

THE FEDERAL RANGE CODE*

(Rules for the Administration of Grazing Districts under the Act of June 28, 1934 [48 Stat. 1269], as Amended by the Act of June 26, 1936 [49 Stat. 1976], Commonly Known as the Taylor Grazing Act.)

(Note: The following rules will supersede the compiled Rules for the Administration of Grazing Districts, as approved on June 14, 1937, as far as the heading "Fees", on page 3, and any other existing rules which may be in conflict herewith. The words "license" and "licensee" as used in all rules not superseded also will connote "permit" and "permittee.")

Sec. 1. Introductory: Basic Policy and Plan of Administration.

Par. a. Grazing districts will be administered for the conservation of the public domain and as far as compatible therewith to promote the proper use of the privately controlled lands and waters dependent upon it. Possession of sufficient land, water, or feed to insure a year-round operation for a certain number of livestock in connection with the use of the public domain will be required of all users.

Par. b. Preference Applicants. Preference in the granting of grazing privileges will be given to those applicants within or near a district who are landowners engaged in the livestock business, bona-fide occupants or settlers, or owners of water or water rights, as may be necessary to permit the proper use of lands, water, or water rights owned, occupied, or leased by them. When the demands of all such preference applicants cannot be supplied, prior consideration will be given certain applicants in the manner herein-after provided. Provision will be made for other applicants in so far as Federal range remains available.

Par. c. Permits; Temporary Licenses; Expiration; Revocation. Permits within the meaning of section 3 of the act will be issued as soon as the necessary data for term permits can be obtained. During the intervening period, in order to provide for the existing livestock industry, the issuance of temporary licenses will be continued. Licenses issued in 1938 will be operative only during that year or for such part of 1939 as may be considered the "winter grazing season", but in no event later than July 1, 1939. Upon the issuance of permits within any district or portion thereof, any unexpired licenses in such district or portion may be terminated upon notice by the Division of Grazing. Both licenses and permits will be revocable for violation of the terms thereof.

Sec. 2. Definitions. Whenever used in rules instructions or interpretations issued by the Division of Grazing, unless the context otherwise requires:

(a) The act means the Taylor Grazing Act, act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), and any subsequent amendments thereto.

(b) The Federal Range Code means all of the rules pertaining to the administration of grazing districts.

(c) Federal range means land owned, leased, or otherwise controlled by the United States and administered by the Division of Grazing.

(d) Property means privately owned or controlled land or water used in range livestock operations.

(e) Base property means property used for the support of the livestock for which a grazing privilege is sought and on the basis of which the extent of a license or permit is computed, without reference to forest permits or complementary feed.

(f) Forage land means land the principal use of which is the production of natural or cultivated feed for livestock.

(g) Land dependent by use means forage land which was used in livestock operations in connection with the same part of the public domain, which part is now Federal range, for any three years or for any two consecutive years in the 5-year period immediately preceding June 28, 1934, and which is offered as base property in an application for a grazing license or a permit filed before June 28, 1934. Land will be considered dependent by use only to the extent of that part of it necessary to maintain the average number of livestock grazed on the public domain in connection with it for any three years or for any two consecutive years, whichever is the more favorable to the applicant, during the 5-year period immediately preceding June 28, 1934.

(h) Land dependent by location means forage land within or in the immediate neighborhood of the Federal range which is so situated and of such character that the conduct of economic livestock operations requires the use of the Federal range in connection with it.

(i) Animal-unit month means that amount of natural, cultivated, or complementary feed necessary for the complete subsistence of one cow for a period of one month. For the purpose of this definition, one (1) horse or five (5) goats or five (5) sheep will be considered the equivalent of one (1) cow.

(j) Carrying capacity means the amount of natural or cultivated feed grown or produced on a given area of forage land in one year, measured in animal-unit months.

(k) Full-time water means water which is suitable for consumption by livestock and available, accessible, and adequate for a given number of livestock during those months in the year for which the range is classified as suitable for use. Such water may be from one source or may be the aggregate amount available from several sources.

