

§ 166.102

§ 166.102 Do tribal laws apply to permits?

Tribal laws will apply to permits of Indian land under the jurisdiction of the tribe enacting such laws, unless those tribal laws are inconsistent with applicable federal law.

§ 166.103 How will tribal laws be enforced on Indian agricultural land?

(a) Unless prohibited by federal law, we will recognize and comply with tribal laws regulating activities on Indian agricultural land, including tribal laws relating to land use, environmental protection, and historic or cultural preservation.

(b) While the tribe is primarily responsible for enforcing tribal laws pertaining to Indian agricultural land, we will:

(1) Assist in the enforcement of tribal laws;

(2) Provide notice of tribal laws to persons or entities undertaking activities on Indian agricultural land, under § 166.104(b) of this part; and

(3) Require appropriate federal officials to appear in tribal forums when requested by the tribe, so long as such an appearance would not:

(i) Be inconsistent with the restrictions on employee testimony set forth at 43 CFR Part 2, Subpart E;

(ii) Constitute a waiver of the sovereign immunity of the United States; or

(iii) Authorize or result in a review of our actions by a tribal court.

(c) Where the regulations in this subpart are inconsistent with a tribal law, but such regulations cannot be superseded or modified by the tribal law under § 166.2 of this part, we may waive the regulations under part 1 of this title, so long as the waiver does not violate a federal statute or judicial decision or conflict with our general trust responsibility under federal law.

§ 166.104 What notifications are required that tribal laws apply to permits on Indian agricultural lands?

(a) Tribes must notify us of the content and effective dates of new tribal laws.

(b) We will then notify affected Indian landowners and any persons or entities undertaking activities on Indian

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agricultural lands of the superseding or modifying effect of the tribal law. We will:

(1) Provide individual written notice; or

(2) Post public notice. This notice will be posted at the tribal community building, U.S. Post Office, and/or published in the local newspaper nearest to the Indian lands where activities are occurring.

Subpart C—Permit Requirements

GENERAL REQUIREMENTS

§ 166.200 When is a permit needed to authorize possession of Indian land for grazing purposes?

(a) Unless otherwise provided for in this part, any person or legal entity, including an independent legal entity owned and operated by a tribe, must obtain a permit under these regulations before taking possession of Indian land for grazing purposes.

(b) An Indian landowner who owns 100% of the trust or restricted interests in a tract may take possession of that Indian land without a permit or any other prior authorization from us.

(c) If an Indian landowner does not own 100 percent (%) of his or her Indian land and wants to use the Indian land for grazing purposes, a permit must be granted by the majority interest of the fractionated tract.

§ 166.201 Must parents or guardians of Indian minors who own Indian land obtain a permit before using land for grazing purposes?

Parents or guardians need not obtain a permit for Indian lands owned by their minor Indian children if:

(a) Those minor children own 100 percent (%) of the land; and

(b) The minor children directly benefit from the use of the land. We may require the user to provide evidence of the direct benefits to the minor children. When one of the minor children becomes an adult, the permit will have to be obtained from the majority interest.

§ 166.202 May an emancipated minor grant a permit?

Yes. An emancipated minor may grant a permit.