involving base property or permitted livestock may affect issuance of grazing permits. Specific guidelines are in FSH 2209.13.

### **2231.84 - Transaction Without Permit Waiver**

Give a purchaser of base property or permitted livestock, from a permit holder who does not execute a permit waiver, no consideration over other applicants.

## **2232 - GRAZING AGREEMENTS**

A Grazing Agreement is a document authorizing eligible associations, organized under State law, to make a specified amount of grazing use on National Forest System (NFS) lands for a period of 10 years or less (FSM 2231.03). Grazing agreements include provision for the association to issue and administer grazing permits. Such administration must conform to allotment management plan(s) and rules of management developed by the Forest Service and associations.

### **2232.02 - Objectives**

1. To provide for resource management, grazing use, and accomplishment of land management goals and objectives by organized user groups, where such arrangement will better coordinate grazing use with other uses of those lands, grazing association controlled lands, and other landowners.
2. To extend sound practices of land management to other lands through demonstration and by integrating other lands with National Forest System lands into a grazing program operated under a single management plan.

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### **2232.03 - Policy**

1. Authorize grazing use on National Grasslands and other lands administered under Title III of the Bankhead-Jones Farm Tenant Act through grazing agreement with user organizations to carry out Department of Agriculture agency programs for shifts in land use and grazing land development.

When direct permits are issued, handle in the same manner as on National Forest lands (FSM 2231.22a - 2231.5).

2. To the extent practicable, use grazing agreements, in lieu of direct grazing permits, on National Forest System lands to achieve better integrated management of public land with associated private lands within logical land management units.

3. Require permits issued by associations to be subject to the requirements set forth in association bylaws and rules of management, as approved by the Forest Supervisor.

4. Grazing agreements must contain a clause providing that the Forest Service has final authority for any use of NFS lands involved in the agreement.

5. Grazing agreements must contain a clause stating that authorized use by the permittee is subject to all rules and regulations of the Secretary of Agriculture, and the agreement may be suspended or canceled in full for noncompliance.

6. Administrative activities by the association can be required to carry out the provisions of the grazing agreement. Association administrative costs may be credited against the grazing value on National Grasslands.

7. Conservation practices may be required of holders of grazing agreements or permits to carry out National Grassland objectives in a cost effective manner.

8. State responsibilities in the grazing agreement in general terms. Provide detailed descriptions of assigned responsibilities in the rules of management to avoid duplication in recordkeeping, maintaining files, providing technical service, and similar activities.

9. When necessary, modify current agreements or negotiate new agreements to clearly define the responsibilities of the Forest Service and user group.

### **2232.05 - Definitions**

Administrative Costs. These are allowable costs of general administration and program management assumed by an organization functioning under a grazing agreement while carrying out activities that would otherwise be a cost to the Forest Service.

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Conservation Practices. These are land treatment and improvement measures the Forest Service requires in carrying out the provisions of the grazing agreement.

Land Use Practices. These practices are those imposed upon permittees or lessees as a condition of use under their permit or lease. These practices may include administrative tasks assumed by the permittee under a grazing agreement as well as conservation practices (Comp. Gen. B-77467; FSH 2209.13, sec. 24.3).

Rules of Management. A set of policies, procedures, and practices, including eligibility requirements, which will govern the grazing use both on public lands covered by the grazing agreement and private or State lands under the jurisdiction of the association.

### **2232.1 - Qualification Requirements**

To qualify for a grazing agreement, an organization must demonstrate to the satisfaction of the Forest Supervisor and Regional Forester that:

1. It is qualified and competent to manage grazing of livestock on lands to be placed under its control.
2. It is a bona fide mutual benefit or cooperative organization incorporated or otherwise established in conformity with laws of the State(s) where lands it controls are located.
3. It is empowered under State law to engage in activities contemplated by the grazing agreement for mutual benefit of its members or other permittees.
4. It has authority under State law to acquire real estate and personal property or interests, thereof, by lease, permit, purchase, or otherwise, for the purpose of carrying out requirements of the grazing agreement.
5. It has power to collect assessments or has other means to defray expenses of conducting business contemplated by the grazing agreement.
6. Its charter or bylaws provide for one vote per member and no proxy voting.

See FSH 2209.13, chapter 20, for detailed instructions on the preparation and execution of Grazing Agreements.

### **2232.2 - Practices That May Be Required of Permit Holders on National Grasslands**

The Comptroller General's Decision B-77467, dated November 8, 1950 (Comp. Gen. B-77467), verified that land use practices (conservation practices and administrative) to obtain proper utilization of lands acquired under the Bankhead-Jones Act, may be required of persons permitted to use those lands (FSH 2209.13, sec. 24.3).



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Pursuant to Title 36, Code of Federal Regulations, section 222.9(d) (36 CFR part 222.9(d)) consider the cost to grazing users in complying with requirements of a grazing permit or grazing agreement in determining the annual grazing fee on National Grasslands.

**2232.21 - Land Use Practice Costs (Conservation Practice and Administrative)**

Consider costs incurred by grazing associations, or direct permit holders, in carrying out required land use practices as expenses of the grazing permittee in calculating annual grazing fees (FSH 2209.13, ch. 20).

**2232.3 - Memorandums of Understanding Involving Grazing Agreements**

The Memorandum of Understanding between the Consolidated Farm Service Agency and Forest Service (March 1966), recognizes escrow arrangements related to loans with grazing associations and members (FSH 2209.13, ch. 20).

**2233 - TEMPORARY GRAZING PERMITS**

**2233.02 - Objective**

To authorize use of available forage when issuances of a grazing permit with term status is inappropriate.

**2233.03 - Policy**

1. Issue, modify, or cancel temporary grazing permits subject to the terms and conditions established in FSM 2231.6 and 2233.5.
2. Issue temporary permits for a maximum of 1 year.
3. Since temporary permits have no priority for renewal to the permittee; they may be issued to the same party in succeeding years.
4. The actual period of grazing may be extended, but not beyond 1 year from date issued.
5. Numbers of livestock permitted under temporary permits do not count toward upper limits.
6. Performance bonds may be required to assure proper maintenance of improvements and to assure restoration of possible damage to other resource values.
7. Give lessees of base property held by the Consolidated Farm Service Agency (CFSA) priority, for a 3-year period, for a temporary permit. This permit will authorize the use of forage normally covered by the term grazing permit where an escrow waiver to CFSA is in effect.

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The permit application must include a copy of the lease with CFSA. Do not honor leases purporting to assign or sublease the grazing permit to the lessee.

### **2233.1 - Purpose of Temporary Grazing Permits**

Issue temporary permits to:

1. Authorize use of available forage on an allotment by other interested parties while a term grazing permit holders' permit is held in suspension or is in personal convenience nonuse status.
2. Authorize use of forage produced by unusually favorable climatic conditions. This may be used in lieu of modification of a term permit.
3. Authorize a permittee to continue to graze following waiver of term grazing privileges if certain requirements are met (FSH 2209.13).
4. Authorize the use of available forage when drought or other emergency situations exist.

Guidelines for use of temporary permits are in FSH 2209.13.

### **2233.2 - Eligibility and Qualifications**

#### **2233.21 - Eligibility**

Any person of legal age or a minor who is head of a household is eligible for a temporary permit. Forest Service employees may obtain a permit only if they meet criteria in FSM 6174. See FSM 2233.03 for the policy on Consolidated Farm Service Agency lessees.

#### **2233.22 - Qualifications**

Ownership of livestock or base property is not required; however, livestock owners shall be given priority over nonlivestock owners.

#### **2233.23 - Limitations**

Numbers permitted under temporary permit do not count toward upper limits. Do not issue temporary permits to permittees who have a grazing permit in suspension.

### **2233.3 - Application**

The Forest Supervisor shall require written application for issuance of any temporary grazing permit.

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### **2233.4 - Issuance**

See FSH 2209.13 for the requirements on issuing temporary permits.

### **2233.5 - Changes in Temporary Grazing Permits**

Temporary permits are for periods of 1 year or less; therefore, changes should not be necessary. Follow instructions in FSM 2231.6 for any necessary cancellation or modification actions.

### **2233.6 - Grazing Capacity Available For Use**

Give special consideration to the four elements in FSH 2209.13, Grant Process, when considering if there is capacity available, and whether or not it should be utilized through issuance of temporary permits.

## **2234 - LIVESTOCK USE PERMITS**

### **2234.02 - Objective**

To authorize use by grazing animals for purposes other than livestock production.

### **2234.03 - Policy**

1. Issue, modify, or cancel livestock use permits subject to specified terms and conditions authorizing livestock use where the primary reasons for grazing are for purposes other than livestock production.
2. Livestock use permits may be free or paid permits, at the discretion of the Issuing Officer, based on criteria provided by the Regional Forester (FSM 2204.2, para. 4). Generally, if the permit is to provide a useful service to the Forest Service, to a cooperating agency, or is for personal noncommercial purposes, make no charge.
3. Charge appropriate fees if the use is of a commercial nature (FSM 2238). See FSM 2721 for the method of charging for use authorized through outfitters and guide permits.
4. Do not extend livestock use permits beyond 1 year following the date of issue. The same party may obtain a new permit to cover livestock use in subsequent years.
5. Livestock permitted under livestock use permit do not count toward upper limits.
6. The Forest Supervisor shall establish limits on crossing use where the demand for such use is high enough to cause resource damage.
7. Require performance bonds, where needed, to assure proper maintenance of improvements, and to assure restoration of possible damage to other resource values.

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### **2234.1 - Kinds of Livestock Use Permits**

Several kinds of livestock use permits are authorized. See FSH 2209.13 for guidelines on application of livestock use permits.

#### **2234.11 - Transportation Livestock Use Permits**

Authorize commercial pack and saddle stock travel on lands administered by the Forest Service by issuing Transportation Livestock Use Permits, Form 2700-4.

#### **2234.12 - Research/Administrative Study Livestock Use Permit**

Issue Research/Administrative Study Livestock Use Permits to authorize paid or free livestock use for grazing in conjunction with studies by other recognized research parties.

#### **2234.13 - Livestock Use Permits for Crossing**

Allow reasonable movement of livestock across Forest Service administered land for any legitimate purpose by issuing Livestock Use Permits for Crossing. Crossing permits must be in writing and a fee charged, except as follows:

1. The livestock involved are authorized by term or temporary grazing permit and are enroute to permitted allotments.
2. The livestock involved are trailed over established driveways and make no overnight stops on NFS lands, and such an action does not result in resource damage and is not incompatible with other uses.

#### **2234.14 - Dependent Resident Livestock Use Permits**

Authorize free use for up to 10 head of livestock used by a dependent resident as a means of livelihood, such as family milk cows or draft animals, by issuing Dependent Resident Livestock Use Permits.

#### **2234.15 - Camper and Traveler Livestock Use Permits**

Provide free use by noncommercial livestock used for a single or occasional trip by issuing Camper and Traveler Livestock Use Permits. The authorizing officer shall determine when written permits are necessary.

#### **2234.16 - Grazing Permittee Working Saddle and Pack Animal Use Permits**

Authorize grazing for work animals needed by permitted livestock operators in the management of permitted livestock. Written permits are not required.

Show written authorization on Part I of the permit as paid or exempt (FSH 2209.13, sec. 41.6).

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### **2234.17 - Breeding Animal Livestock Use Permits**

Authorize grazing use by breeding animals (sires) that service permitted livestock when those sires are not owned by the permittee by issuing Breeding Animal Livestock Use Permits. Include authorization on term grazing permit as applicable (FSM 2231.22a).

### **2234.18 - Vegetation Management Livestock Use Permits**

Use Vegetation Management Livestock Use Permits to authorize livestock use on annual, perennial, and transitory ranges where the objective is to manipulate vegetation to accomplish other resource objectives (FSH 2209.13).

### **2234.2 - Eligibility and Requirements for Qualification**

#### **2234.21 - Eligibility**

Any person of legal age or a minor who is a head of household is eligible for a livestock use permit. Forest Service employees may obtain a permit only if they meet criteria in FSM 6174.

#### **2234.22 - Qualifications**

Ownership of livestock is not required.

