

FSM 2200 - RANGE MANAGEMENT
CHAPTER 2230 - GRAZING AND LIVESTOCK USE PERMIT SYSTEM

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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.