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Forest Service Handbook 2209.13 – Grazing Permit Administration Handbook

Chapter 30 – Temporary Grazing and Livestock Use Permits

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Approved by: Troy Heithecker, Associate Deputy Chief, National Forest System

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Responsible Staff: Forest Management, Range Management, and Vegetation Ecology (FMRMVE)

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Digest: Following is an explanation of the changes throughout the directive by section.

This amendment revises requirements and procedures to issue and administer temporary grazing permits and livestock use permits. In addition, the two types of permits were formerly addressed in separate chapters but are now consolidated under this chapter. Major revisions include

Chapter 30: Changes the title of this chapter to "Temporary Grazing and Livestock Use Permits" (formerly, "Temporary Grazing Permits"). Consolidates previous direction in chapter 40 regarding Livestock Use Permits into this chapter to reflect that temporary grazing and livestock use permits now use the same form.

Section 31: Clarifies and adds criteria under which temporary grazing and livestock use permits may be authorized. Temporary grazing permits and livestock use permits are issued in limited, well-defined circumstances when grazing under a term grazing permit has temporarily ceased or when the issuance of a term grazing permit is not appropriate.

Section 32.1: Clarifies that eligibility requirements are the same for temporary permits and livestock use permits as they are for term grazing permits.

Section 32.2: Affirms that qualification requirements are different than for term grazing permits.

Section 33: Inserts further clarification on when a temporary permit would not be issued in addition to a term grazing permit.

Section 33.1 – 33.6: Inserts subsections to further explain the most common situations when the authorized officer would consider issuing a temporary grazing permit.

Section 33.6: Changes Farm Credit Banks to Farm Service Agency.

Section 35: Explains that it is seldom proper to continue to issue temporary grazing permits for the same activity year after year.

Section 36: Removes the section discussing determining forage capacity for allocation and replaces it with livestock use permit guidance.

Section 36.1 – 36.5: Inserts subsections to further explain the most common situations when the authorized officer would consider issuing a livestock use permit.

Section 36.2: Updates language to show that use of leased sires is now a common industry practice. However, since the leased sires are not owned by the term permittee, they must be authorized by the issuance of a separate livestock use permit to be in compliance with Agency regulations that require all livestock authorized on a term grazing permit have to be owned (see 36 CFR 222.3).

Section 38: Explains that livestock use permits are often issued for the same activity year after year.

Section 39: Expands discussion on the limited cases when temporary grazing and livestock use permits might be modified.

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31 - Temporary Grazing and Livestock Use Permits

Temporary grazing and livestock use permits authorize grazing on National Forest System (NFS) lands and other lands under Forest Service control for short periods of time, not to exceed one year. Temporary grazing and livestock use permits are issued in limited, well-defined circumstances, including when grazing under a term grazing permit has temporarily ceased or when the issuance of a term grazing permit is not appropriate (*see* 36 CFR 222.3(c)(2)).

Temporary grazing permits and livestock use permits are similar in that:

1. They have the same eligibility and qualification requirements;
2. The application and the permit for both permit types use the same forms (FS-2200-02 and FS-2200-05);
3. Grazing fees are assessed using the same procedures as for term grazing permits (*see* chapter 80 of this Handbook);
4. They are both issued for a period not to exceed 1 year; and
5. Neither a temporary grazing nor a livestock use permit creates priority for reissuance.

The two permits differ in that a temporary grazing permit is issued when the primary use is for commercial livestock production (*see* 36 CFR 222.3(c)(2)(i)), and a livestock use permit is issued when the primary purposes are not commercial livestock production for food or fiber (*see* 36 CFR 222.3(c)(2)(ii)). Examples of the circumstances under which an authorized officer may issue a temporary grazing permit are discussed in more detail in secs. 33.1 through 33.6. Some examples of proper use for a livestock use permit would be using livestock to manipulate vegetation (firebreaks, controlling invasive plants or competing vegetation), allowing non-permitted livestock to cross National Forest System lands, and conducting research. In some very limited circumstances, grazing under a livestock use permit can be free.

A decision to issue a temporary grazing or livestock use permit is at the discretion of the authorized officer. A new temporary grazing or livestock use permit may be issued upon expiration of the old permit, but the holder of the expired permit has no priority for issuance of a new permit.

Each application for a temporary grazing or livestock use permit shall be evaluated on a case-by-case basis and a permit may be issued when all of the following conditions are satisfied:

1. The grazing activity authorized under the temporary grazing permit or livestock use permit is consistent with the Land Management Plan and within the scope of grazing effects analyses.

2. Vegetation, soils, and watershed conditions would be maintained, improved, or moved towards desired conditions by the authorized grazing activity. Monitoring indicates objectives from the forest or grassland plan and/or allotment management plan are being met or that satisfactory progress is being made toward those objectives.
3. The permit administration responsibilities associated with the temporary grazing or livestock use permit would not significantly add to the existing term grazing permit administration workloads.

