

Supporting Statement A for Paperwork Reduction Act Submission

OMB Control Number 1076-0162

Navajo Partitioned Lands Grazing Permits, 25 CFR 161

Terms of Clearance. None.

1. Explain the circumstances that make the collection of information necessary.

Public Law 103-177, the "American Indian Agricultural Resource Management Act," (AIARMA) as amended, makes this collection necessary by authorizing the Secretary of the Interior, in participation with the beneficial owner of the land, to manage Indian agricultural lands in a manner consistent with identified tribal goals and priorities for conservation, multiple use, and sustained yield and consistent with trust responsibilities. Other laws making this collection necessary include 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. Supp. 1217 (D. Ariz. 1982), and *Hopi Tribe v. Watt*, 719 F.2d 314 (9th Cir. 1983). The regulations at 25 CFR 161, Navajo Partitioned Lands Grazing Permits, implement the AIARMA and include the specific information collection requirements.

This information collection is not currently in use, as the Navajo Nation cancelled the permitting program on Navajo-partitioned lands decades ago; however, a Navajo Nation Grazing Steering Committee is in the process of reinstating the permitting program. For that reason, it is vital that we keep this information collection approval current.

2. Indicate how, by whom, how frequently, and for what purpose the information is to be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, explain how the collection complies with all applicable Information Quality Guidelines.

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

The Department of the Interior, the Bureau of Indian Affairs (BIA) uses the information it collects to determine whether to approve or grant a permit for grazing on Navajo Partitioned Lands. BIA also uses the information to identify and contact the permittee (name and address of the permittee), ensure that a sustainable number of animals are authorized under the permit, track authorized grazing timeframes, and identify permit violations.

Subpart C, section 161.201 requires compliance with NEPA, which includes information

collections in the form of an environmental assessment and either an environmental impact statement or finding of no significant impact.

Subpart D contains the information collection requirements to obtain a permit to graze on Navajo Partitioned Lands. **Section 161.301** lists what a grazing permit must include. This information is collected on **Form 5-5015, Grazing Permit**. Of the items listed on the form, the permit applicant must provide the following:

1. The permit holder's name and contact information (BIA uses this information to identify the permittee and get in contact with the permittee when necessary);
2. Agency, reservation, and tribe (BIA uses this information to determine the appropriate jurisdiction);
3. Range unit number and description of the permitted area (BIA uses this information to ensure that the lands are Navajo Partitioned Lands and to ensure that only a sustainable level of grazing is authorized for each unit);
4. Desired number and type of grazing animal (BIA uses this information to ensure that only a sustainable level of grazing is authorized for each unit);
5. Animal identification (i.e., brand, microchip, freeze brand, earmark, tattoo).

Subpart F describes how permits may be transferred, assigned or modified. Information for modifications is collected on **Form 5-5022, Modification of Grazing Permit**. This form requires the permittee to provide:

1. The permit holder's name and contact information (BIA uses this information to identify the permittee and get in contact with the permittee when necessary);
2. Agency and reservation (BIA uses this information to determine the appropriate jurisdiction);
3. Range unit number and contract number (BIA uses this information to identify the range and current permit);
4. Desired change in area of land and/or number of stock (BIA uses this information to identify the change requested).

Information for assignments is collected on **Form 5-5023, Assignment of Grazing Permit**. This form requires the permittee to provide:

1. Agency and reservation (BIA uses this information to determine the appropriate jurisdiction);
 2. Range unit number and contract number (BIA uses this information to identify the range and current permit);
 3. Assignee's name (BIA uses this information to identify the new permit holder);
 4. Desired effective date of the assignment (BIA uses this information to determine when the assignment from one permittee to another is effective);
 5. Animal identification (i.e., brand, microchip, freeze brand, earmark, tattoo).
- 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.].

Tribes, tribal organizations and individual Indians submit required information in standard written formats to meet the needs of the permit and its special considerations. Barriers to the use of electronic technology to collect this information include lack of telecommunications infrastructure, language barriers, and the fact that many or most of the respondents do not own personal computers.

4. Describe efforts to identify duplication.

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, describe the methods used to minimize burden.

Tribes are not considered to be small entities under the Small Business Regulatory Enforcement Fairness Act (SBREFA); however, the BIA has minimized the burden on tribes and individual Indians by restricting the information collection to only that information that is required and not available to BIA through other means. The BIA consulted with the tribes and through various tribal member non-governmental organizations to determine what information was necessary for fair and equitable administration of grazing permits on Indian lands.

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. Grazing on Navajo partitioned lands is integral to the way of life and will occur regardless of whether the information is collected and permits are issued; the permit program and associated information collection merely ensure that the grazing practices are sustainable. 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 or ensure sustainable practices are followed.

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 two circumstances that require exceptions to 5 CFR 1320.5(d)(2):

- Permit Violations: The regulations at section 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.
- Trespass: An alleged trespasser must contact the BIA within the timeframes established in the trespass violation notice to explain why the 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 corpus of the trust resource.

8. **Provide 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 (or in response to a PRA statement) and describe actions taken by the agency in response to these comments.**

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 the names, titles, addresses, and phone numbers of persons contacted.]

A 60-day Federal Register notice requesting comments was published January 27, 2010 (75 FR 4410). No comments were received. BIA personnel in the field assist respondents in filling out the forms and are very familiar with the amount of time it takes a member of the public to provide needed information. In addition, BIA contacted the following individual regarding the estimated time burdens, availability of data, etc.:

- Benjamin Begay, Range Technician, Navajo Nation, (928) 674-5100.

