

## Supporting Statement for Paperwork Reduction Act Submissions

**OMB Control Number 1076-0162**

**Terms of Clearance:** “None”

### **General Instructions**

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When Item 17 of the OMB Form 83-I is checked "Yes", Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

### **Specific Instructions**

#### **A. Justification**

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The purpose of this data collection is to fulfill requirements of 25 CFR 161 General Grazing Regulations as required by the Paperwork Reduction Act . Public Law 103-177, the “American Indian Agricultural Resource Management Act,” (AIARMA) as amended, makes this collection necessary. The Act is Attachment B

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

This regulation is issued to implement the Secretary of the Department of the Interior’s responsibilities for the NPL as mandated by the Navajo-Hopi Settlement Act of 1974, 24 U.S.C. 640d-6402-31, as amended by the Navajo-Hopi Indian Relocation Amendments Acts of 1980, 94 Stat. 929, and the Federal court decisions of *Healing v Jones*, 174 F. Supp.211 (D. Ariz. 1959) (*Healing I*), *Healing v. Jones*, 210 F. Suppl 126 (D. Ariz. 1962), *aff’d* 363 U.S. 758 (1963) (*Healing II*), *Hopi Tribe v. Watt*, 530 F. Suppl. 1217 (D. Ariz. 1982), and *Hopi Tribe v. Watt*, 719 F.2d 314 (9<sup>th</sup> Cir. 1983). The rule is Attachment C.

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The parties submitting information under the regulation are the Navajo Nation, tribal organizations authorized by the Navajo Nation, individual Navajo tribal members. Subparts of the rule that contain information collection requirements are summarized below.

The information provided through information collection requirements is used by the Department of the Interior, the Bureau of Indian Affairs in determining whether or not a permit for grazing may be approved or granted, the name and address of the permittee, the number of animals authorized under the permit, grazing timeframes authorized, and permit violation consequences and remedies.

**Subpart A** contains key terms used throughout the regulation. The terms are consistent with those found in AIARMA. This subpart also describes the Secretary's authorities under part 161.

**Subpart B** is consistent with AIARMA, and makes clear that Navajo Nation laws generally apply to land under the jurisdiction of the Navajo Nation, except to the extent that those Navajo Nation laws are inconsistent with applicable Federal law. Further, unless prohibited by Federal law, BIA will recognize and comply with tribal laws regulation activities on the NPL including tribal laws relating to land use, environmental protection, and historic or cultural preservation.

**Subpart C** lists the environmental compliance and management documents that are required by AIARMA. This subpart also discusses how carrying capacity and stocking rates are established.

**Subpart D** describes the general requirements for obtaining a permit, the provisions contained in a grazing permit, the restrictions placed on permits, and other permit requirements.

**Subpart E** sets forth eligibility and priority criteria for re-issuance of cancelled grazing permits. This subpart makes clear that the Navajo Nation may prescribe eligibility requirements for grazing allocations within 180 days following the effective date of these regulations. The BIA will prescribe the eligibility requirements after expiration of the 180-day period in the event that the Navajo Nation does not prescribe eligibility requirements, or in the event that the Navajo Nation does not take satisfactory action. This subpart also describes how new permits may be granted after the initial re-issuance of permits, and sets forth the procedures for reissuing permits and allocation permits within each range unit.

**Subpart F** describes how permits may be transferred, assigned or modified

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**Subpart G** sets forth the procedures for investigation, notification and processing of permit violations. This subpart also describes the process by which mediation can be used in the event of a permit violation.

**Subpart H** describes the process for trespass notification, enforcement, actions and penalties, damages and costs.

3. **Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden [and specifically how this collection meets GPEA requirements].**

During December, 2001, Indian Affairs (IA) was forced to disconnect from the internet by a court order issued by the judge in the Cobell litigation. Hence, IA cannot implement GPEA until reconnection to the internet is completed.

Tribes, tribal organizations and individual Indians submit required information in standard written formats to meet the needs of the permit and its special considerations. There are no barriers for the use of electronic technology to collect the information and reduce the burden of this collection.