#### **2234.3 - Application**

The authorizing officer shall require written application for issuance of livestock use permits except where the memorandum of understanding, cooperative research agreement, or the administrative study plan discusses the grazing use (FSM 2234.12).

#### **2234.4 - Issuance**

Issue livestock use permits in accordance with procedures and requirements in FSH 2209.13.

#### **2234.5 - Changes**

Livestock use permits are for periods of 1-year or less; therefore, they should not require changes after issuance. Follow instructions in FSM 2231.6 and FSH 2209.13 for any necessary cancellation or modification actions.

#### **2234.6 - Grazing Capacity Available for Use**

The authorizing officer must determine the grazing capacity available for livestock use permits. Consider the elements listed in FSH 2209.13, Grant Process.

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## **2235 - OTHER PERMITS AND MEMORANDUMS OF UNDERSTANDING (MOU)**

### **2235.1 - Grazing Permits or MOU's Issued in Accordance with Treaties with Indians Tribes**

Give Indian tribes, or Indians enrolled on records of the Bureau of Indian Affairs, fair and reasonable opportunity to enjoy any treaty grazing rights reserved to them by treaty on ceded lands. Grazing rights reserved by treaty are a continuing privilege beyond that enjoyed by other citizens. The Forest Service shall not deprive Indians of treaty rights; but the Regional Forester, acting on behalf of the Secretary of Agriculture, may regulate the treaty grazing right for the purpose of protecting and conserving Forest Service administered resources.

#### **2235.11 - Permits or MOU's Issued in Accordance With Treaties**

Any grazing permits issued to Indians under this section must be free of charge.

#### **2235.12 - Procedure in Issuances**

Authority to issue any permits under this section rests with the Regional Forester (FSM 2204.2). Regional Foresters shall consult with the Office of General Counsel (OGC) prior to issuance of a permit. A permit period must not exceed 10 years.

### **2235.2 - Special Use Permits Where Grazing is Included as Incidental Use**

Areas or activities covered by special use permits sometimes include provision for grazing as an incidental use. Special use permits authorize the incidental use of the forage resource under 36 CFR 251.50 (FSM 2722.15 and 2721.53).

Where forage use is the dominant use, authorize it by grazing permit rather than by special use permit.

### **2235.3 - Term Grazing Permits (Developing Ranges)**

Developing ranges in the eastern National Forests require special consideration. Set the initial term (length) of the permit to comply with the National Environmental Policy Act decision authorizing grazing. See FSM 2238 and FSH 2209.13, chapter 80, for direction on grazing fees for developing ranges in eastern National Forests.

Upon completion of the range improvements, cancel the term grazing permit (developing ranges) and issue a standard term grazing permit. FSM 2238 and FSH 2209.13, chapter 80, set forth the appropriate grazing fees to charge after the development phase.

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1. Issue grazing permits in accordance with direction in FSM 2231 and guidelines in FSH 2209.13, with the following exceptions:
  - a. Ownership of base property and permitted livestock may not be required during the period when a developing range term grazing permit is issued.
  - b. Permits under these provisions, in the eastern National Forests, may be advertised and solicited on a bid basis, but make no provision for auction bidding.
2. Some reasons for deviating from regular grazing fees in the eastern National Forests are:
  - a. To recognize the increased cost on developing ranges where use might require heavy initial outlay of cash by the permittee for installation of required range improvements.
  - b. To encourage harvest and use of forage resource where no qualified applicants are available. Issuing officers may recognize applicants who express a willingness to use the resource and become qualified.
  - c. To encourage use of livestock for vegetation management purposes.

## **2236 - GRAZING PERMIT AND AGREEMENT RECORDS**

Forest Supervisors shall maintain a grazing permittee case file and permanent card record or electronic record for each person or organization currently holding a term, temporary, or private land grazing permit or grazing agreement or participating in a Memorandum of Understanding which authorizes grazing on National Forest System lands or other lands upon which livestock grazing is administered by the Forest Service. See FSH 2209.13 for instructions on maintaining a case file.

## **2237 - COMPENSATION FOR PERMITTEE INTEREST IN RANGE IMPROVEMENTS**

### **2237.02 - Objective**

To provide the permittees with compensation for adjusted value of permittee investments in range improvements where the Forest Service cancels a term grazing permit in whole or in part to devote the lands covered by the permit to another public purpose including disposal (36 CFR 222.6).

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### **2237.03 - Policy**

1. Provide compensation on National Forest System lands in the 16 contiguous Western States in cases where changes occur that preclude grazing where it was formerly permitted and where improvements have been constructed at a cost to existing permittees.

2. Compensate only the grazing permittee who contributed to the cost of placing or constructing the permanent range improvement. Do not compensate persons who are no longer permittees or permittees presently using improvements placed or constructed by former permittees.

3. Determine the compensation not to exceed fair market value of the permittee's share of the terminated portion of improvements, as determined by acceptable appraisal methods, at the time the permit is cancelled in whole or in part.

4. Ensure that the permittee does not assign interest in improvements but waives them to the United States if, and when, the term grazing permit is waived.

5. Pay compensation only when lands are to be excluded from grazing.

### **2238 - GRAZING FEES**

#### **2238.02 - Objective**

To charge a fee for domestic livestock grazing on National Forest System lands that represents the fair market value of the use of the land and which is fair and equitable to the Federal Government and the users.

#### **2238.03 - Policy**

1. Charge grazing fees for livestock grazing under term and temporary grazing permits on NFS lands and other Federal lands under Forest Service control.

2. Livestock use permits may be free, depending on the reason for the authorized use (FSM 2234 and FSH 2209.13).

3. Require the permittee to pay grazing fees in advance of livestock use. Charge a grazing fee for each head month of grazing.

4. For the purpose of charging grazing fees, the fee year must be March 1 through the following February.

5. Competitive bidding is permissible only on land utilization projects and eastern National Forest System lands.



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6. Charge the unauthorized use rate for unauthorized and excess livestock use (FSM 2238.4).

7. On ranges that include lands under both Forest Service and Bureau of Land Management responsibility, the two agencies must agree on which agency is responsible for collection of fees and the method of crediting the other agency for its prorated share.

### **2238.05 - Definitions**

Base Year. This is the year in which a fee system is established or the year established as base of a data series.

Economic Value (EV). This is the annual value of the public rangeland to the grazing permittees.

Fair Market Value (FMV). This is the monetary amount that is reasonably expected for the right to the agreed use of rangeland. Expressed as an amount per month, it is usually established by competitive conditions. For NFS grazing, FMV is the difference between the total costs associated with livestock grazing privately leased grazing lands and the total nonfee costs of livestock grazing National Forest System land.

Fee Credit. This is the value of range improvements required by the Forest Service of permittees on eastern National Forests or for conservation practices and administrative costs on National Grasslands, which is credit toward the annual grazing fee (FSM 2232.2).

Grazing Fee. This is the annual charge for grazing use of National Forest System rangeland.

Grazing Value. This is the annual value for grazing use of National Grasslands and from which credits may be allowed in deriving annual National Grasslands grazing fees.

Head Month. For grazing fee purposes, a head month (HM) is a month's use and occupancy of rangeland by one weaned or adult cow, bull, steer, heifer, horse, burro or mule, or 5 sheep or 5 goats.

Unauthorized Use Rate. This is the fee charged for excess or unauthorized livestock use.

### **2238.1 - Application of Grazing Fees**

#### **2238.11 - Payment of Grazing Fees**

##### **2238.11a - Basis for Charge**

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Charge a grazing fee for each head month of grazing or livestock use (FSM 2238.05). Charge adult animals a full head month's fee for a month of grazing use. An adult grazing animal is an animal weaned or 6 months old or older at the time of entering National Forest System lands, or will become 12 months old during the permitted period of use. For fee purposes, 5 sheep or goats, weaned or adult, are equivalent to 1 cow, bull, steer, heifer, horse, or mule.

**2238.11b - Computation of Fees for Fractional Periods**

Calculate months of permitted grazing use for each kind of livestock by each period of use to the nearest day (FSM 2238.6).

**2238.11c - Bills for Collection**

Bills for collection must include the number of livestock permitted, the season being billed for, and the allotments where grazing is to occur.

**2238.11d - Installment Payment**

Require permittees to pay grazing fees in two or more installments. Fees must always be paid in advance of livestock use for that installment period.

**2238.11e - Delinquent Debts (Payments)**

Unpaid grazing fees become delinquent debts if they are not paid by the due date on the Bill for Collection. Assess grazing use by permittee-owned livestock during the delinquent period at the unauthorized use rate (FSM 2230.5 and 2238.4).

If payment is not received by the due date, the authorized officer may suspend or cancel term permit numbers and/or season of use commensurate with the severity of the violation.

**2238.11f - Payment of Interest, Administrative Charges, and Penalties**

Collect interest on any delinquent debts according to the following provisions:

1. Interest begins to accrue from the date the debt is delinquent. If grazing fees are paid within 30 days of the due date, waive the interest.
2. Assess a penalty of six percent a year on any unpaid debt balance delinquent for more than 90 days. This charge accrues from the date the debt becomes delinquent.
3. Charge the debtor for administrative costs incurred in processing and handling a delinquent debt.

See FSH 6509.11k, chapter 70, for more information on interest rates and administrative charges.

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### **2238.11g - Refunds and Credits**

Allow refunds and credits under justifiable conditions and circumstances as determined by the Forest Supervisor (FSM 2204.3).

### **2238.12 - Extension of Use**

An extension of use, not to exceed 5 days on either end of the grazing season, may be allowed without charge.

### **2238.13 - Lambing, Calving, and Kidding**

Make no additional charge for the privilege of lambing, calving, or kidding on National Forest System lands.

### **2238.14 - Livestock Without Offspring**

The absence of lambs, calves, or colts, in a band or herd, does not qualify for reductions below the head month rate. Charge for weaned animals at the head month rate.

### **2238.15 - Nonpayment**

Failure to make payment for use of the range shall be cause for disapproval of subsequent applications, pending payment of amounts overdue, including interest.

### **2238.16 - Unauthorized Use or Permittees' Excess Use**

Assess fees at the unauthorized use rate for unauthorized livestock grazing use or for exceeding use authorized by permit. See FSM 2238.4.

### **2238.17 - Local Agreements With the Bureau of Land Management**

On ranges that include lands under both Forest Service and Bureau of Land Management responsibility, the administering agency shall collect the fees. Credit deposits to the agencies based on an estimate of the time the livestock will spend on lands administered by each agency.

## **2238.2 - Grazing Fee Systems**

### **2238.21 - National Forests and Land Utilization Projects in the 16 Western States**

Grazing fees are calculated in accordance with the Executive Order issued February 14, 1986 (E.O. 12548). The Executive Order specifies that the fee must not be less than \$1.35 per month in any grazing fee year, and must be limited to not more than, plus or minus, 25 percent of the previous year's fee. See FSM 2238.6 for annual rates.

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The formula is:

$$EV = BV \times \frac{FVI + (BCPI - PPI)}{100}$$

where:

EV = Economic Value of the public rangeland to the user.

BV = Fair market base value of \$1.23 (derived from the 1966 Western Livestock Grazing Survey).

FVI = Forage Value Index (annually computed from data supplied by the U.S. Department of Agriculture, National Agricultural Statistics Service (NASS)). The FVI, an index of annually surveyed private grazing land lease rates, 1964-1968 = 100.

BCPI = Beef Cattle Price Index (Source: NASS). The BCPI, an index of USDA annually reported prices of beef cattle over 500 pounds, 1964-1968 = 100.

PPI = Prices Paid Index (Source: NASS). The PPI, indexed prices that livestock producers pay for selected production items, 1964-1968 = 100.

**2238.22 - National Grasslands in the Nine Great Plains States (Regions 1, 2, 3, and 8)**

Annual grazing values for National Grasslands are calculated using concepts and principles used for National Forest lands in the 16 western States. Private grazing lease rates and beef cattle prices for the Great Plains States and the National Prices Paid Index for livestock production are used.