Mr. Begay stated that he thought the time burden estimates may be closer to 40 to 60 minutes because the program has been cancelled for so long; however, Mr. Begay also stated that most of the information required for grazing permit-related information collections is maintained

in an up-to-date fashion by the Grazing Steering Committee. Mr. Begay stated that the bulk of this time would be due to questions and disputes among land owners over who owns how much of the land and who is authorized to use the land. BIA maintains records of land ownership and will be able to provide this information for the permittee when it reviews and records the permit. Therefore, strictly looking at how long it will take the permittee to review the forms and obtain and provide the necessary information, BIA believes that its estimates ranging from 20 to 30 minutes (and, in one instance, 15 minutes) are accurate.

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 in connection with 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.

No questions of a sensitive nature are asked in connection with this information collection.

12. Provide estimates of the hour burden of the collection of information.

As stated earlier, field personnel often help the public with providing information needed for this program and therefore, the time burden on the public is minimized.

CFR Section	Description	Respondents	Annual responses	Hour Burden per response	Total Annual Hour Burden (rounded)	Total Hourly Burden Cost (\$41.12/hr x hour burden)
161.102	Provide copy of tribal law or policy affecting grazing	1	0 (complete)	0	0	\$0
161.206	Vaccinate/treat livestock	700	700	1/2	350	\$ 14,392
161.301	Provide info for grazing permit	700	700	1/3	233	\$ 9,581
161.402	Provide info for grazing permit reissuance	700	700	1/3	233	\$ 9,581
161.500	Provide info to modify, assign or transfer grazing permit	70	70	1/3	23	\$ 946

161.605	Response to notice of permit violation	35	35	1/2	18	\$ 740
161.704	Respond to notice of trespass	35	35	1/2	18	\$ 740
161.710	Providing proof of ownership	10	10	1	10	\$ 411
161.800	Written concurrence, submission of evidence	700	700	1/4	175	\$ 7,196
161.801	Filing appeal	85	85	1/2	43	\$ 1,768
161.802	Recommend amendments	1	85	1	85	\$ 3,495
Totals		700	3,120		1,188	\$ 48,850

We estimate the salary for persons compiling the information to be \$29.37 per hour. This estimate is based on the Bureau of Labor Statistics' Employer Costs for Employee Compensation – December 2009, USDL-10-0283, Table 1, Civilian Workers, for all workers at www.bls.gov/news.release/pdf/ecec.nr0.htm. Including a multiplier of 1.4 for benefits, this results in a total salary of **\$41.12** per hour. The multiplier of 1.4 is derived from the Bureau of Labor Statistics, Employer Costs for Employee Compensation – December 2009 at www.bls.gov/news.release/pdf/ecec.nr0.htm.

13. Provide an estimate of the total annual [nonhour] cost burden to respondents or recordkeepers resulting from the collection of information.

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 costs to the Federal Government.

We estimate the annual cost to the Federal Government to administer this information collection to be **\$78,400**.

CFR Section	Description	Respondents	Annual Responses	Federal Burden Hours per Response	Federal Annual Burden Hours	Federal Burden Hour Cost (\$35x total hourly burden)
166.102	Review tribal law or policy affecting grazing	1	0 (complete)	1/2	0	\$ 0
161.206	Review documentation re: vaccination/treatment	700	700	1/4	175	\$6,125

161.301	Review grazing permit	700	700	1/4	175	\$6,125
161.304	Record permit	700		1/4	175	\$6,125
161.402	Review for grazing permit reissuance	700	700	1	700	\$24,500
161.500	Review to modify, assign or transfer grazing permit	70	70	1	70	\$2,450
161.502	Provide copies of permit	70		¼	17.5	\$613
161.604	Provide written notice of violation	35	35	1	35	\$1,225
161.606	Provide written notice of cancellation	35	35	1	35	\$1,225
161.703	Provide written notice of trespass	35	35	1	35	\$1,225
161.708	Provide written notice to impound	10	10	1	10	\$350
161.717	Written demand for settlement	10	10	2	20	\$700
161.800	Submit written declaration of nonconcurrency, plan	700	700	1	700	\$24,500
161.801	Response brief	85	85	1	50	\$1,750
161.802	File concurrence	85	85	1/2	42.5	\$1,488
Totals		700	3,200		2,240	\$78,400

We estimate the salary for a GS-8, Step 5, employee implementing this program to be \$23.33 per hour. This estimate is based on the Office of Personnel Management Salary Table 2010-RUS at http://www.opm.gov/oca/10tables/html/RUS_h.asp. Including a multiplier of 1.5 for benefits, this results in a total salary of \$35 per hour (rounded). The multiplier of 1.5 is derived from the Bureau of Labor Statistics, Employer Costs for Employee Compensation – December 2009 at www.bls.gov/news.release/pdf/ecec.nr0.htm.

The cost is based solely on salary because overhead operational expenses would have been incurred even without this collection of information.

15. Explain the reasons for any program changes or adjustments.

The number of responses has been adjusted down by 80 (from 3,220 to 3,120) and burden hours have been adjusted down by 39 hours (from 1,227 to 1,188) to account for some items that are Federal government responsibilities but were counted as public burden. For example, previous submissions had counted both the issuance of a trespass notice (which BIA does) and the response to the trespass notice as public burden. The revision counts only the response to the trespass notice as a public response with public burden hours.

16. For collections of information whose results will be published, outline plans for

tabulation and publication.

We will not publish the results of 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 will display the OMB control number and expiration date on all forms and other appropriate materials.

18. Certification.

There are no exceptions to the certification statement.