With the exception of annual crossing permits and some research permits, most temporary grazing and livestock use permits are not recurring year after year and generally authorize short-term uses or vegetation improvement practices.

32 - Eligibility and Qualification Requirements

32.1 - Eligibility Requirements

Eligibility requirements for temporary grazing permits and livestock use permits are the same and conform to the requirements of term grazing permits (see sec. 12 of this Handbook).

32.2 - Qualification Requirements

Applicants for temporary grazing permits and livestock use permits are not required to own either base property or the livestock to be grazed unlike applicants for term grazing permits.

33 - Temporary Grazing Permits

Temporary grazing permits are issued in certain circumstances to allow use of forage available on NFS lands when issuance of, or modification of, a term grazing permit is not appropriate or needed. Authorization of livestock grazing under a temporary grazing permit must be consistent with the criteria described in 36 CFR 222.3(c)(2).

In most instances, temporary use authorized to an existing term grazing permittee would **not** require a modification to the term grazing permit or issuance of a separate temporary grazing permit. Instead, the temporary use applied for, and approved, would be authorized on the bill for collection and described in the annual operating instructions (AOI) or other similar document. Since the use authorized on the bill for collections is for only one year, it is not a permanent change to, and does not require a modification of, the term permit. If that use is on a completely different allotment than shown on the term permit, see Issuance sec. 35 below.

If the temporary use is requested by and approved for a non-permittee, a temporary grazing permit would need to be issued.

Examples of the circumstances under which the authorized officer may issue a temporary grazing permit (or authorize additional use for an existing term grazing permittee) are discussed in sections 33.1 through 33.6.

In all cases, improvement maintenance responsibility will be assigned to the permittee authorized to make use of the allotment.

33.1 - To Use Forage Made Available Due to the Suspension of a Term Grazing Permit

When forage is available on an allotment due to an existing term grazing permit being suspended, in whole or in part, for permit non-compliance. A temporary grazing permit may be issued to a different individual/entity to authorize use of the available forage.

Under **no** circumstance will a temporary grazing permit be issued to the term permittee whose grazing use is under suspension.

If the suspended term grazing permittee is an individual, no entity that they are a member of will be eligible to hold a temporary grazing permit during the suspension period. If the suspended term grazing permittee is an entity rather than an individual, none of the members of that entity are eligible to hold a temporary grazing permit during the period of suspension.

33.2 - To Use Forage Created by Unusually Favorable Climatic Conditions

A temporary grazing permit may be issued to allow use of increased available forage due to unusually favorable climatic conditions. Previous climatic conditions and long-term monitoring information should be considered when evaluating applications for temporary grazing permits.

Recent precipitation patterns and vegetative trends should also be considered when deciding to increase livestock numbers or extend the season of use for an existing term grazing permittee in a year of above normal precipitation that produces abundant forage. This increased use would not require a temporary permit but would be authorized through a bill for collection and AOI.

33.3 - To Use Forage During Periods of Personal Convenience Non-Use

A temporary grazing permit may be issued to allow use of forage on an allotment where the term permit holder is taking personal convenience non-use. If an existing term permittee on that allotment or from another allotment is authorized to make use of the forage, the authorization is through a bill for collection. If the opportunity is made available to a non-permittee the use should be authorized through the issuance of a temporary permit.

Do not issue permits under this authority if the rangeland resources within an allotment(s) need a brief period of rest.

33.4 - Following Waiver of a Term Grazing Permit

When an existing term permittee has sold the base property and waived the permit, and a new term grazing permit has been issued to the purchaser of the base property, a temporary permit may be issued to allow the former permittee to graze the permitted livestock that are already on the allotment for the remainder of the grazing season, provided the recipient of the new term grazing permit elects not to graze livestock on the permitted allotment(s) until the beginning of the next grazing season.

When upfront communication and planning has taken place, another option is to issue a letter placing the base property purchaser in preferred applicant status and then wait to issue a new term grazing permit until after the end of the current grazing season. Doing it in this manner avoids the need for issuance of a temporary permit to the current permittee to finish the grazing season.

33.5 - During Drought or Other Acts of Nature

Temporary grazing permits may be issued during drought or other acts of nature on allotments with available capacity. When existing permittees have been displaced from their permitted allotments as a result of drought, wildfire, flood, or other acts of nature, the bill for collection should be used to authorize the use of forage on the other allotments.

33.6 - Because of Escrow Waiver Held by Farm Service Agency

Lessees of base property held by the Farm Service Agency (FSA) are given priority for issuance of a temporary grazing permit when an escrow waiver has been invoked on allotments associated with the base property now held by FSA. Temporary permits are issued annually and in the name of the lessee. They will generally not be needed for more than one or two years while FSA secures a buyer for the property. For more information refer to chapter 10 of this Handbook.