1. Base Value. The base value used in the formula is \$1.33, based on the 1966 Western Livestock Grazing Survey. The base value was derived as follows:

$$\frac{\text{Base Value for National Forest}}{\text{Cost Differences, National Forest}} = \frac{\text{Base Value for National Grassland}}{\text{Cost Differences, National Grassland}}$$

or

$$\frac{1.23}{1.60} = \frac{X}{\$1.73}$$

$$1.60X = \$2.13$$
$$X = \$1.33$$

where: X is the Base Value of the 17 National Grasslands in the 9 Great Plains States.

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2. Annual Grazing Fees. See FSM 2238.6 for current rate.

**2238.23 - National Grasslands in the States of California, Idaho, and Oregon**

Annual grazing values are the same as grazing fees for National Forests in the 16 Western States (FSM 2238.21).

**2238.24 - National Forests and Land Utilization Projects in the Eastern United States (Regions 8 and 9)**

A uniform fee system is used for National Forest System (NFS) lands in the East and South.

1. Grazing Fee Formula. As directed in Title 36, Code of Federal Regulations, Part 222, Subpart C (36 CFR Part 222, Subpart C), the annual grazing fee must equal the 1989 base grazing value adjusted by the current period's hay price index for the relevant subregion less the value of any agency required range improvements.

The formula is:

$$\text{Annual Grazing Fee} = \frac{\text{BFMV} \times \text{HPI}}{100} \text{ less Fee Credits}$$

where: Annual grazing fee equals the 1989 base fair market value of grazing use, adjusted by the current period's hay price index, less the value of any agency required range improvements.

**BFMV** = The 1989 base fair market values for livestock grazing on NFS lands, by subregion.

**HPI** = Hay Price Index. The hay price index (HPI), by subregion, is derived annually using 3-year average hay prices. The HPI is calculated by dividing current 3-year average hay prices by hay prices for the base period (1986-1988). This index measures the relative percent change in the cost of alternative livestock feed between the base period and the current period. Hay prices used are for "other hay" which is annually collected by the USDA - National Agricultural Statistics Service.

**Fee Credits** = Agency required range improvements in accordance with Forest Plans and Allotment Management Plans.

2. Subregion Base Grazing Values and Minimum Bid Prices. Should local situations merit, an authorized officer may present market data to the Washington Office, Forest and Rangeland Staff, which may justify different grazing fees.

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The 1989 base grazing values for noncompetitive permits and minimum bid price for competitive permits are:

<u>Subregion</u>	1989 Base Grazing Values (in \$ per Head Month)
Northeast	3.38
Lake States	3.41
Corn Belt	4.40
Appalachia	3.68
Southeast/Delta	3.50
Florida	1.75

3. Noncompetitive Grazing Fee Procedures. Grazing fees for non-competitive permits are located at 36 CFR 222.53. Noncompetitive grazing fees apply to existing permittees on NFS lands in the Eastern and Southern Regions, including grazing associations in New York and Missouri as of March 1, 1990; livestock on-and-off permits; and to any allotments advertised for competitive bidding which were not bid on. A term permit holder has first priority for receipt of a new permit; provided the holder has fully complied with the terms and conditions of the grazing permit (FSH 2209.13, ch. 80).

The Washington Office, Forest and Rangeland Staff annually calculate noncompetitive grazing fee rates. Calculate the Bill for Collection from the rates shown in FSM 2238.6.

4. Competitive Bid Permits. Fees for grazing permits awarded through competitive bidding are set forth at 36 CFR 222.54. Grazing fees are set by competitive bid for new grazing allotments, including special use pasture conversions and noncompetitive permits vacated or terminated by an existing permittee. The highest bid received must establish the base grazing value in the initial year of the grazing permit. Minimum acceptable bids must be based on: (1) 1989 base grazing values established for noncompetitive permits adjusted by the current HPI, or (2) 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 subject area. For specific guidance on application and use of competitive bidding, see FSH 2209.13, chapter 80.

Calculate the annual grazing fee and Bill for Collection, using the competitive bid adjustment factor shown in FSM 2238.6.

5. Grazing Fee Credits for Agency Required Range Improvements. As specified in 36 CFR 222.53, any requirements for permittee construction or development of range improvements must:

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- (a) Be identified through an agreement and incorporated into the grazing permit, with credits for such improvements to be allowed toward the annual grazing fee.
- (b) 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.
- (c) 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 an allotment management plan 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.

6. Computation of Annual Grazing Fee. See FSM 2238.6 for the current rate. Fee credits apply to both noncompetitive and competitive permits. See FSM 2247 and FSH 2209.13, chapter 80, for guidance on the use of grazing fee credits.

### **2238.3 - Livestock Use Permits (All Regions)**

If a fee is charged for livestock use, use the rate by geographic location as shown in FSM 2238.6.

### **2238.4 - Unauthorized Use and Permittee Excess Use**

Unauthorized livestock use and permittee excess use rates are based on the full commercial value of leased forage, unadjusted for differential operating costs for grazing National Forest System lands and leased private rangelands. The rate charged also does not consider permittee contributions under the grazing permit terms.

1. National Forests and Land Utilization Projects in the 16 Western States and National Grasslands in the 9-Great Plain States. The Washington Office, Forest and Rangeland Staff annually calculate unauthorized use rates using the 1966 base value of \$3.80 per head month. This is the full commercial value in 1966. Calculate the Bill for Collection, from the rates shown in FSM 2238.6.

2. Eastern National Forests. The Washington Office, Forest and Rangeland Staff annually calculates unauthorized use rates, by subregion, using the following commercial forage values:

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<u>Subregion</u>	1989 Full Commercial Value <u>\$ per Head Month</u>
Northeast	6.27
Lake States	6.11
Corn Belt	8.12
Appalachia	4.38
Southeast/Delta	4.68
Florida	2.44

Calculate the Bill for Collection, from the rates shown in FSM 2238.6.



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**2238.5 - Exhibits**

**2238.5 - Exhibit 01**

**Calculation of Head Months for Which Payment Is Due**

To calculate the number of head months for which payment is due:

1. Determine the days of the year (numbered 1 to 365) for the on-and off-dates;
2. Subtract the on-date day from the off-date day;
3. Add 1 day (to include the on-date day of use); and
4. Divide this number by 30.416667 to determine the head months for which payment is due. (Note: The divisor 30.416667 is the result of dividing the number of days in a year (365) by the number of months in a year (12).)

Example: Season of use is June 6 through October 10\*; the number of animals (head) is 125.

Off-date October 10 calendar day:	283
Minus on-date June 6 calendar day:	<u>-157</u>
Subtotal:	126
Plus 1 day of use for on-date of June 6:	<u>+ 1</u>
	127

$$127 \div 30.416667 = 4.175 \times 125 \text{ head} = 522 \text{ head months} \\ (521.875 \text{ rounded up}^{**})$$

The total number of head months (522 in this example) is then multiplied by the grazing fee for that year for that type of livestock.

\*Non-leap year.

\*\*Fractional values of head months should be rounded up when they are greater than, or equal to, 0.5, or rounded down when they are less than 0.5.

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**2238.6 - Annual Rates and Competitive Bid Adjustment Factors (Interim Directive)**

Annual rates and competitive bid adjustment factors are issued by interim directive to this code.

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### **2240.1 - Authority**

The authority for range improvements on National Forest System lands is in 36 CFR 222.1, 36 CFR 222.9, and 36 CFR 222.10. See FSM 2201 for legislative authorities.

### **2240.2 - Objectives**

1. Without impairing land productivity or water quality, implement and maintain range improvements to the extent benefits are commensurate with costs and demand for livestock forage.

2. Provide information and advice through range technical information system and Vegetative Rehabilitation and Equipment Workshop to enhance restoration, improvement, and quality of ranges.

### **2240.3 - Policy**

1. Use interdisciplinary approaches in planning and analysis as a basis for decisionmaking. Ensure that range improvement design and location reflects forest land and resource management plan direction. Include range improvement plans and specifications in allotment management plans.

2. Ensure that range improvements facilitate livestock grazing.

3. Enhance, when possible, associated range uses and values when making improvements.

4. Avoid obligating the Government to reimburse for range improvements, except under conditions contained in FSM 2237.

5. Encourage permittee contribution to range improvement on National Grasslands and Land Utilization Projects in addition to required conservation practices.

6. Provide for permittee participation through permit modification, collection agreements, and/or procurement procedures.

7. Vest title to permanent structural and nonstructural improvements in the United States.

8. Vest title to temporary structural improvements in the United States, unless the cooperator pays all construction costs and the improvement is short lived or easily removable.

9. Analyze range improvements for cost-effectiveness.

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10. Performance of range improvement work by others on Forest Service-administered lands is at the discretion of Forest Service and is authorized in accordance with FSM 2241.3.

11. Give State wildlife agency personnel the opportunity to review revegetation project plans involving plant and animal control, seeding, or transplanting, before plans are approved for implementation.

## **2240.4 - Responsibility**

### **2240.41 - Regional Forester**

The Regional Forester shall provide direction, standards, and necessary training to understand and cost-effectively apply range improvement technology in the Region.

## **2240.5 - Definitions**

Allotment Project. The allotment project is the allotment management plan (FSM 2210.5) which is the written documentation of current and planned activities, and includes the grazing system as well as structural and nonstructural improvements.

Conservation Practices. The protection, planning, land treatment, and improvement measures necessary for proper use of National Forest System lands managed under the provisions of the Bankhead-Jones Act and required of the holder of a grazing agreement or grazing permit.

Deteriorated Range. Range that has temporarily lost all or part of its ability to produce livestock forage and other resource benefits. Deteriorated range contains undesirable plant species and has a diminished soil cover. The soil may be actively eroding or has eroded to the extent that little or no production is occurring.

Fish and Wildlife Habitat Enhancement. Measures use to improve fish and wildlife habitat or to prevent wildlife and fish habitat degradation resulting from livestock grazing.

Maintenance of Range Improvements. The timely repair of range facilities to a condition adequate to perpetuate the life of the facility and to serve the purpose intended.

On-the-Ground Expenditure. The payment of direct project costs associated with installing a range improvement, such as survey and design, equipment, labor and material (or contract) costs, and on-the-ground supervision.

Range Betterment Fund. The fund established by Title IV, section 401 (b)(1), of the Federal Land Policy and Management Act of 1976 (See 36 CFR 222.1(20)).

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Range Improvement. Any activity or program on or relating to rangelands which is designed to improve production of forage; change vegetative composition; control patterns of use; provide water; stabilize soil and water conditions; and provide habitat for livestock and wildlife. The term includes, but is not limited to, structures, treatment projects, and use of mechanical means to accomplish the desired results (Public Rangelands Improvement Act of 1978, 43 U.S.C. 1902). The following types are included:

a. Nonstructural. Practices and treatments undertaken to improve range or facilitate livestock management, excluding structural improvements.

b. Structural. Improvements requiring construction or installation to improve the range or facilitate livestock management.

(1) Permanent. Improvements installed or constructed to become a part of the land, such as dams, ponds, pipeines, well, fences, trails, and seeding.

(2) Temporary. Short-lived or portable range improvements such as portable troughs, pumps, and electric fences, including improvements at authorized places of habitation, such as line camps.

Range Management Budget Activity. The funds included in the annual protection and management (P&M) administrative limitation within the National Forest System appropriation (FSM 6510 and FSM 6553.12b, function 051-055).

## **2241 - FINANCING RANGE IMPROVEMENTS**

### **2241.1 - Appropriated Funds**

#### **2241.11 - Range Betterment Fund**

The Range Betterment fund is limited to use on National Forest lands in the 16 contiguous western States.

It is used to arrest range deterioration and improve forage conditions on deteriorated ranges, which will benefit forage production for livestock, wildlife, and watershed conditions.

#### **2241.11a - Use of Range Betterment Fund**

1. Use one-half of the Range Betterment Fund on the National Forest where collected. Use the remaining one-half in the Forest Service Region from which derived, with individual National Forest allocations determined by Regional Forester. Consult with grazing permittees and others interested in planning projects that will be financed from the Range Betterment Fund.