(l) Prior water is water which was used to service certain range for a given number of livestock during the 5-year period immediately preceding June 28, 1934. It will be considered prior water only to the extent of the greatest number of livestock that was properly grazed from it during said period.

(m) Service value of water means the number of livestock that can be grazed properly from such water.

(n) Competing water means water which is available, accessible, and adequate to service some part of the Federal range serviced by other water of the same class. In determining whether prior waters are competing, each shall be considered only to the extent that it is prior water.

(o) Complementary feed means the cultivated feed purchased by an applicant and fed to his range livestock for a period of time during which he is not using the Federal range.

(p) Free-use applicant means an applicant who is a resident within or near a grazing district, who owns or controls property dependent by location, and who is not an applicant for a regular grazing license or permit for the purpose of carrying on livestock operations.

(q) Nonuse license or permit means a license or permit issued to an applicant who is otherwise eligible for a regular license or permit but who either elects or is required, for conservation purposes, not to have livestock on the Federal range for a designated time.

Sec. 3. Personal Qualifications of Applicants. An applicant for a grazing license or permit is qualified if he owns livestock and is

(a) A citizen of the United States or one who has filed his declaration of intention to become such, or

(b) A group, association, or corporation authorized to conduct business under the laws of the State in which the grazing district or any part thereof in which the applicant's license or permit is to be effective is located.

Sec. 4. Rating and Classification of Properties.

Par. a. Base Properties; Classes; Carrying Capacity of Land; Service Value of Water. For the purpose of determining the proper use of the base properties of all applicants and their relative dependence upon the Federal range, water conditions and other factors affecting livestock operations in the area will be considered. Base

properties will be classified as land or water and further in the following manner:

Class 1. Forage land dependent by both location and use, and full-time prior water.

Class 2. Forage land dependent by use only, and full-time water.

Class 3. Forage land dependent by location only, and full-time water which otherwise would be in class 2 but which was developed later than other water servicing a part or all of the same area.

Base property which is forage land will be rated for its carrying capacity. Water will be rated for its service value by deducting therefrom the carrying capacity of half of the area serviced jointly by competing water of the same class, and the carrying capacity of all private or State land located within such service area and not owned or controlled by the applicant. In computing the service value of water in class 3, there will also be deducted therefrom the carrying capacity of any portion of its service area which is serviceable from any other full-time water antedating it in development.

Par. b. National-Forest Grazing Permits; Complementary Feed. The value of national forest grazing permits and complementary feed will be computed in animal-unit months where necessary under these rules, but neither will be considered as base property.

Sec. 5. Rating and Classification of Federal Range.

Par. a. Carrying Capacity; Seasons and Maximum Annual Period of Use. For the purpose of determining what use of the Federal range will be most consistent with conservation purposes, the carrying capacity of each administrative unit or area in a grazing district will be rated, and each will be classified for the proper season or seasons, if necessary, of its use and for the maximum period of time for which any licensee or permittee will be allowed to use the Federal range lying therein during any one year.

Par. b. Wild Life; Allowance for Maintenance. In each grazing district a sufficient carrying capacity of Federal range will be reserved for the maintenance of a reasonable number of wild game animals, to use the range in common with livestock grazing in the district.

Par. c. Segregation of Ranges for Particular Kinds of Livestock. When the proper use of the Federal range or an orderly administration of the act requires it, certain areas may be designated as suitable exclusively for a certain kind or kinds of livestock.

Sec. 6. Issuance of Licenses and Permits.

Par. a. Free-use Licenses and Permits. Licenses or permits first will be issued to free-use applicants for not to exceed 10 head of work or mitch stock kept for domestic purposes, to be grazed on Federal range adjacent to or in the immediate neighborhood of the licensee's or permittee's property.