The permit application must include a copy of the lease with the FSA. Do not honor leases purporting to assign or sublease the grazing permit to the lessee.

34 - Application Procedure for Temporary Grazing Permits

Form FS-2200-02 is used to apply for a temporary grazing permit as well as for a livestock use permit. An applicant should select the temporary grazing permit option to differentiate the two permits. Applications may include requests for on-and-off provisions if the allotment includes private lands. Instructions for issuance with on-and-off provisions are found in chapter 10 of this Handbook.

The application must show the number, kind, and class of livestock, period of use requested, and location. It must also show the mark or brand on the livestock to be grazed. Applicants applying to graze more than one kind of livestock may make such a request on one application.

The authorized officer should consider any records of past performance, documentation of non-compliance, and suspension or cancellation actions taken when considering all applications for a temporary grazing permit.

A decision by the authorized officer to not approve an application for temporary grazing permit is not appealable.

35 - Issuance of Temporary Grazing Permits

Form FS-2200-05 is used to issue both the temporary grazing permits and the livestock use permits. The issuing officer should select the temporary grazing permit option on the form. Additional attachments, such as maps, a list of improvements to be maintained, and AOI, should be completed and then incorporated into the permit.

Where an existing term permit holder has submitted an application, and it is approved to increase grazing use on a temporary basis (including on an allotment other than the allotment(s) shown on their term grazing permit), the authorized officer should authorize the temporary use in a bill for collection rather than issuing a separate temporary grazing permit. Since the use is authorized for only one year, it is not a permanent change to, and does not require a modification of, the term permit.

The authorized officer should consider the past record of non-compliance when evaluating an application for a temporary grazing permit from an existing term permit holder.

Most reasons listed above to issue a temporary grazing permit or annual authorization on the bill for collection would not continue for more than one or two years.

It is seldom proper to continue to issue a temporary grazing permit year after year for the same activity or resource objective unless extenuating circumstances exist. In those instances, rationale should be documented indicating what the extenuating circumstances are and/or what resource management objectives are being achieved.

36 - Livestock Use Permits

Authorization of livestock grazing under a livestock use permit must be consistent with the criteria listed in section 31.

Issue livestock use permits to authorize grazing when the primary purposes are for other than commercial livestock production of food and fiber on NFS lands. Sections 36.1 through 36.5 are examples of the most common circumstances under which the authorized officer may issue a livestock use permit.

36.1 - For Crossing National Forest System Lands

A livestock use permit may be issued to applicants who do not have an existing term grazing permit if the applicant's livestock will traverse National Forest System lands in order to reach other destinations and there are no other feasible routes available. For example, crossing NFS lands may be necessary to access private land, grazing land administered by another Federal or State agency, or a site for the shipping of livestock to market.

Do not issue livestock use permits for trailing, in order to move livestock to their permitted allotments, on NFS lands by term permittees. Authorize permitted livestock trailing by including this trailing time as the first day and the last day in the total season of use. If the on-date and off-date are spent trailing across an adjacent allotment, that use should be detailed in the Allotment Management Plan(s) and the resultant AOIs. These actions do not need to be entered as separate lines on the face of the term permit.

If the crossing is scheduled on a designated stock driveway or takes more than one day to cross the adjacent allotment coming and going, it may be desirable to show those dates as a separate, charged line on the term permit. This will help avoid overuse or timing conflicts for use of the driveway or the adjacent allotment by other permittees.

Consider trailing of livestock which is not authorized under a term grazing permit as a marginally compatible use of NFS lands and do not authorize the use if other reasonable routes or means, such as trucking, are available. Where the demand for trailing exceeds resource capacity or the use is not compatible with land management plan guidance, limits on the amount of grazing use by trailing animals shall be established and permits may be issued in the following situations:

1. To enable landowners to access their private property when no other reasonable means of access on lands of other ownership are available.
2. To enable individuals to access permitted grazing lands administered by another Federal or State agency when no other reasonable means of access on lands of other ownership are available.
3. To enable individuals to access privately leased grazing lands within NFS lands when no other reasonable means of access on lands of other ownership are available.
4. To enable individuals to access a site for shipping non-permitted livestock to market when no other reasonable means of access on lands of other ownership are available.

If the crossing/trailing use by a non-term permittee takes place all in one day or a portion of a day, the crossing permit may be issued free of charge because forage consumption in-route is minimal.

If the crossing requires an overnight stay on NFS lands, payment of grazing fees is required for the full length of time required for the crossing.