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2. Use the Range Betterment Fund only for on-the-ground range improvements within range allotments, including direct supervision and design, using the following order of priority:

- a. Rehabilitation of deteriorated range.
- b. Protection of range from deterioration.
- c. Improvement of forage quality and quantity.

3. Do not assess general administration and program management costs against the Range Betterment Fund.

4. Seek advice and recommendations for using the Range Betterment Fund from grazing advisory boards.

5. Do not use the Range Betterment Fund solely for fish and wildlife habitat enhancement.

6. Use the Range Betterment Fund for improvement, replacement, or reconstruction, which is considered new work.

7. Do not use the Range Betterment Fund for maintaining structural improvements.

#### **2241.12 - Range Management Budget Activity Fund**

1. Use funds as available for range improvements and to support planning and use of the Range Betterment Fund.

2. Use funds to construct or maintain improvements necessary for proper use, protection, and improvement of range resources.

#### **2241.13 - Range Activities Approved for Sale Area Improvement**

Under the Knutson-Vandenberg (K-V) Act of June 9, 1930, as amended (16 U.S.C. 576b), funds are available to establish, protect, and improve production of range resources inside timber sale area boundaries. See FSH 2409.19, Renewable Resource Uses For Knutson-Vandenberg (K-V) Fund Handbook for specific directions.

#### **2241.14 - Improvement Funding From Other Appropriated Sources**

##### **2241.14a - Fences**

The benefiting activity shall provide funds for fences that are needed to support other activities or that are not identified in an allotment management plan.



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### **2241.14b - Stock Driveway or Trails**

Use Forest Road and Trail funds for financing stock driveways or trails that are needed for moving livestock on National Forest System lands.

### **2241.14c - Road Right-of-Way Fences and Cattleguards**

1. New Roads. Forest Road and Trail Construction funds will finance the installation of replacement fences and new or replacement cattleguards necessitated by new road construction affecting existing fences.

2. Existing Roads. The benefiting function shall finance fence and cattleguard construction. Use road maintenance funds for cattleguard maintenance.

### **2241.2 - Use of Grazing Fees**

#### **2241.21 - National Forests and Land Utilization Projects in the 16 Western States**

Do not adjust grazing fees to compensate grazing permittees for range improvements on National Forest System lands.

#### **2241.22 - National Grasslands**

From the annual calculated base grazing value, adjust for conservation practice costs involving structural and nonstructural range improvements. Do not adjust the annual grazing value where the Forest Service and permittee have not jointly agreed to conservation practices in the annual allotment-operating plan. For further direction see FSM 2238.05, Grazing Value.

#### **2241.23 - National Forests and Land Utilization Projects in the Eastern States**

Adjust annual grazing fee for Forest Service required range improvements. See FSM 2238.24 and FSH 2209.13, chapter 80, for additional direction related to Eastern National Forests.

### **2241.3 - Private Contributions**

Identify in allotment management plans those range improvements that are to be financed by private contributions and ensure that they meet the cost-effectiveness criteria, and that they are located and built to written specifications.

### **2241.31 - Permit Modifications**

Grazing permit modifications may authorize range improvement construction involving grazing permittee contributions. Modifications may (1) provide for any degree of cost-sharing; and (2) recognize contributions in the form of labor, materials, and/or equipment as well as direct funding. Modifications must terminate no later than the grazing permit term (FSM 2235.3 and FSH 2209.13).

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**2241.32 - Procurement**

Use established procurement processes when the grazing permittee is doing the work.

**2241.33 - Collection Agreements**

Process funds that permittees deposit with the Forest Service for range improvements in accordance with FSM 1584.

**2241.34 - Memorandums of Understanding**

Use a memorandum of understanding when an agreement is between the Forest Service and nonfederal parties and in those instances that do not involve an interchange of funds, materials, or services (FSM 1588).

**2241.35 - Interagency Agreements**

Use an interagency agreement when an agreement is between the Forest Service and one or more other Federal agencies, including those instances that involve sharing of costs, equipment and expertise (FSM 1587).

**2242 - STRUCTURAL RANGE IMPROVEMENTS**

**2242.02 - Objective**

Install structural range improvements to obtain proper livestock management and to meet objectives contained in forest land and resource management plans and allotment management plans.

**2242.03 - Policy**

Regional Foresters shall provide structural improvement specifications. Such specifications must consider cost-effectiveness and state-of-the-art technology.

**2243 - NONSTRUCTURAL RANGE IMPROVEMENTS**

**2243.02 - Objective**

Implement nonstructural range improvements necessary for meeting objectives contained in forest land and resource management plans and allotment management plans.

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### **2243.03 - Policy**

Regional Foresters shall develop policy and provide nonstructural range improvement specifications. Such specifications must consider cost effectiveness and state-of-the-art technology.

### **2243.3 - Practices**

#### **2243.31 - Water Spreading**

Authority to use water for water spreading must be held by the United States (FSM 2540).

#### **2243.32 - Animal Damage Control**

State wildlife agencies have primary responsibility for managing most resident terrestrial wildlife. Forest Service authority can be used to prevent unacceptable damage by rodents and certain nongame birds, including population reduction. Control game species only with the approval of concerned State agencies and the U.S. Department of the Interior's Fish and Wildlife Service as appropriate.

Rodents or birds must be a major cause or contributor to damage before it is permissible to undertake population reductions. Use reduction methods recommended by the Fish and Wildlife Service and appropriate State agencies (FSM 2650).

#### **2243.33 - Insect and Disease Management**

##### **2243.33a - Criteria for Control**

Regional Foresters shall determine specific control criteria using the following as a minimum (FSM 3431):

1. Proposed projects must be supported by an economic evaluation that weighs the estimated discounted costs of controlling a pest against the estimated benefits.
2. Proposed projects must be biologically sound, designed to achieve stated objectives, and supported by biological evaluation.
3. Proposed projects must be environmentally acceptable and supported by a documented environmental analysis or be a documented categorical exclusion.

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**2243.33b - Cooperation**

The Animal and Plant Health Inspection Service shall control and finance outbreaks of herbage damaging insects on rangelands, including National Forest System lands. However, the Forest Service determines whether, when, and where to initiate projects (FSM 2253.3).

**2243.34 - Vegetation Management**

Use cultural, mechanical, biological, chemical, or prescribed fire to eliminate, reduce, perpetuate, or otherwise alter vegetation composition and density. Use methods in the combinations that most effectively achieve objectives of established resource planning processes.

**2243.4 - Noxious Farm Weeds**

Control noxious farm weeds using the management guidance in FSM 2250.

**2243.5 - Pesticides**

Use only pesticides registered by the Environmental Protection Agency (FSM 2150 and 2450).

**2244 - MAINTENANCE OF IMPROVEMENTS**

**2244.02 - Objective**

To maintain in operable condition all range improvements on the National Forest System and other lands controlled by the Forest Service.

**2244.03 - Policy**

1. Assign through grazing permits or grazing agreements responsibility for range improvement maintenance to grazing permittees.
2. Assign current maintenance in annual operating plans.
3. Limit Forest Service responsibility for financing maintenance work to those instances in which the grazing permittee realizes no direct benefit or in limited, shortterm situations, such as natural disasters.
4. Limit temporary permit holder responsibility to that necessary for the intended use. Avoid assigning responsibility for major repair.

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## **2245 - CONSERVATION PRACTICES**

### **2245.01 - Authority**

Authority for conservation practices is in Title III, Bankhead-Jones Farm Tenant Act of 1937.

### **2245.02 - Objective**

Use required conservation practices to meet the intent and purposes of the Bankhead-Jones Farm Tenant Act of 1937, Title III, 36 CFR chapter II, and Forest Service policy (FSM 2232.2).

### **2245.03 - Policy**

Regional Foresters shall establish policy and standards for the administration of conservation practices in their areas of responsibility. Coordinate policy and standards with other Regions that have National Grasslands and/or Land Utilization Projects.

### **2245.1 - Standards**

The following minimum standards must be observed:

1. Accountability. A conservation practice program shall use a written accounting process that provides for clear tracking of conservation practice expenditures. The accounting process must:
  - a. Include specific delegations of authority.
  - b. Verify improvements against authorized expenditures.
  - c. Include regular audits.
  - d. Describe procurement procedures.
  - e. Be cost-effective.
  - f. Meet the intent of Bankhead-Jones Farm Tentant Act.
2. Selection Criteria. A required conservation practice must:
  - a. Relate to use authorized by grazing permit or agreement.
  - b. Cost more than that work normally required of grazing permittees on National Forests.
  - c. Meet cost-effectiveness criteria.

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- d. Effectively meet objectives for National Grasslands management.
- e. Be placed on National Grasslands or Land Utilization Projects, except where the United States has an easement.
- f. Have its costs applied against grazing values only to the extent that work performed or caused to be performed by the grazing permittee or user would otherwise be a cost to the United States.
- g. Be retained in ownership of the United States.
- h. Consider impact on returns to counties.
- i. Be in an approved allotment management plan, or in rare exceptions, be otherwise approved in writing.
- j. Be applicable to private land within limits of economic and practical land management.

**2246 - RANGE IMPROVEMENT INVESTMENT**

**2246.02 - Objective**

Invest in cost-effective range improvements to achieve objectives established in forest land and resource management plans and allotment management plans.

**2246.03 - Policy**

Regional Foresters shall establish screening and ranking criteria using FSM 2246.1. Document the screening and ranking process and use the uniform comparative method to make funding allocations.

**2246.1 - Screening and Ranking**

1. Base screening on economic efficiency, social well-being, and environmental quality.
2. Screen initially for economic efficiency.
3. If social and environmental rankings are positive, consider proposed investments with an incremental benefit/cost ratio of 1:1 or greater for funding.
4. Decide cost-efficiencies of less than 1:1 based on environmental quality and social well-being.

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### **2250.1 - Authority**

36 CFR 222.7, 222.8, and 222.11 authorize the Chief to cooperate with local, county, State and national livestock associations, other interested public agencies, and individuals in the management of public and private ranges.

### **2250.2 - Objectives**

1. To promote sound integrated planning, development, and utilization of ranges on public and private lands under the principles of multiple use.
2. To encourage communication and active local participation in decisionmaking.

### **2250.3 - Policy**

The Forest Service shall:

1. Provide leadership in applying principles inherent in the concept of Coordinated Resource Management and Planning (CRMP).
2. Encourage groups of persons who hold grazing permits and who graze their livestock on a common grazing allotment or associated groups of allotments to organize into local livestock associations.
3. Encourage interested livestock associations, individuals, partnerships, or corporations to develop resource management plans for agricultural land, including forested range under their control.
4. Develop and maintain a close working relationship with the livestock industry through county, State, and national livestock organizations.
5. Cooperate with other public and private agencies to encourage cooperative range management on interrelated public and private lands and to promote development of rural areas.
6. Exchange information with other Government agencies and with all institutions and organizations interested in management of range resources.
7. Provide technical information and advice to private forest landowners, consultants, and users of non-Federal forested range through State Foresters or equivalent State officials.
8. Demonstrate sound range management on National Forest System (NFS) lands and associated public and private lands.
9. Approach range cooperation in a way that will achieve the objectives and spirit of the National Environmental Policy Act of 1969.

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## **2250.4 - Responsibility**

See FSM 2204.

### **2250.41 - Chief**

The Chief shall work with officers of national livestock and related organizations and with counterparts in other Government agencies.

### **2250.42 - Regional Foresters and Area Director**

The Regional Forester or Area Director shall work with officers of State-wide, Regionwide, or Areawide livestock associations, and with persons from State and Federal agencies who have State, Region, or Area responsibilities, and with appropriate university officials.

### **2250.43 - Forest Supervisors and District Rangers**

Forest officers at the lowest practical level shall be personally involved in cooperative efforts. Local cooperation on a daily basis by those close to on-the-ground resource activities is essential to effective management.

## **2250.5 - Definitions**

1. Livestock Association. An organization of National Forest System grazing users organized under 36 CFR 222.7.
2. State Livestock Association. A mutual benefit cooperative organization of grazing users organized under State law.