4. **Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

This information is not duplicated in any other data collection. This information is unique to the administration of permits on tribal and individual Indian lands. In keeping with the Paperwork Reduction Act and other statutory requirements, the information collected is the minimum needed for the intended purpose.

5. **If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

Tribes and tribal organizations are considered small governmental jurisdictions under the Small Business Regulatory Enforcement Fairness Act (SBREFA). The BIA consulted with the tribes and through various tribal member non-governmental organizations to determine what information collection was necessary to ensure the fair and equitable administration of grazing permits on Indian lands. Through this consultation the information collection burden has been minimized.

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**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

The information collection burden cannot be reduced any further without jeopardizing the integrity of the grazing permit program. Information is collected, as needed, when tribe, tribal entities or individual Indians want to allow grazing on their lands. If the collection is not conducted, or is conducted less frequently, the BIA will not be able to properly administer and monitor grazing permits on Indian lands.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- \* *requiring respondents to report information to the agency more often than quarterly;*
- \* *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
- \* *requiring respondents to submit more than an original and two copies of any document;*
- \* *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;*
- \* *in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*
- \* *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
- \* *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*
- \* *requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

There are circumstances that require exceptions to 5 CFR 1320.5(d)(2). The regulations at 161.605 require a permit holder to respond within 10 days of a written notice of violation of the terms of a permit. This is an exception to the 30 day rule because time is of the essence in correcting many violations of permit terms. A 30 day period to respond to a permit violation could endanger the integrity of the permit and possibly do irreparable damage to the corpus of the trust resource. In a similar instance, a trespass violation requires the alleged trespasser to contact the BIA within the time-frames established in the notification of trespass to explain why a trespass violation notice is in error or to take appropriate corrective action. The notice document itself could specify a time period of less than 30 days, depending upon the nature of the trespass. Again, the circumstances of a trespass may be of such a serious nature that the 30 day response time would not be appropriate and, furthermore, could harm the

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corpus of the trust resource.

The regulations do not require that respondents provide more than one copy of any report. Statistics are not used and there is no confidential information or proprietary trade secrets involved with grazing permits on tribal or individual Indian lands.

8. **If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice [and in response to the PRA statement associated with the collection over the past three years] and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. [Please list here the names, titles, addresses, and phone numbers of persons contacted. One or two should be sufficient.]**

A 60 day Federal Register notice was published October 30, 2006 requesting comments. No comments were received. The field personnel often help respondents with their requests for leases and are very familiar with the amount of time it takes a member of the public to provide needed information. Please contact Jim Orwin if you want the name of a member of the public to contact.

9. **Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

The respondents will not receive payment or gifts.

10. **Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

There is no assurance of confidentiality provided to respondents concerning this information collection.

11. **Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any**

**steps to be taken to obtain their consent.**

No questions of a sensitive nature are asked.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- \* Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- \* If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**
- \* Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.**

As stated earlier, field personnel often help the public with providing information needed for this program and therefore, the time burden is good. See Attachment A.

**13. Provide an estimate of the total annual [non-hour] cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).**

- \* The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information [including filing fees paid]. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- \* If cost estimates are expected to vary widely, agencies should present ranges of cost**

**burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**

- \* Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

All respondents keep records and have a record keeping system in operation at the time of this information collection. There should be no additional cost for capital and start-up or maintenance and purchased services. Most of the information collected will be taken from the respondent's records which they maintain as part of their business.

Respondents will receive copies of the permit and letters of correspondence, which they may file.

- 14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.**

See Attachment A for the burden on the Federal government.

- 15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.**

There is a change in #13 of the 83-I. In discussing the burden with the program manager, he realized that because information for one form came from different sections, they had counted the time as if each section took the amount of time that the entire form required. This reduced the number of responses even though the time burden was not affected.

- 16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

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There is no intention to publish this information collection.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

We intend to display the expiration date with the OMB Control Number.

**18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.**

We are not seeking any exceptions.