

## Bureau of Land Management, Interior

## § 4150.4-2

### § 4150.3 Settlement.

Where violations are repeated willful, the authorized officer shall take action under § 4170.1-1(b) of this title. The amount due for settlement shall include the value of forage consumed as determined in accordance with paragraph (a), (b), or (c) of this section. Settlement for willful and repeated willful violations shall also include the full value for all damages to the public lands and other property of the United States; and all reasonable expenses incurred by the United States in detecting, investigating, resolving violations, and livestock impoundment costs.

(a) For nonwillful violations: The value of forage consumed as determined by the average monthly rate per AUM for pasturing livestock on privately owned land (excluding irrigated land) in each State as published annually by the Department of Agriculture. The authorized officer may approve nonmonetary settlement of unauthorized use only when the authorized officer determines that each of the following conditions is satisfied:

(1) Evidence shows that the unauthorized use occurred through no fault of the livestock operator;

(2) The forage use is insignificant;

(3) The public lands have not been damaged; and

(4) Nonmonetary settlement is in the best interest of the United States.

(b) For willful violations: Twice the value of forage consumed as determined in paragraph (a) of this section.

(c) For repeated willful violations: Three times the value of the forage consumed as determined in paragraph (a) of this section.

(d) Payment made under this section does not relieve the alleged violator of any criminal liability under Federal or State law.

(e) Violators shall not be authorized to make grazing use on the public lands administered by the Bureau of Land Management until any amount found to be due the United States under this section has been paid. The authorized officer may take action under § 4160-1 of this title to cancel or suspend grazing authorizations or to deny approval of applications for grazing use until such amounts have been

paid. The proposed decision shall include a demand for payment.

[49 FR 6454, Feb. 21, 1984, as amended at 53 FR 10235, Mar. 29, 1988; 60 FR 9968, Feb. 22, 1995; 61 FR 4227, Feb. 5, 1996]

### § 4150.4 Impoundment and disposal.

Unauthorized livestock remaining on the public lands or other lands under Bureau of Land Management control, or both, after the date set forth in the notice and order to remove sent under § 4150.2 may be impounded and disposed of by the authorized officer as provided herein.

[43 FR 29067, July 5, 1978. Redesignated at 47 FR 41712, Sept. 21, 1982]

### § 4150.4-1 Notice of intent to impound.

(a) A written notice of intent to impound shall be sent by certified mail or personally delivered to the owner or his agent, or both. The written notice shall indicate that unauthorized livestock on the specified public lands or other lands under Bureau of Land Management control, or both, may be impounded any time after 5 days from delivery of the notice.

(b) Where the owner and his agent are unknown, or where both a known owner and his agent refuses to accept delivery, a notice of intent to impound shall be published in a local newspaper and posted at the county courthouse and a post office near the public land involved. The notice shall indicate that unauthorized livestock on the specified public lands or other lands under Bureau of Land Management control, or both, may be impounded any time after 5 days from publishing and posting the notice.

[43 FR 29067, July 5, 1978. Redesignated and amended at 47 FR 41712, Sept. 21, 1982; 49 FR 6454, Feb. 21, 1984]

### § 4150.4-2 Impoundment.

After 5 days from delivery of the notice under § 4150.4-1(a) of this title or any time after 5 days from publishing and posting the notice under § 4150.4-1(b) of this title, unauthorized livestock may be impounded without further notice any time within the 12-

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month period following the effective date of the notice.

[47 FR 41712, Sept. 21, 1982, as amended at 49 FR 6454, Feb. 21, 1984; 49 FR 12705, Mar. 30, 1984]

#### § 4150.4-3 Notice of public sale.

Following the impoundment of livestock under this subpart the livestock may be disposed of by the authorized officer under these regulations or, if a suitable agreement is in effect, they may be turned over to the State for disposal. Any known owners or agents, or both, shall be notified in writing by certified mail or by personal delivery of the sale and the procedure by which the impounded livestock may be redeemed prior to the sale.

[43 FR 29067, July 5, 1982. Redesignated and amended at 47 FR 41712, Sept. 21, 1982; 49 FR 6454, Feb. 21, 1984]

#### § 4150.4-4 Redemption.

Any owner or his agent, or both, or lien-holder of record of the impounded livestock may redeem them under these regulations or, if a suitable agreement is in effect, in accordance with State law, prior to the time of sale upon settlement with the United States under § 4150.3 or adequate showing that there has been no violation.

[43 FR 29067, July 5, 1978. Redesignated at 47 FR 41712, Sept. 21, 1982]

#### § 4150.4-5 Sale.

If the livestock are not redeemed on or before the date and time fixed for their sale, they shall be offered at public sale to the highest bidder by the authorized officer under these regulations or, if a suitable agreement is in effect, by the State. If a satisfactory bid is not received, the livestock may be re-offered for sale, condemned and destroyed or otherwise disposed of under these regulations, or if a suitable agreement is in effect, in accordance with State Law.

[43 FR 29067, July 5, 1978. Redesignated and amended at 47 FR 41712, Sept. 21, 1982]

## 43 CFR Ch. II (10-1-02 Edition)

### Subpart 4160—Administrative Remedies

#### § 4160.1 Proposed decisions.

(a) Proposed decisions shall be served on any affected applicant, permittee or lessee, and any agent and lien holder of record, who is affected by the proposed actions, terms or conditions, or modifications relating to applications, permits and agreements (including range improvement permits) or leases, by certified mail or personal delivery. Copies of proposed decisions shall also be sent to the interested public.

(b) Proposed decisions shall state the reasons for the action and shall reference the pertinent terms, conditions and the provisions of applicable regulations. As appropriate, decisions shall state the alleged violations of specific terms and conditions and provisions of these regulations alleged to have been violated, and shall state the amount due under §§ 4130.8 and 4150.3 and the action to be taken under § 4170.1.

(c) The authorized officer may elect not to issue a proposed decision prior to a final decision where the authorized officer has made a determination in accordance with § 4110.3-3(b) or § 4150.2(d).

[60 FR 9968, Feb. 22, 1995]

#### § 4160.2 Protests.

Any applicant, permittee, lessee or other interested public may protest the proposed decision under § 4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision.

[47 FR 41713, Sept. 21, 1982, as amended at 49 FR 6455, Feb. 21, 1984; 61 FR 4227, Feb. 5, 1996]

#### § 4160.3 Final decisions.

(a) In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

(b) Upon the timely filing of a protest, the authorized officer shall reconsider her/his proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At