## **2251 - COOPERATION WITH NATIONAL FOREST LIVESTOCK ASSOCIATIONS AT LOCAL LEVEL**

### **2251.1 - Requirements for Recognition**

The local livestock association membership must constitute a majority of the permittees who use the grazing allotment or a closely associated group of grazing allotments for which the association desires recognition.

### **2251.2 - Application for Recognition**

An association desiring official recognition must file an application with the Forest Supervisor. The application must include the names of members, kinds of livestock to be grazed, and name or description of the area that the association would represent.

A copy of proposed bylaws must accompany the application.

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Local association officers act as official spokesmen for the association members to the extent allowed by association bylaws. Officers elected by recognized local livestock associations in accordance with the standard bylaws require no further formal recognition.

### **2251.3 - Association Status**

When an association is established for a particular area, no other association can be established for any part of the same area.

The association shall notify the Forest Service of any changes in its membership and officers.

### **2251.4 - Association Meetings**

Associations shall hold and record minutes of annual and special meetings as provided in their bylaws. If the association fails to meet at least once annually, the Forest Service has cause to withdraw recognition.

### **2251.5 - Working with Associations**

Makes every effort to ensure that association members have a clear understanding of Forest Service policies and procedures. Also make an effort to obtain the benefit of their advice and experience in range management and their input into the development of Forest land and resource management plans. Refers questions that deal with the development of allotment management plans or the use of range betterment funds to the appropriate grazing advisory board if one is chartered. Local associations are concerned with all aspects of the management of the National Forest System grazing allotments while advisory boards, when formed, are concerned with the development of allotment management plans and the use of range betterment funds (FSM 2254).

### **2251.6 - Recommendations from Associations**

Forest officers shall consider all management recommendations from associations. A written statement of the reasons for not adopting or disapproving a recommendation shall be furnished to the association whenever any of its written recommendations cannot be approved.

### **2251.7 - Special Rules**

Associations may recommend for Forest Service approval special rules designed to improve management of the range. When a special rule applies to only a portion of the area the association represents, a majority of the permittees who use that area must approve the rule before it can receive Forest Service consideration. Special rules once established remain in force

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until the Forest Supervisor cancels them. The Forest Supervisor shall notify permittees of cancellations and of any special rules that have been made a part of their grazing agreements or permits by amendment. A term permit may be canceled or suspended in whole or in part for violation of special rules.

An association may decide it is essential for permittees to fulfill their responsibilities through a collective effort whereby each permittee is assessed the pro rata share of the cost as a part of special rules.

**2251.8 - Association Information Requested by Forest Service**

When requested, the association shall provide the Forest Service with copies of meeting minutes and detailed annual financial statements.

**2252 - COOPERATION WITH STATE AND NATIONAL LIVESTOCK ORGANIZATIONS**

Forest Service representatives should:

1. Attend the organizations' public meetings.
2. Become familiar with the organizations' goals and objectives.
3. Participate in committee meetings and other activities.
4. Discuss National Forest System management with the organization.
5. Obtain feedback or advice for planning proposes and to promote sound, practical resource conservation.

**2253 - INTERAGENCY COOPERATION**

**2253.02 - Objective**

To establish coordinated range management practices on geographically interrelated public and private lands.

**2253.03 - Policy**

See FSM 2250.2, item 1 and FSM 2250.3, items 5 and 6.

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## **2253.04 - Responsibility**

Regional Foresters and Area Directors are authorized to enter into local agreements with other Federal agencies concerning implementation of range management practices on public or private lands.

### **2253.1 - Memorandum of Understanding with Bureau of Land Management**

The memorandum sets forth mutual policy for coordinated management of the range resource (FSM 1531.12b.)

### **2253.2 - Memorandum of Understanding with Soil Conservation Service, Bureau of Land Management, Science and Education Administration Extension, and Forest Service**

See FSM 1531.12e.

### **2253.3 - Agreement for Coordination of Range Programs on Non-Federal Forest Lands and Inventory of Forest and Rangelands**

See FSM 1541.14.

## **2253.4 - Cooperation with Others**

Forest officers should work with group's interested or involved in proper development and management of range resources, as well as with educational and research institutions that have an interest in range management, to demonstrate integrating of sound range management with other resources.

## **2254 - GRAZING ADVISORY BOARDS**

### **2254.01 - Authority**

Section 403 of the Federal Land Policy and Management Act of 1976, as amended, (P.L. 94-579, 43 U.S.C. 1753) directs establishment of grazing advisory boards upon petition of a simple majority of term grazing permit holders under the jurisdiction of a National Forest headquarters office. This authority applies to National Forest System lands with headquarters offices in the 16 contiguous western States only. Forest Service regulations governing these boards are published in 36 CFR 222.11. The provisions of the Federal Advisory Committee Act (5 U.S.C. Appendix) and FSM 1350 shall apply to these boards, except where the authorizing law provides otherwise. Authority for grazing advisory boards expires on December 31, 1985.

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### **2254.02 - Objective**

To provide term grazing permit holders with a means of forming and maintaining advisory boards' advise and counsel with Forest officers in the:

1. Development of allotment management plans.
2. Planning use of range betterment funds.

### **2254.03 - Policy**

The Forest Service shall:

1. Where properly petitioned, act to have a grazing advisory board established.
2. Consult with established grazing advisory boards when there are contemplated changes in policy that would affect the development of allotment management plans or the utilization of range betterment funds.
3. Considers and evaluates carefully the advice and recommendations of the board concerning development of allotment management plans and use of range betterment funds.
4. Encourages attendance by other interested groups and individuals at board meetings and offers input in accordance with section 10 of the Federal Advisory Committee Act (P.L. 92-463) as outlined in FSM 1350.
5. Ensure that no person is denied the opportunity to serve as a grazing advisory board member because of race, color, sex, religion, or national origin.

### **2254.04 - Responsibility**

When properly petitioned by term grazing permit holders, the Forest Supervisor shall work with term grazing permittees in organizing and maintaining advisory boards.

### **2254.1 - Establishment of Grazing Advisory Boards**

Conditions in 36 CFR 222.11 are to be met prior to establishing grazing advisory boards.

### **2254.11 - Eligibility Requirements for Petitioners**

Any holder of a term grazing permit issued by a National Forest headquarters office in the 16 contiguous western States is eligible to sign a petition for establishment of a grazing advisory board. A person holding a term grazing permit issued by an authorized grazing association is

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also eligible to sign a petition. Any corporation or partnership holding term grazing permits counts as one permittee in each headquarters office on which they hold such permit. Grazing permittees granted nonuse for all or part of their term permit numbers are eligible to petition. Authorized agents may petition on behalf of a term grazing permittee.

### **2254.12 - Processing Petitions**

Term grazing permittees may prepare petitions in any format they desire. The petition shall, as a minimum, name the National Forest headquarters office and state the desire of the permittees to establish a grazing advisory board. Term grazing permittees requesting establishment shall sign the petition. Forest officers shall not carry the petition or solicit signatures. They may advise permittees how to prepare petitions if requested to do so.

Upon receipt of a petition, the Forest Service shall:

1. Determine petition validity.
2. Determine the number of boards to be established from each National Forest headquarters office.
3. Determine the area each board is to cover. The area represented may be all or a part of the National Forest System land administered by a National Forest headquarters office. Locate areas related to range management programs. Boards cannot exercise overlapping jurisdiction.
4. Determine the number of advisors on each board. Boards shall consist of not more than 15 members.
5. After the Forest Service has made a determination in items 1 through 4 above, the Regional Forester shall submit an approval charter as shown in FSM 1350 to the Chief, requesting establishment of the board. Establishment procedures in FSM 1350 are applicable, except that GSA concurrence, publication of a notice of intent in the Federal Register, and Department clearance of members are not required.

### **2254.2 - Membership**

Membership on grazing advisory boards is limited to holders of term grazing permits under the jurisdiction of a National Forest Headquarters office in the 16 contiguous western states. Term permit holders outside the area covered by the board may be board members, provided they are under the jurisdiction of the same National Forest headquarters office.

Authorized agents of grazing permittees are eligible for board membership.

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### **2254.3 - Elections**

The Forest Service shall not initiate nomination and election procedures until the Secretary of Agriculture has approved the charter. Area of representation will be a consideration when prescribing the manner in which representatives are elected.

### **2254.31 - Nominations**

The Forest Service shall prescribe the manner in which it receives nominations and qualifies individuals to be on an election ballot. Nominations can be in the form of a petition with signatures of a specified number of eligible petitioners and/or determined through runoff elections.

### **2254.32 - Conducting Elections**

The Forest Service shall prepare ballots and conduct a secret ballot election. Board members serve terms not to extend beyond the termination date of the charter and not to exceed 2 years. The expiration date of membership terms will normally be 2 years after the current charter filing date. No person shall be denied the opportunity to serve as a grazing advisory board member because of race, color, sex, religion, or national origin. No board members shall concurrently serve on another Department of Agriculture advisory committee.

### **2254.4 - Bylaws**

With the approval of the Forest Service, the grazing advisory board may adopt bylaws to govern its proceedings.

### **2254.5 - Function of the Board**

See FSM 2254.02.

### **2254.51 - Development of Allotment Management Plans**

The board shall review and make recommendations (1) on proposed (new or revised) allotment management plans and (2) in those cases where grazing permittees are aggrieved by approved allotment management plans.

### **2254.52 - Utilization of Range Betterment Funds**

The board shall review all planned expenditures of range betterment funds for National Forest System lands it covers. The board should complete this review 1 year before actual expenditure of range betterment funds.



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### **2254.53 - Board Recommendations**

The advisory board issues its advice and recommendations as written reports, which are filed with Congress.

Forest officers shall give consideration to all recommendations of the board and should advise board members in writing of action taken relative to the recommendations.

### **2254.6 - Meetings**

The board should meet at least once annually with additional meetings called as necessary to meet the needs of the permittees and the Forest Service. If annual meetings do not occur for 2 consecutive years, the board is subject to termination. Meetings of the board are held in accordance with direction in FSM 1350.

### **2254.61 - Board Minutes**

The board shall record minutes of meeting.

### **2254.7 - Termination**

Grazing advisory boards established under the Federal Land Policy and Management Act of 1976 expires on December 31, 1985, unless terminated earlier or extended by subsequent law. A revised charter must be prepared and filed with Congress every 2 years, counting from date of previous charter filing (FSM 1350).

The Forest Supervisor may withdraw recognition of any advisory board whenever a majority of the term grazing permittees for the area the board represents request that the board be dissolved.

## **2255 - COOPERATION ON ANIMAL DISEASES**

### **2255.01 - Authority**

See 36 CFR 222.8.

### **2255.02 - Objectives**

To cooperate with Animal and Plant Health Inspection Service (APHIS), and other Federal, State, and county agencies to foster enforcement of livestock quarantine and testing programs to prevent spread of contagious animal diseases.

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### **2255.03 - Policy**

Enforcement of Federal or State quarantine regulations will only be done in cooperation with APHIS or the State official in charge when requested by them.

### **2255.04 - Responsibility**

#### **2255.04a - Director of Forest and Rangelands**

The Director of Forest and Rangelands shall notify Regional Foresters of quarantine, inspections, or testing planned by APHIS where such information initially comes to the Chief's Office rather than field offices.

#### **2255.04b - Regional Forester**

Regional Foresters shall work with their counterparts in APHIS and other Federal agencies and appropriate State officials in controlling animal diseases.

Ensure that carcasses of all animals that die from a contagious disease or that might contaminate a water supply or become a public nuisance are disposed of in accordance with State law or local ordinance. Owners of such animals are responsible for disposal of carcasses.

### **2255.1 - Grazing Permittees**

All grazing permittees are required to conform to livestock laws and quarantine regulations of the State and Secretary of Agriculture while their livestock are on Forest Service administered land. Forest officers shall not allow livestock under quarantine to enter Forest Service administered lands until the quarantine is lifted or until the hold order is released. Grazing permits may be suspended or cancelled, in accordance with FSM 2204, for failure to comply with such laws or with any approved special rules of a recognized livestock association.