36.2 - For Breeding Sires Not Owned by the Term Permit Holder

In most cases, the term grazing permit holder owns the breeding sires placed on the allotment; the authorization shall be included as part of the total term grazing numbers (for example, the permit issued for 100 cows would actually be for 96 cows and 4 bulls). The number of bulls may be shown as a separate line. In either case, the number of bulls is not in addition to the permitted cow-calf units.

Running leased sires has become a standard livestock industry practice since the turn of the last century. But in order to be in compliance with Agency livestock ownership regulations, a paid livestock use permit must also be issued to the term permittee for leased breeding animals used to service the term permitted livestock on NFS lands (*see* 36 CFR 222.3(c)(2)(ii)(H)). As is the case with owned sires, the number of bulls is not in addition to the permitted cow-calf units.

The owner or brand holder of the leased sires must be declared each year and may be listed in the AOI. These situations do not require a permit modification and should not be shown in part 3 of the term permit since different leased sires may be used each year.

36.3 - For Vegetation Management

The need to manage vegetation to achieve resource values or desired conditions (targeted grazing or outcome-based grazing) is perhaps the most common reason to issue livestock use permits. Some examples are establishing fuel breaks or reducing fire hazards by removing biomass, removing competing vegetation to improve wildlife habitat, reducing competing vegetation for timber regeneration, site preparation to facilitate establishment of trees or a different forage vegetation type, or to consume or control noxious weeds or other undesirable vegetation.

Under 36 CFR 222.3(a), all grazing and livestock use on NFS lands must be authorized by issuance of grazing permits or livestock use permits. Since livestock use permits issued to accomplish vegetation management objectives benefit both the livestock as well as the vegetation, they should be paid permits. In some instances, they can be issued free of charge.

36.4 - For Approved Research and Administrative Study Activities

Livestock use permits may be issued to academia, institutions, persons, or other Federal, State, or local agencies conducting approved research activities or administrative study activities involving the grazing of animals on NFS land or other lands under Forest Service control.

A memorandum of understanding or participating agreement may be used to document the relationship between the Forest Service and the sponsor of the research or study activity,

especially if the research will last more than one or two years. The memorandum of understanding must state the purpose of the research/administrative study, the scope and extent of grazing necessary to meet research/administrative study objectives, and whether a fee will be charged for the grazing.

If the term permittee's livestock are not used for the research, he/she can be granted non-use for research purposes (see chapter 10 of this handbook). Where the perceived benefits of the research activity to the United States outweigh the benefit to the United States associated with grazing fees that would be collected, the authorized officer may issue free livestock use permits for research purposes (see 36 CFR 222.3(c)(2)(ii)(B)).

36.5 - For Transportation Livestock

Only in rare cases would permits for pack and saddle stock that transport people, equipment, or supplies on NFS lands not already authorized under an outfitter and guide permit or other special use permit. Coordinate any such use with special uses personnel. Transportation livestock use permits are rarely issued. Individuals involved in activities such as dude ranching, logging, noxious weed spraying, or mining operations on NFS lands would be issued some other type of authorization or would be allowed under the terms of the contract.

37 - Application Procedure for Livestock Use Permits

Form FS-2200-02 is used to apply for both a livestock use permit and for a temporary grazing permit. To differentiate the two permit types, the livestock use permit option should be selected.

The application must show the number, kind, and class of livestock, period of use requested, and location. It must also show the mark or brand on the livestock to be grazed. Applicants applying to graze more than one kind of livestock may make such a request on one application.

A decision by the authorized officer to not approve an application for a livestock use permit is not appealable.

38 - Issuance of Livestock Use Permits

Form FS-2200-05 is used to issue either a livestock use permit or temporary grazing permit. At the top of the form, the authorized officer should select the livestock use permit option. Additional attachments, such as maps and the AOI, should be completed and then incorporated into the permit.

Many livestock use permits are issued year after year for the same activity or resource objective.

39 - Changes to Temporary Grazing and Livestock Use Permits

Changes to temporary grazing or livestock use permits could occur based on:

1. Changes in environmental conditions.
2. Requests by the permittee.

Should adjustments to the permitted grazing become necessary, do not cancel the permit. Since it is only valid for that one year, the authorized officer should determine whether to modify the permit, terminate it early, or simply allow the permit to expire. Modifications should rarely, if ever, be needed. If modified, any changes should be discussed with the permittee and a letter placed in the file and sent to the permittee.

Please note that decisions to modify temporary grazing permits are not subject to 36 CFR §214.4. Per 36 CFR §214.5, decisions that are not expressly set forth in 36 CFR §214.4 are not appealable. The only decisions that are expressly set forth in §214.4 pertaining to livestock grazing are those related to term grazing permits.

Since temporary permits and livestock use permits cannot be issued for longer than one year, they have no priority for reissuance as does a term grazing permit. A decision by the authorized officer to not reissue a temporary grazing or livestock use permit in subsequent years carries no right of appeal.