Par. b. Regular Licenses and Permits; Order of Issuance; Number of Livestock; Reductions; Allotments. Regular licenses or permits will be issued to qualified applicants to the extent that Federal range is available in the following preference order and amounts:

- (1) To applicants owning or controlling land in class 1, licenses or permits for the number of livestock for which such base lands are rated for a period of time which when added to the period of use allowed on the Federal range for such livestock will equal 12 months; and to applicants owning or controlling water in class 1, licenses or permits to the extent of the service value of such water.
- (2) To applicants owning or controlling base properties in class 2, licenses or permits computed in the same manner as those issued under sub-paragraph (1), above.
- (3) To applicants owning or controlling base properties in class 3, licenses or permits computed in the same manner as those issued under sub-paragraphs (1) and (2), above.

In the event that Federal range remains available following the computation of licenses or permits in the foregoing manner, the licenses or permits to be issued to applicants owning or controlling any base property the use of which in connection with the Federal range is supplemented by the use of a forest permit or complementary feed will be augmented to the extent of the number of livestock which such forest permit or complementary feed would support for a period equivalent to the base-property period described above. In the event that there is insufficient Federal range to permit this maximum allowance, all such licenses or permits, irrespective of classes of base property, will be augmented in proportion to the carrying capacities of the base properties of the applicants.

Par. g. Applicants Having More Than One Class of Property; Reductions; Allotments; Adjustments. Nothing herein contained will prevent an applicant who owns or controls properties in more than one class from having such properties considered separately in the order and manner set forth in this section. If the issuance of licenses or permits based on properties in any particular class will exhaust the available Federal range, any junior class or classes of properties will be eliminated from consideration. If necessary to reach the carrying capacity of the Federal range either at the time of issuing licenses or permits or thereafter, reductions will be applied on an equal percentage basis. In making such reductions, the lowest class of properties will be reduced first, and no class of properties will be reduced until the properties in all lower classes have been reduced. Reductions in all cases will be made by reducing the numbers of livestock or the time on the Federal range area involved, or by both methods, provided that the regional grazer may recommend, for the approval of the Secretary of the Interior, a limit below which no license or permit in that area will be reduced. Allotments of Federal range

will be made to licensees or permittees when conditions warrant and divisions of the range by agreement or by former practice will be respected and followed where practicable.

Sec. 7. Transfers of Base Properties and Licenses or Permits.

Par. a. Transfer of Base Property; Effect. A transfer of a base property, whether by agreement or by operation of law, will entitle the transferee, if otherwise properly qualified, to all or such part of a license or permit as is based on the property transferred, and the original license or permit will be terminated or decreased by such transfer.

Par. b. Transfer of License or Permit; Limitation; Effects; Consent of Owner or Encumbrancer. A license or permit based on land in class 2 may be transferred to base land in any other class, provided that the total extent of the grazing privileges based on the latter land and thereupon to be in effect, including any license or permit already in existence and based on the latter land, may not exceed that based on the carrying capacity of such land. Such a transfer must be made with the written consent of the owners and encumbrancers, if any, of the property from which the transfer is made, except that when the licensee or permittee applying for the transfer is a tenant who has used such property in connection with some part of the public domain which is now Federal range for any three years or for any two consecutive years in the 5-year period immediately preceding June 28, 1934, and without such use by him the land could not be recognized as being dependent by use, he may transfer the license or permit without the consent of the owner or encumbrancer. When a license or permit is transferred from one property to another, the former shall lose its status as dependent by use.

Sec. 8. Special Rules for Grazing Districts.

Whenever it appears to a regional grazer that local conditions in any district in his region make necessary the application of a special rule on any of the matters in this code in order better to achieve an administration consistent with the purposes of the act, he may recommend such a rule, supported by a factual showing of its necessity, to the Secretary of the Interior for approval.

J. R. Carpenter

Director of Grazing.

Approved: March 16, 1938

Harold Z. Fisher

Secretary of the Interior.

*The former rules governing the matters of district advisors; elections; nonuse licenses; fees; applications, hearings, and appeals; general rules of the range; procedure for enforcement; disciplinary action; amicable settlement of cases; and local associations of stockmen will continue in full force and effect until a revision thereof now being made is completed.