## **2256 - COOPERATION ON ESTRAY LIVESTOCK**

### **2256.01 - Authority**

See 36 CFR 222.8.

### **2256.02 - Objective**

To cooperate with State livestock boards and commissions to prevent and control ingress of unpermitted livestock onto National Forest System lands.

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**2256.03 - Policy**

Forest officers shall cooperate with State livestock sanitary boards, brand boards, or other appropriate agency in determining ownership of stray or unbranded livestock. Determine ownership of all stray or unbranded livestock on Forest Service administered lands by applying laws of the States in which the lands are located or the Wild Free-Roaming Horse and Burro Act of December 15, 1971. If State and Federal laws conflict, Federal law applies. Livestock impounded under authority of 36 CFR 262.2 may be disposed of as provided in that regulation or may be released to the proper State authority for immediate possession and subsequent disposition in accordance with State law or memorandum of understanding.

Forest officers shall grant a permit or enter into an agreement that authorizes a charge for the gathering of such animals or authorizes their sale by those who gathered or captured them.

**2257 - COOPERATION ON PESTICIDES**

**2257.01 - Authority**

See 36 CFR 222.8.

**2257.02 - Objective**

To cooperate with local and State organizations and to encourage proper and effective use of pesticides.

**2257.03 - Policy**

Forest officers shall cooperate fully with other agencies and institutions in surveillance of projects using chemical pesticides on Forest Service administered lands. FSM 2150 provides direction for management programs involving use of pesticides.

**2258 - COOPERATION ON RANGE INSECTS**

**2258.01 - Authority**

See 36 CFR 222.8.

**2258.02 - Objective**

To cooperate with the Animal and Plant Health Inspection Service (APHIS) and other Federal, State, and county agencies and organizations to foster control of undesirable range insects on National Forest System lands.

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### **2258.03 - Policy**

The Forest Service shall request survey and control assistance from APHIS in controlling unacceptable outbreaks of herbage damaging insects on National Forest System (NFS) rangelands. The actual control of range insects on NFS lands is APHIS' responsibility.

## **2259 - COOPERATION ON NOXIOUS FARM WEEDS**

### **2259.01 - Authority**

See 36 CFR 222.8.

### **2259.02 - Objective**

To cooperate with Federal, State, and local agencies and organizations and individuals to achieve effective management of noxious weeds including inventory, control measures, and program monitoring.

### **2259.03 - Policy**

Forest officers should place noxious weed management emphasis on those areas where cooperative efforts are underway, such as organized weed control districts. Efforts should be directed to those infestations where management actions will be the most effective in preventing or reducing the spread of noxious weeds considered to be the greatest threat to economic, environmental, social and other values.

Forest officers shall cooperate fully with State, county, and Federal officials in implementing 36 CFR 222.8 and sections 1 and 2 of the Carlson-Foley Act (P.L. 90-583). Within budgetary constraints, the Forest Service shall control, to the extent practical, noxious farm weeds on all National Forest System lands.

### **2259.04 - Responsibility**

The Director of Forest and Rangeland is responsible for producing administrative and technical direction to the noxious farm weed management program.

### **2259.1 - Funding**

Refer to FSM 6510 for appropriate funding of noxious farm weed control.

When sale area improvement (SAI) funds are used to prevent encroachment of and to control noxious weeds within timber sale areas, the projects must be included in SAI plans and meet criteria for SAI fund collection.

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### **2260.1 – Authority**

The Wild Horses and Burros Protection Act of 1971, as amended by the Federal Land Policy and Management Act of 1976 and the Public Rangelands Improvement Act of 1978, establishes wild free-roaming horses and burros as a part of the natural system where they occur on National Forest System lands. The acts require management, protection, and control of these horses and burros. Four acts important in protection and control of wild free-roaming horses, and burros are the Multiple Use-Sustained Yield Act of 1960, the National Environmental Policy Act of 1969, and the Resource Planning Act as amended by the National Forest Management Act. Legal citations for these acts are in FSM 2201.

### **2260.2 – Objective**

To maintain wild free-roaming horse and burro populations in a thriving ecological balance in the areas they inhabit on National Forests.

### **2260.3 - Policy**

1. Confine wild free-roaming horses and burros to managed Horse and Burro Territories as established in 1971, to the extent possible.
2. Determine population levels by considering the animals' forage and habitat requirements, wildlife, permitted livestock, and other uses recognized under the Multiple Use-Sustained Yield Act.
3. Remove excess animals from the range at the earliest opportunity.
4. Recognize wild free-roaming horses and burros as part of the natural system of National Forests.
5. Recognize wild horse-burro territory boundaries in Forest land management plans.
6. Relocate wild free-roaming horses and burros only to territories identified in 1971, and only where a receiving territory has sufficient suitable habitat to sustain planned population levels.
7. Manage, protect, and control wild free-roaming horses and burros on National Forest land rather than issue leases or permits to private parties.
8. Control uses of aircraft and motor vehicles in such a way that animals are disturbed as little as possible, and in a manner that ensures humane treatment of the animals at all times.

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9. Grant title to individuals who have provided one year of private maintenance and care under humane conditions.

10. The Forest Service may destroy excess wild horses and burros when there is no demand for adoption and it is not practical to capture or relocate the animals. Excess animals may be destroyed when placement in private custody is not achieved within 45 days after capture.

11. Charge adoption fees for all wild horses and burros placed through the Forest Service Adopt-A-Horse Program.

12. Do not apply adoption fees or transportation charges to unweaned offspring, which are under the age of 6 months and accompany their mare or jenny.

### **2260.4 – Responsibility**

Responsibilities for administering this program are included in FSM 2204 - 2204.3.

#### **2260.41 - Regional Foresters**

Regional Foresters are authorized to abolish territories or adjust territorial boundaries if justified in the Forest Land and Resource Management Plan.

Regional Foresters may enter into State level agreements with the Bureau of Land Management to ensure coordinated approaches to management.

#### **2260.5 - Definitions**

Adoption Fee. A fee that partially recovers Forest Service costs incurred in removal of animals from territories, processing adoption applications, providing medical examinations and vaccinations, and feeding and handling the animals during the adoption procedure.

Excess Animals. Wild free-roaming horses or burros that authorized personnel have removed or must remove, pursuant to law, to preserve and maintain ecological balance in coordination with other resources and activities.

Herd Unit. An area of land within a Wild Horse and Burro Territory that is designated as a territorial habitat of one or more stallions/jacks, and their mares/jennies, and progeny, all ranging as one band of animals. A herd unit identifies land area boundaries used by the herd under varying conditions necessary for survival and reproduction.

Territorial Plan. An operational plan for managing one or more herd units of wild free-roaming horses and burros. The plan describes desired population level, detailed management practices, interagency coordination, scheduling, and monitoring requirements for managing each herd unit, within the direction established in the Forest plan.



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Transportation Costs. All costs incurred in moving animals beyond the Forest Service/Bureau of Land Management facility where they are prepared for adoption. See FSM 6531 for collection procedures.

Wild Free-Roaming Horses and Burros. All unbranded and unclaimed horses and burros and their progeny using National Forest System lands on or after December 15, 1971. This also includes all excess horses and burros removed from National Forest System lands by the Forest Service but which have not lost status (FSM 2264). Unbranded, claimed horses and burros found to be under an erroneous claim are also considered wild and free-roaming, if they meet the criteria above.

Does not include any horse or burro introduced onto National Forest System lands on or after December 15, 1971, by accident, negligence, or willful disregard of private ownership. Such animals are unauthorized livestock. Animals that stray from other lands onto National Forest lands are not considered wild free-roaming horses and burros and are not under Forest Service protection, unless they stray from a Bureau of Land Management wild free-roaming horse or burro herd area.

Wild Horse and Burro Territory. National Forest land identified by the Chief as the territorial habitat of wild free-roaming horses and/or burros when the Wild Horses and Burros Protection Act was passed.

## **2261 – COOPERATION**

Consult and cooperate with the organizations that may be affected or interested in providing for protection, management, determination of excess animals, and control of wild free-roaming horses and burros.

### **2261.1 - Bureau of Land Management**

Coordinate all activities related to wild horses and burros with the Bureau of Land Management (BLM) to reflect similar management objectives.

When wild free-roaming horses and burros roam part of the year on National Forest lands and part of the year on lands administered by BLM, the authorized officers of the two agencies should develop and approve a single territory plan. The plan should include agreement on inventory, desired population level, determination of excess animals, planning, management, protection, control, capture methods, and responsibility for initiating action. The plan may designate a lead agency for management actions.

The Forest Service coordinates with BLM the Adopt-A-Horse Program through agreement (FSM 1531.11a).

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### **2261.2 - Other Federal Agencies**

Consult with the Fish and Wildlife Service, other affected land management agencies, and interested individuals in developing management levels for the protection, management, and control of wild free-roaming horses and burros, and in developing plans for removal of excess animals.

### **2261.3 - State and Local Governments**

Develop a memorandum of understanding with the State agency responsible for enforcing State branding and estray laws. Preferably, the Bureau of Land Management (BLM) will be a party to the agreement. The memorandum of understanding should state clearly what is acceptable proof of ownership of claimed animals. In each State, the Forest Service and the BLM should develop identical criteria and procedures for establishing ownership of claimed animals. The courts have established that it is the responsibility of the Federal Government to determine whether or not the animals in questions are "wild and free-roaming." Once this determination has been made, the State agency responsible for enforcing brand and estray laws may handle ownership claims for those animals determined not to be wild free-roaming, in accordance with State law.

### **2261.31 - State Wildlife Agencies**

Consult and cooperate with the State wildlife agency in management, protection, and control of wild free-roaming horses and burros. Such consultation and cooperation should include, but not be limited to:

1. Proposals to modify boundaries of established wild horse and burro territories.
2. Territory plans for wild free-roaming horses and burros, including plans for the achievement of appropriate population levels through removal and/or destruction of excess animals.
3. Determination of the effects of wild free-roaming horses and burros on other resource uses, especially wildlife and wildlife habitat, and coordination measures necessary to mitigate adverse impacts.
4. Proposals for predator control.

### **2261.4 - Private Individuals and Organizations**

Participation of a well-informed public in management of wild horses and burros is desirable. Participation often can be achieved through public meetings, contacts with organized wild horse and burro protection groups, local livestock associations, or organizations with scientific expertise or special knowledge of wild horses and burros, or by individual contact.

### **2261.5 - Agreement and Memorandums of Understanding**

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When necessary, enter into agreements or memorandums of understanding with other Federal agencies, State agencies, local governments, and private individuals and organizations in carrying out the responsibilities of management, protection, and control of wild free-roaming horses and burros.

## **2262 - INVENTORY AND STUDIES**

### **2262.1 – Inventory**

Maintain a current inventory of the number of wild free-roaming horses and burros on each territory.

In addition to population numbers, the census of wild free-roaming horses and burros shall include herd composition, reproduction rates, seasonal feeding habits, herd unit area, seasonal distribution or movement, external influences, and the effects of other animal species on behavior of wild horses and burros.

#### **2262.11 - Individual Animal Data**

It is important to identify some individual animals (marker animals) for management purposes and for processing private ownership claims. Obtain information about age, sex, reproduction, and color markings of individual wild horses and burros as needed.

### **2262.2 – Habitat**

Range analyses and wildlife inventories are primary sources of information about habitat of wild free-roaming horses and burros. When information is not available, follow procedures described in FSM 2213 and FSM 2620 for gathering habitat information. In addition, use information available in other resource inventories in evaluating habitat. Baseline data must be established to determine long-term range condition and trend.

### **2262.3 – Wild Horse and Burro Ecology [Reserved]**

## **2263 - MANAGEMENT OF WILD FREE-ROAMING HORSES AND BURROS**

### **2263.1 - Wild Horse and Burro Territory Plans**

Prepare a territory plan for each Wild Horse and Burro Territory. The plan shall ensure implementation of and compliance with the management direction identified in Regional Guides and Forest land and resource management plans (FSM 1921, 1922). Wild Horse and Burro Territory plans shall follow the outline for allotment management plans (FSM 2214). In addition, the plans shall include a section on management of the animals, addressing such items as population level, special consultation and coordination considerations, and plans for the removal or disposal of excess animals.

