

plan must be based on the public meeting records and existing survey documents, reports, and other research from Federal agencies, tribal community colleges, and land grant universities. When completed, the plan must:

- (1) Determine available agricultural resources;
- (2) Identify specific tribal agricultural resource goals and objectives;
- (3) Establish management objectives for the resources;
- (4) Define critical values of the tribe and its members and provide identified resource management objectives; and
- (5) Identify actions to be taken to reach established objectives.

(c) Where the provisions in this subpart are inconsistent with the Navajo Nation's agricultural resource management plan, the Secretary may waive the provisions under part 1 of this title, so long as the waiver does not violate a federal statute or judicial decision or conflict with the Secretary's trust responsibility under federal law.

§ 161.201 Is environmental compliance required?

Actions taken by BIA under this part must comply with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, applicable provisions of the Council on Environmental Quality, 40 CFR part 1500, and applicable tribal laws and provisions of the Navajo Nation Environmental Policy Act CAP-47-95, where the tribal laws and provisions do not violate a federal or judicial decision or conflict with the Secretary's trust responsibility under federal law.

§ 161.202 How are range units established?

(a) BIA, with the concurrence of the Navajo Nation, will establish range units on the Navajo Partitioned Lands to provide unified areas for which range management plans can be developed to improve and maintain soil and forage resources. Physical land features, watersheds, drainage patterns, vegetation, soil, resident concentration, problem areas, historical land use patterns, chapter boundaries, special land uses and comprehensive land use planning will be considered in the determination of range unit boundaries.

(b) BIA may modify range unit boundaries with the concurrence of the Navajo Nation. This may include small and/or isolated portions of Navajo Partitioned Lands contiguous to Navajo tribal lands in order to develop more efficient land management.

§ 161.203 Are range management plans required?

Yes. BIA will:

(a) Consult with the Navajo Nation in planning conservation practices, including grazing control and range restoration activities for the Navajo Partitioned Lands.

(b) Develop range management plans with the concurrence of the Navajo Nation.

(c) Approve the range management plans, after concurrence with the Navajo Nation, and the implementation of the plan may begin immediately. The plan will address, but is not limited to, the following issues:

- (1) Goals for improving vegetative productivity and diversity;
- (2) Stocking rates;
- (3) Grazing schedules;
- (4) Wildlife management;
- (5) Needs assessment for range and livestock improvements;
- (6) Schedule for operation and maintenance of existing range improvements and development for cooperative funded projects;
- (7) Cooperation in the implementation of range studies;
- (8) Control of livestock diseases and parasites;
- (9) Fencing or other structures necessary to implement any of the other provisions in the range management plan;
- (10) Special land uses; and
- (11) Water development and management.

§ 161.204 How are carrying capacities and stocking rates established?

(a) BIA, with the concurrence of the Navajo Nation, will prescribe, review and adjust the carrying capacity of each range unit by determining the number of livestock, and/or wildlife, that can be grazed on the Navajo Partitioned Lands without inducing damage to vegetation or related resources on

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each range unit and the season or seasons of use to achieve the objectives of the agricultural resource management plan and range unit management plan.

(b) BIA, with the concurrence of the Navajo Nation, will establish the stocking rate of each range or management unit. The stocking rate will be based on forage production, range utilization, the application of land management practices, and range improvements in place to achieve uniformity of grazing under sustained yield management principles on each range or management unit.

(c) BIA will review the carrying capacity of the grazing units on a continuing basis and, in consultation with the Grazing Committee and affected permittees, adjust the stocking rate for each range or management unit as conditions warrant.

(d) Any adjustments in stocking rates will be applied equally to each permittee within the management unit requiring adjustment.

§ 161.205 How are range improvements treated?

(a) Improvements placed on the Navajo Partitioned Lands will be considered affixed to the land unless specifically exempted in the permit. No improvement may be constructed or removed from Navajo Partitioned Lands without the written consent of BIA and the Navajo Nation.

(b) Before undertaking an improvement, BIA, Navajo Nation and permittee will negotiate who will complete and maintain improvements. The improvement agreement will be reflected in the permit.

§ 161.206 What must a permittee do to protect livestock from exposure to disease?

In accordance with applicable law, permittees must:

- (a) Vaccinate livestock;
- (b) Treat all livestock exposed to or infected with contagious or infectious diseases; and
- (c) Restrict the movement of exposed or infected livestock.

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§ 161.207 What livestock are authorized to graze?

The following livestock are authorized to graze on the Navajo Partitioned Lands: horses, cattle, sheep, goats, mules, burros, donkeys, and llamas.

Subpart D—Permit Requirements

§ 161.300 When is a permit needed to authorize grazing use?

Unless otherwise provided for in this part, any person or legal entity, including an independent legal entity owned and operated by the Navajo Nation, must obtain a permit under this part before using Navajo Partitioned Land for grazing purposes.

§ 161.301 What will a grazing permit contain?

(a) All grazing permits will contain the following provisions:

- (1) Name of permit holder;
- (2) Range management plan requirements;
- (3) Applicable stocking rate;
- (4) Range unit number and description of the permitted area;
- (5) Animal identification requirements (*i.e.*, brand, microchip, freeze brand, earmark, tattoo, etc.);
- (6) Term of permit (including beginning and ending dates of the term allowed, as well as an option to renew, or extend);
- (7) A provision stating that the permittee agrees that he or she will not use, cause, or allow to be used any part of the permitted area for any unlawful conduct or purpose;
- (8) A provision stating that the permit authorizes no other privilege than grazing use;
- (9) A provision stating that no person is allowed to hold a grazing permit in more than one range unit of the Navajo Partitioned Lands, unless the customary use area extends beyond the range unit boundary;
- (10) A provision reserving a right of entry by BIA and the Navajo Nation for range survey, inventory and inspection or compliance purposes;
- (11) A provision prohibiting the creation of a nuisance, any illegal activity, and negligent use or waste of resources;