

**§ 166.608 What types of insurance may be required?**

We may require liability or casualty insurance (such as for fire, hazard, or flood), depending upon the activity conducted under the permit.

**Subpart H—Permit Violations****§ 166.700 What permit violations are addressed by this subpart?**

This subpart addresses violations of permit provisions other than trespass. Trespass is addressed under subpart I of this part.

**§ 166.701 How will the BIA determine whether the activities of a permittee under a permit are in compliance with the terms of the permit?**

Unless the permit provides otherwise, we may enter the range unit at any reasonable time, without prior notice, to protect the interests of the Indian landowners and ensure that the permittee is in compliance with the operating requirements of the permit.

**§ 166.702 Can a permit provide for negotiated remedies in the event of a permit violation?**

(a) A permit of tribal land may provide the tribe with certain negotiated remedies in the event of a permit violation, including the power to terminate the permit. A permit of individually-owned Indian land may provide the individual Indian landowners with similar remedies, so long as the permit also specifies the manner in which those remedies may be exercised by or on behalf of the Indian landowners. Any notice of violation must be provided by written notice.

(b) The negotiated remedies described in paragraph (a) of this section will apply in addition to the cancellation remedy available to us under § 166.705(c) of this subpart. If the permit specifically authorizes us to exercise any negotiated remedies on behalf of the Indian landowners, the exercise of such remedies may substitute for cancellation.

(c) A permit may provide for permit disputes to be resolved in tribal court or any other court of competent jurisdiction, or through arbitration or some

other alternative dispute resolution method. We may not be bound by decisions made in such forums, but we will defer to any ongoing proceedings, as appropriate, in deciding whether to exercise any of the remedies available to us under § 166.705 of this subpart.

**§ 166.703 What happens if a permit violation occurs?**

(a) If an Indian landowner notifies us that a specific permit violation has occurred, we will initiate an appropriate investigation within five business days of that notification.

(b) If we determine that a permit violation has occurred based on facts known to us, we will provide written notice to the permittee and the sureties of the violation within five business days.

**§ 166.704 What will a written notice of a permit violation contain?**

The written notice of a permit violation will provide the permittee with ten days from the receipt of the written notice to:

(a) Cure the permit violation and notify us that the violation is cured.

(b) Explain why we should not cancel the permit; or

(c) Request in writing additional time to complete corrective actions. If additional time is granted, we may require that certain corrective actions be taken immediately.

**§ 166.705 What will the BIA do if a permit violation is not cured within the required time period?**

(a) If the permittee does not cure a violation within the required time period, we will consult with the Indian landowners, as appropriate, and determine whether:

(1) The permit should be canceled by us under paragraph (c) of this section and §§ 166.706 through 166.707 of this subpart;

(2) We should invoke any other remedies available to us under the permit, including collecting on any available bond;

(3) The Indian landowners wish to invoke any remedies available to them under the permit; or

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(4) The permittee should be granted additional time in which to cure the violation.

(b) If we decide to grant a permittee additional time in which to cure a violation, the permittee must proceed diligently to complete the necessary corrective actions within a reasonable or specified time period from the date on which the extension is granted.

(c) If we decide to cancel the permit, we will send the permittee and its sureties a written notice of cancellation within five business days of that decision. We will also provide actual or constructive notice of a cancellation decision to the Indian landowners, as appropriate. The written notice of cancellation will:

(1) Explain the grounds for cancellation;

(2) Notify the permittee of the amount of any unpaid rent, interest charges, or late payment penalties due under the permit;

(3) Notify the permittee of its right to appeal under Part 2 of this chapter, as modified by §166.706 of this subpart, including the amount of any appeal bond that must be posted with an appeal of the cancellation decision; and

(4) Order the permittee to vacate the property within 30 days of the date of receipt of the written notice of cancellation, if an appeal is not filed by that time.

### **§166.706 Will the BIA's regulations concerning appeal bonds apply to cancellation decisions involving permits?**

(a) The appeal bond provisions in §2.5 of part 2 of this chapter will not apply to appeals from permit cancellation decisions made under §166.705 of this subpart. Instead, when we decide to cancel a permit, we may require the permittee to post an appeal bond with an appeal of the cancellation decision. The requirement to post an appeal bond will apply in addition to all of the other requirements in part 2 of this chapter.

(b) An appeal bond should be set in an amount necessary to protect the Indian landowners against financial losses that will likely result from the delay caused by an appeal. Appeal bond requirements will not be separately appealable, but may be contested during

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the appeal of the permit cancellation decision.

### **§166.707 When will a cancellation of a permit be effective?**

A cancellation decision involving a permit will not be effective for 30 days after the permittee receives a written notice of cancellation from us. The cancellation decision will remain ineffective if the permittee files an appeal under §166.706 of this subpart and part 2 of this chapter, unless the decision is made immediately effective under part 2. While a cancellation decision is ineffective, the permittee must continue to pay rent and comply with the other terms of the permit. If an appeal is not filed in accordance with §166.706 of this subpart and part 2 of this chapter, the cancellation decision will be effective on the 31st day after the permittee receives the written notice of cancellation from us.

### **§166.708 Can the BIA take emergency action if the rangeland is threatened with immediate, significant, and irreparable harm?**

Yes. If a permittee or any other party causes or threatens to cause immediate, significant and irreparable harm to the Indian land during the term of a permit, we will take appropriate emergency action. Emergency action may include trespass proceedings under subpart I of this part, or judicial action seeking immediate cessation of the activity resulting in or threatening the harm. Reasonable efforts will be made to notify the Indian landowners, either before or after the emergency action is taken.

### **§166.709 What will the BIA do if a permittee holds over after the expiration or cancellation of a permit?**

If a permittee remains in possession of Indian land after the expiration or cancellation of a permit, we will treat the unauthorized use as a trespass. Unless we have reason to believe that the permittee is engaged in negotiations with the Indian landowners to obtain a new permit, we will take action to recover possession of the Indian land on behalf of the Indian landowners, and pursue any additional remedies available under applicable law, including