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### **2263.11 - Elements of Plan**

1. Objectives. Clearly state the objectives of managing animal, vegetation, and soil resources. In establishing objectives, note the importance of retaining wild free-roaming horses and burros in ecological balance. Wild Horse and Burro Territory plans are to conform with the Forest land and resource management plans. Consider existing livestock and wildlife needs and activities as well as the forage requirements of all animals.

Selective removal of excess animals or relocation of superior animals from other territories to improve gene pool is prohibited. The intent of the Wild Horses and Burros Protection Act is to manage these animals as part of the natural ecosystem.

2. Actions. Includes such direction as population level, protection requirements, and means for removal and/or disposal of excess animals. Identify action needed to achieve management objectives.

Establish population levels by considering:

- a. Number of animals.
- b. Suitability of range.
- c. Range condition and trend.
- d. Other associated resources and resource use activities.

The plan must include range improvements in order to ensure desired management. Range improvements may be constructed from appropriated funds or deposits.

3. Evaluation. Describe the system to be used to determine progress in meeting management objectives.

4. Annual Operating Plan. List the actions for the current year to implement management direction. Include plans for removal of excess animals.

## **2264 - PROTECTION OF WILD FREE-ROAMING HORSES AND BURROS**

### **2264.1 - Agency Responsibility**

Wild free-roaming horses and burros remain under protection of the Forest Service and/or the Bureau of Land Management even though they stray from National Forest lands to lands under other Federal jurisdiction such as National Parks, monuments, and military reservations. The Forest Service shall maintain surveillance of and provide protection for wild free-roaming horses and burros at all times. Utilize agreements, memorandums of understanding, or other

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instruments authorized by law to protect these animals. Forest Service personnel are not authorized, in the absence of agreements with landowners or court orders to enter lands of other ownership for the surveillance and protection of wild horses and burros. When there is reason to suspect violation of the protective measures of the Wild Horses and Burros Protection Act and regulations, initiate appropriate administrative and/or criminal and civil judicial procedures.

### **2264.2 - National Forest System**

Do not issue permits to individuals or organizations for management of animals on National Forest System lands. Consider entering into agreements whereby individuals or organizations may provide funds for management purposes, improvement of water supply, fencing, or other habitat needs.

### **2264.3 - Private Lands**

Agency officials may permit owners of private land who wish to maintain wild free-roaming horses and burros to do so when excess animals are available, and when the owners agree to provide management, protection, and control of the animals, and as a condition of such agreement, to provide an annual report of the welfare and condition of the animals. When wild horses and burros stray or migrate seasonally from National Forest lands onto private lands and the owner does not object to their intermittent presence, the authorized officer should formulate agreements that establish a mutual understanding about the animals' management.

## **2265 - ANIMAL CONTROL**

### **2265.1 – Capture**

Capture wild free-roaming horses and burros as necessary for management, protection, and control. Corral captured animals and hold them in a humane manner pending release, relocation, or disposal. All actions affecting the capture of wild free-roaming horses and burros shall be under the direction of a Forest officer with delegated authority (FSM 2204.3).

### **2265.2 - Removal of Animals at Landowner's Request**

Upon request of a landowner, Forest Service personnel shall remove wild free-roaming horses and burros that have strayed from National Forest lands onto private lands. When fences on boundaries between private lands and National Forest do not exist or are not adequate, advise the landowners of their responsibilities, what the Forest Service position is, and come to an agreement about who will construct, improve, or maintain such fences.

Adhere to applicable State laws governing movement of live-stock when moving wild free-roaming horses and burros from private lands. Return all wild free-roaming horses and burros from private lands to their normal herd territories with minimum physical damage or stress to the animals. Use helicopters and motor vehicles within limits established in FSM 2267.

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When strayed animals pose an imminent threat to the safety of persons or are likely to cause excessive damage to private property if not removed immediately, they may be destroyed in the most humane and cost-efficient manner possible.

### **2265.3 - Removal of Excess Animals**

Remove excess animals in the following order and priority:

1. Old, sick, or lame animals. They should be destroyed in the most humane manner possible.
2. Those animals determined to be "excess" to the maintenance of a natural ecological balance. The remaining number is that acceptable population range identified in the management plans.

### **2265.4 - Relocation of Wild Horses and Burros**

Relocate wild horses and burros if they are excess or if it is necessary to prevent their repeated return to private land from which their removal has been requested. Relocation must be to one or more of the following:

1. Some other area designated as a Wild Horse and Burro Territory, if suitable habitat and grazing capacity is available.
2. Lands administered by the Bureau of Land Management.
3. Custody of other parties, under agreement.

### **2265.5 - Maintenance and Care Agreement**

Authorized Forest officers may place excess animals with qualified individuals, Government agencies, or other entities. Written agreement must accompany such relocation. Animals may remain in private custody for an indefinite period.

Allow an individual to adopt No more than four animals per year, unless the applicant is found capable of caring for more than four animals. Document evidence of the individual's ability to care for additional animals. Each Region shall establish procedures, including public awareness, for adoption programs. Coordinate programs with local Bureau of Land Management efforts (FSM 2261.1).

The maintenance and care agreement will provide for:

1. Humane treatment and care of animals.

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2. Prevention of sale of the animals.
3. Prevention of transfer or assignment of the animal to a third party without approval of the Forest Service.
4. Domestication, including riding, packing, and other recognized uses of domesticated horses and burros.
5. Possible gelding of stallions.
6. Ownership of foals born during the time animals are in custody of private parties.
7. Submission of periodic reports to the Forest Service.
8. Prohibiting financial remuneration from carcasses of animals.
9. Notification, within at least 7 days, of the death of adopted animal.
10. Transfer of ownership (granting of title) at the end of one year of humane care and maintenance (FSM 2265.56).

**2265.51 - Identification of Animals Placed in Private Custody**

All animals placed in private custody must receive a number for identification purposes. Use the Alpha Angle marking and numbering system where sizable numbers are processed or where animals are processed in cooperation with the Bureau of Land Management. Use freeze brand methods to place markings under the mane on the left side of the neck.

**2265.52 - Assignment of Number**

Numbers are assigned as follows:

<u>State</u>	<u>Numbers to be Assigned</u>	<u>Total Number Available</u>
Arizona	975,001 - 975,500	500
California	975,501 - 985,500	10,000

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<u>State</u>	<u>Numbers to be Assigned</u>	<u>Total Number Available</u>
Colorado	985,501 - 986,000	500
Idaho	986,001 - 986,500	500
Montana	986,501 - 987,000	500
New Mexico	987,001 - 990,000	3,000
Nevada	990,001 - 997,000	7,000
Oregon	997,001 - 998,500	1,500
Utah	998,501 - 999,500	1,000
Wyoming	999,501 - 999,999	<u>499</u>
		24,499

Numbers are assigned through the Bureau of Land Management. It is suggested that Regions make allocations by territories or Forest.

### **2265.53 - Control of Numbers**

Do not reuse numbers for 20 years following the granting of title or 5 years following the known death of a horse or burro placed in private custody.

Report any horses or burros marked by numbers to the Bureau of Land Management, Denver Service Center. It is not necessary to report assigned numbers not yet marked on animals to BLM.

### **2265.54 - Adoption Fee Procedures**

Charge adoption fees and transportation costs used in the Adopt-A-Horse Program. Where advance applications for adoptions are required, the adopting individual must make a non-refundable \$25 advance payment with the application. Such advance payment is applicable to the total fee.

Mark Forest Service animals to be moved through BLM adoption centers to the eastern states with BLM Alpha Code numbers and process them as BLM animals. When animals are processed through BLM facilities, come to agreement about charges for transportation costs. See FSM 6531 for collection and billing procedures.



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### **2265.55 – Violations**

Handle violations of maintenance and care agreements, including unlocatable cooperators, as set forth in FSM 5320.3, FSM 5303.12, and FSM 5321.4.

### **2265.56 - Conditions for Granting Title**

Grant title to wild free-roaming horses and burros applicant when:

1. Applicant has provided the animal maintenance and care under humane conditions for at least 1 year.
2. Unless waived in writing, the application for title includes a written statement by a licensed veterinarian attesting to the present condition and treatment of the animal.
3. Applicant is of legal age in the State in which the applicant resides.

Grant title to no more than four animals per year to any individual, organization, or government agency unless they have an agreement, which covers more than four animals. The maintenance and care agreement may include the application for title. The title can then be issued when 1 year of humane maintenance and care has been provided.

### **2265.57 - Status of Animal After Title Has Been Granted**

After title has been granted, the horse or burro loses its wild free-roaming status, the United States has no further jurisdiction, and the owner has full freedom to manage, protect, use, and control the animal.

### **2265.6 - Disposal of Animals on National Forest System Lands**

#### **2265.61 - Act of Mercy**

Immediately destroy severely injured or seriously ill animals on National Forest System lands in the most humane manner possible under the supervision of a Forest officer delegated such authority. Destruction as an act of mercy is acceptable regardless of other population considerations. Destruction of an animal as an act of mercy should be documented fully by the person who destroys the animal. Documentation should describe the health of the animal, reason for its destruction, and cause of injury or circumstances leading to the animal's condition.

#### **2265.62 - Excess Unadoptable Animals**

Animals not placed under care and maintenance agreements to qualified individuals within 45 days following capture may be destroyed in the most humane and cost-efficient manner possible. Make a reasonable attempt to establish demand for these animals before destroying them.

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Dispose of carcasses in accordance with FSM 2265.7. Adhere to State and local laws in destroying excess animals and consult local veterinarians for advice.

### **2265.7 – Carcasses**

Carcasses of animals that were wild free-roaming lose their status and no longer fall under the jurisdiction of the United States when:

1. Animals have been destroyed as an act of mercy. This includes carcasses of animals under private maintenance and care agreement.
2. Excess animals have been destroyed or their disposal approved of by an authorized Forest officer in carrying out provisions of the territory management plan.
3. Animals have died of natural causes on National Forest lands or on private land where they were being maintained under agreement.

Follow State and local laws in the disposal of these carcasses.

### **2265.71 - Carcasses That Retain Status as Wild Free-Roaming Horses and Burros**

Retain the status of wild free-roaming horses and burros that are deliberately destroyed by others for malicious or capricious reasons. Do not process these carcasses through a rendering plant or into a commercial product. When State sanitary codes do not prescribe techniques for disposal, consider burying or burning the carcasses in accordance with State fire laws.

### **2266 – CLAIMS**

Privately-owned branded or unbranded horses and burros might roam into areas established as Wild Horse and Burro Territories and become intermingled with wild free-roaming horses and burros. Pursuant to 36 CFR 222.22(a), individuals claiming ownership of these animals must make their claim to the District Ranger, who then decides whether or not to recommend a roundup to determine the validity of the claim. The Forest Supervisor makes the decision whether to authorize a roundup in writing (FSM 2266.2).

#### **2266.1 - Handling Ownership Claims**

Settle claims as soon as possible after capturing the claimed animals. The District Ranger shall verify or reject the claim and shall obtain a written release from the claimant for animals verified.

#### **2266.2 - Authorization to Gather Claimed Animals**

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Authorization to gather privately claimed horses and burros located on Wild Horse and Burro Territories, whether or not they have become intermingled with wild free-roaming horses and/or burros, must be in writing by the Forest Supervisor. The written authorization must as a minimum:

1. Be consistent with the provisions of 36 CFR 222.22.
2. Establish a specific, reasonable period of time to allow the gathering of claimed animals.
3. Stipulate that Forest Officers make periodic observations of roundup operations.
4. Stipulate measures for the roundup that ensure humane treatment of wild free-roaming horses and burros.
5. Outline criteria for achieving compliance with agreements with the State agency administering the State estray laws. In the absence of an agreement, the authorization shall outline measures required by the Forest Service to comply with State law.
6. In the event that helicopter use is authorized for the roundup, the authorization shall specify how such helicopters shall be used to ensure humane treatment of all horses and burros involved (FSM 2204.3).
7. Provide for inspection of captured animals by authorized Forest officer to verify ownership. Use State brand inspectors whenever possible.

