

## Forest Service, USDA

## § 222.51

(b) Guiding establishment of fees are the law and general governmental policy as established by Bureau of the Budget (now, Office of Management and Budget) Circular A-25 of September 23, 1959, which directs that a fair market value be obtained for all services and resources provided the public through establishment of a system of reasonable fee charges, and that the users be afforded equitable treatment. This policy precludes a monetary consideration in the fee structure for any permit value that may be capitalized into the permit holder's private ranching operation.

(c) A grazing fee shall be charged for each head month of livestock grazing or use. A head month is a month's use and occupancy of range by one animal, except for sheep or goats. A full head month's fee is charged for a month of grazing by adult animals; if the grazing animal is weaned or 6 months of age or older at the time of entering National Forest System lands; or will become 12 months of age during the permitted period of use. For fee purposes 5 sheep or goats, weaned or adult, are equivalent to one cow, bull, steer, heifer, horse, or mule.

(d) No additional charge will be made for the privilege of lambing upon National Forest System lands, or other lands under Forest Service control.

(e) Transportation livestock may be charged for at a special rate, and at a minimum established for such use. Fees for horses, mules, or burros associated with management of permitted livestock on an allotment, or for research purposes and administrative studies, and authorized on a charge basis, are determined under provisions of paragraph (b) of this section.

(f) The fees for trailing livestock across National Forest System lands will conform with the rates established for other livestock. Where practicable, fees for trailing permitted livestock will be covered in the regular grazing fee and the crossing period covered in the regular grazing period.

(g) All fees for livestock grazing or livestock use of National Forest System lands or other lands under Forest Service control are payable in advance of the opening date of the grazing period, entry, or livestock use unless oth-

erwise authorized by the Chief, Forest Service.

(h) Unauthorized grazing use rate will be determined by establishing a base value without giving consideration for those contributions normally made by the permittee under terms of the grazing permit. The base will be adjusted annually by the same indexes used to adjust the regular fee. This rate will also apply to excess number of livestock grazing by permittees; to livestock grazed outside the permitted grazing season; or to livestock grazed under an unvalidated permit.

(i) Refunds or credits may be allowed under justifiable conditions and circumstances as the Chief, Forest Service, may specify.

(j) The fee year for the purpose of charging grazing fees will be March 1 through the following February.

(k) The data year for the purpose of collecting beef cattle price data for computing indexes will be November 1 through the following October and apply to the following fee year.

[44 FR 24843, Apr. 27, 1979, as amended at 46 FR 42450, Aug. 21, 1981; 53 FR 2984, Feb. 2, 1988]

### § 222.51 National Forests in 16 Western States.

(a) Grazing fees are established on lands designated National Forests and Land Utilization Projects in the 16 contiguous Western States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming. (National Grasslands are excluded, see § 222.52.)

(b) Notwithstanding the provisions of § 222.50, paragraph (b), the calculated grazing fee for 1988 and subsequent grazing fee years represents the economic value of the use of the land to the user and is the product of multiplying the base fair market value of \$1.23 by the result of the annual Forage Value Index, added to the sum of the Beef Cattle Price Index minus the Prices Paid Index and divided by 100; provided, that the annual increase or decrease in such fee for any given year shall be limited to not more than plus or minus 25 percent of the previous year's fee, and provided further, that

**§ 222.52**

the fee shall not be less than \$1.35 per head per month. The indexes used in this formula are as follows:

(1) Forage Value Index means the weighted average estimate of the annual rental charge per head per month for pasturing cattle on private rangelands in the 11 Western States (Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming) (computed by the National Agricultural Statistics Service) from the June Enumerative Survey) divided by \$3.65 per head month and multiplied by 100;

(2) Beef Cattle Price Index means the weighted average annual selling price for beef cattle (excluding calves) in the 11 Western States (Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming) (computed by the National Agricultural Statistics Service) for November through October (computed by the National Agricultural Statistics Service) divided by \$22.04 per hundred weight and multiplied by 100; and

(3) Prices Paid Index means the following selected components from the National Agricultural Statistics Service "Annual National Index of Prices Paid by Farmers for Goods and Services" adjusted by the weights indicated in parentheses to reflect livestock production costs in the Western States:

1. Fuels and Energy (14.5);
2. Farm and Motor Supplies (12.0);
3. Autos and Trucks (4.5);
4. Tractors and Self-Propelled Machinery (4.5);
5. Other Machinery (12.0);
6. Building and Fencing Materials (14.5);
7. Interest (6.0);
8. Farm Wage Rates (14.0);
9. Farm Services (18.0).

[44 FR 24843, Apr. 27, 1979, as amended at 53 FR 2984, Feb. 2, 1988]

**§ 222.52 National Grasslands.**

Grazing fees for National Grasslands will be established under concepts and principles similar to those in § 222.51(b).

[44 FR 24843, Apr. 27, 1979]

**§ 222.53 Grazing fees in the East—non-competitive procedures.**

(a) *Scope.* Except as provided in § 222.54 of this subpart, the fee charged

**36 CFR Ch. II (7–1–11 Edition)**

for commercial livestock grazing use and occupancy on National Forest System (NFS) lands in the States of New York, Missouri, Vermont, West Virginia, and in the Southern Region shall be determined through noncompetitive, fair market value procedures. These rules do not apply to grazing fees on National Forest System lands in Oklahoma or National Grasslands in Texas. Grazing permits under the non-competitive fee method in the East are subject to the rules governing grazing permit administration in Subpart A of this part.

(b) *Applicability.* The rules of this section apply to the establishment of grazing fees for existing permittees in the Eastern and Southern Regions on National Forest System lands, including grazing associations in New York and Missouri as of March 1, 1990, to any livestock on-and-off permits defined in Subpart A of this part; and to any allotments advertised for competitive bidding which were not bid on (§ 222.54(h)). Noncompetitive permits vacated or terminated by an existing permittee and any new allotments created after the effective date of this rule shall be offered on a competitive bid basis as specified in § 222.54 of this subpart. As provided in subpart A of this part, holders of term permits have first priority for receipt of a new permit.

(c) *Fee System.* The grazing fee charged under this section shall be based on fair market value, as determined by: Using comparable private grazing lease rates, adjusted for the difference in the costs of grazing comparable private leased lands and National Forest System lands, or by reference to 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 East with comparability adjustments as appropriate. Comparable grazing lease rates shall be adjusted for the difference between the total costs of operating on leased grazing lands and the total costs (other than grazing fee costs) of operating on National Forest System lands.

(1) *Establishing Base Grazing Value.* (i) The Chief of the Forest Service, or an