**2267 - USE OF HELICOPTERS, FIXED-WING AIRCRAFT, AND MOTORIZED VEHICLES**

The Wild Horse and Burro Protection Act limits use of helicopters, fixed-wing aircraft, and motor vehicles. There are no limitations when such vehicles are used in carrying out management programs, such as inventory, observation, movement, relocation, and surveillance purpose, except that use must be in a manner that ensures humane treatment of the animals. There are strict limitations concerning use of aircraft and ground motor vehicles in connection with the capture or transport of wild horses and burros.

**2267.1 - Public Meetings**

Hold public meetings before initiating capture operations that include use of helicopters with subsequent use of motor vehicles to transport captured animals.

Hold public meetings close to the territory where the capture operations are to take place. Plan the meetings far enough in advance of capture operations to allow for changes in plans that result from public input.

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The Forest Supervisor or a representative authorized by the Forest Supervisor shall preside over the meeting. Federal Register notice of a meeting is desirable when there is considerable public interest in the operation or it has generated controversy.

Verbatim documentation of these meetings is not necessary. Keep minutes that identify the date and place of meeting, the number in attendance, and the names of those offering comments, as well as a summary of comments made. Minutes of the meeting shall be filed in the Forest Supervisor's office, as well as in the affected Ranger's office.

### **2267.2 - Prohibition Against Use of Fixed-Wing Aircraft to Capture Wild Free-Roaming Horses and Burros**

The Wild Horse Protection Act of September 8, 1959, as amended (18 U.S.C. 21 et seq.), prohibits use of fixed-wing aircraft in capturing wild horses and burros. Use such aircraft as support vehicles to transport personnel and equipment, but not in actual capture operations.

### **2267.3 - Use of Helicopters in Capture Operations**

Helicopter use in the capture of wild free-roaming horses and burros is acceptable, subject to compliance with public meeting requirements (FSM 2267.1) and to the following stipulations:

1. Helicopters must be used in a manner that ensures humane treatment of wild free-roaming horses and burros. They may be used to locate animals, to assist ground crews in moving and turning animals to encourage movement, to immobilize animals with tranquilizers, and for related purposes such as transporting personnel and equipment.
2. Use helicopters in roundups in such a manner that bands or herds will tend to remain together.
3. Do not move horses or burros at a rate that exceeds the limitations set by the authorized officer who shall consider terrain, weather, distance to be traveled, and condition of animals in setting the limitations.
4. Use helicopters to observe the presence of dangerous areas and to move animals away from hazards during capture operations.
5. During capture operations, move animals in such a way as to limit stress or injury.
6. The authorized Forest officer supervising helicopter use shall:
  - a. Have means to communicate with the pilot and direct the helicopter's use.
  - b. Be able to observe the effects of the helicopter on the animals.

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**2267.4 - Use of Motor Vehicles to Transport Excess Wild Horses and Burros**

Use of motor vehicles to transport excess wild horses or burros is acceptable, subject to compliance with public meeting requirements (FSM 2267.1). Do not use motor vehicles for rounding up, driving, or chasing wild free-roaming horses or burros. Transport excess animals in a humane manner to minimize injury. The following guidelines apply:

1. Such transportation shall comply with appropriate State and Federal laws and regulations on humane transportation of horses and burros.
2. Inspect vehicles before use to ensure they are in good repair and of adequate rated capacity. Do not use "possum belly" cattle trucks to transport wild free-roaming horses and burros.
3. Unless otherwise approved by the authorized officer, limit the transportation of wild free-roaming horses and burros, in sequence, to a maximum of 24 hours in transit followed by a minimum of 5 hours of on-the-ground rest with adequate feed and water.
4. Operate vehicles carefully to ensure that excess animals are transported without undue risk or injury.
5. Where necessary and practical, sort animals by age, temperament, sex, size, and condition to limit injuries from fighting and trampling to the extent possible.
6. Consider the condition of the animals, weather conditions, type of vehicle, and distance to be traveled when planning for transportation of captured animals.

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### **2270.1 - Authority**

The general authority for current records and reports is the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476), as amended by the National Forest Management Act of 1976 (90 Stat. 2947). This act requires the development and maintenance of a comprehensive and appropriately detailed inventory of all National Forest System lands and renewable resources. This inventory is to be kept current so as to reflect changes in conditions and identify new and emerging resources and values.

This act also requires annual evaluation reports that show the progress of renewable resource programs, that provide information to aid Congress in its oversight responsibilities, and that improve accountability for expenditures and activities. Report FS-1900-C, Report of the Forest Service, is furnished to Congress annually when the fiscal budget is submitted.

Section 11 of the Wild Free-Roaming Horse and Burro Act (16 U.S.C. 1331-1340) requires the Secretaries of Agriculture and the Interior to submit a biannual report to Congress on the administration of the wild horse and burro program.

### **2270.2 - Objective**

To meet the legal requirement of developing and maintaining a comprehensive inventory of range resources information that reflects changes in conditions and identifies new opportunities and values.

### **2270.3 - Policy**

Collect, store, and process range management information for use in activities such as:

1. Forest land and resource management planning.
2. Range allotment management planning.
3. Grazing and livestock use permit administration.
4. Range improvement inventory.
5. Wild and free-roaming horse and burro inventory and administration.
6. Presenting accomplishments and projections for program development and budgeting.
7. Reporting accomplishments in Report FS-1900-C, Report of the Forest Service.

**FSM 2200 - RANGE MANAGEMENT  
CHAPTER 2270 - INFORMATION MANAGEMENT AND REPORTS**

## **2271 - FOREST SERVICE RANGE MANAGEMENT INFORMATION SYSTEM**

### **2271.02 - Objectives**

The primary objective of the Forest Service Range Management Information System (FSRAMIS) is to provide a uniform system for collection, storage, and retrieval of information used in the management of National Forest System range and related resources.

A corollary objective is to provide information about National Forest System range resources to other Government agencies, Congress, research and educational institutions, and the general public.

### **2271.03 - Policy**

The FSRAMIS database manages statistical data about Forest Service rangeland resources for both internal use and public information (FSH 2209.15, Range Management Annual Reports Handbook).

### **2271.04 - Responsibilities**

#### **2271.04a - Director of Forest and Rangeland**

The Director of Forest and Rangeland shall coordinate data required by the Washington Office to ensure uniform data input.

#### **2271.04b - Regional Forester**

The Regional Forester is responsible for management, control and implementation of the FSRAMIS System. The Regional Forester may elect not to implement FSRAMIS on units that have little or no Range use, or those that do not require an automated system. This does not relieve the Regional Forester of the responsibility of providing accurate and timely Range Management data in the required formats (FSH 2209.15, Range Management Annual Reports Handbook).

#### **2271.04c - Forest Supervisor**

Specific management and control of the Forest database is the responsibility of the Forest Supervisor.

### **2271.1 - Forest Service Range Management Information System Applications**

FSRAMIS was developed for Forest and District level applications. Data required for Washington Office needs shall be provided in specified data file formats. This data may be extracted from FSRAMIS databases where they exist.



**FSM 2200 - RANGE MANAGEMENT  
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## **2272 - REPORT REQUIREMENTS**

Complete and submit annual range reports as specified in FSH 2209.15.

### **2272.04 - Responsibility**

#### **2272.04a - Regional Forester**

The Regional Forester shall verify the accuracy of data submitted by the Forest Supervisor and submit the required data and reports to the Washington Office.

#### **2272.1 - Reporting Dates**

Data must be submitted or made available to the Washington Office for consolidation into national reports. Report FS-2200-J, Annual Grazing Statistical Report and Associated data file are due annually on July 15. Report FS-2200-B, Range Management Improvement Accomplishment Report and FS-2200-A, Range Allotment Management Status Report along with the data file are due annually on October 31, FS-2200-E Wild, Free-Roaming Horses and Burros on Public Lands Report is due annually on October 31.



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**FSM 2200 - RANGE MANAGEMENT**

**CHAPTER 2230 - GRAZING AND LIVESTOCK USE PERMIT SYSTEM**

**Interim Directive No.:** 2230-2011-1

**Effective Date:** March 1, 2011

**Duration:** This interim directive expires on February 29, 2012.

**Approved:** JOEL D. HOLTROP  
Deputy Chief, NFS

**Date Approved:** 02/28/2011

**Posting Instructions:** Interim directives are numbered consecutively by title and calendar year. Post by document at the end of the chapter. Retain this transmittal as the first page(s) of this document. The last interim directive was 2230-2010-1 to FSM 2230.

<b>New Document</b>	id_2230-2011-1	4 Pages
<b>Superseded Document(s) (Interim Directive Number and Effective Date)</b>	None	

**Digest:**

2238.6 - This interim directive (ID) to FSM 2238.6, Annual Rates and Competitive Bid Adjustment Factors, corrects the dates for grazing fee rates. This ID corrects the effective and duration dates, and sets out the grazing fee rates in effect for the 2011 grazing season on National Forest System lands. The rates are for unauthorized use and permittee excess use; fee charged livestock use permits; and competitive bid permits-2011 bid adjustment factors.

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**2238.6 - Annual Rates and Competitive Bid Adjustment Factors**

Exhibit 01 sets forth the rates to be charged for grazing from March 1, 2011 through February 29, 2012.

**2238.6 - Exhibit 01**

**2011 GRAZING YEAR RATES (PER HEAD MONTH)**

1. National Forests and Land Utilization Projects, 16 Western States (Regions 1-6), and National Grasslands in California, Idaho, and Oregon (Regions 4-6).

<b>Grazing Fee</b>		<b>Unauthorized Use</b>		<b>Fee Charged Livestock Use Permits</b>	
<u>Cattle/ Horses</u>	<u>Sheep/ Goats</u>	<u>Cattle/ Horses</u>	<u>Sheep/ Goats</u>	<u>Cattle/ Horses</u>	<u>Sheep/ Goats</u>
\$1.35	\$0.27	\$2.24	\$0.45	\$1.35	\$0.27

2. National Grasslands in the Nine Great Plains States (Regions 1, 2, 3, and 8).

<b>Grazing Fee</b>		<b>Unauthorized Use</b>		<b>Fee Charged Livestock Use Permits</b>	
<u>Cattle/ Horses</u>	<u>Sheep/ Goats</u>	<u>Cattle/ Horses</u>	<u>Sheep/ Goats</u>	<u>Cattle/ Horses</u>	<u>Sheep/ Goats</u>
\$1.35	\$0.27	\$2.05	\$0.41	\$1.35	\$0.27

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3. National Forests and Land Utilization Projects in the Eastern United States (Regions 8 and 9).

**a. Noncompetitive Permits**

Subregion	Grazing Fee		Unauthorized Use		Fee Charged Livestock Use Permits	
	Cattle/ Horses	Sheep/ Goats	Cattle/ Horses	Sheep/ Goats	Cattle/ Horses	Sheep/ Goats
Northeast	\$ 5.88	\$ 1.18	\$10.93	\$ 2.19	\$ 5.88	\$ 1.18
Lake States	\$ 5.15	\$ 1.03	\$ 9.20	\$ 1.84	\$ 5.15	\$ 1.03
Corn Belt	\$ 4.80	\$ 0.96	\$ 8.82	\$ 1.76	\$ 4.80	\$ 0.96
Appalachia	\$ 5.30	\$ 1.06	\$ 6.29	\$ 1.26	\$ 5.30	\$ 1.06
Southeast/ Delta	\$ 5.15	\$ 1.03	\$ 6.06	\$ 1.21	\$ 5.15	\$ 1.03
Florida	\$ 3.62	\$ 0.72	\$ 5.04	\$ 1.01	\$ 3.62	\$ 0.72

**b. Competitive Bid Permits – Grazing Year Bid Adjustment Factors**

Subregion	Bid Adjustment Factor	Subregion	Bid Adjustment Factor	Subregion	Bid Adjustment Factor
Northeast	1.74	Lake States	1.51	Corn Belt	1.09
Appalachia	1.44	Southeast/Delta	1.47	Florida	2.07