

§ 161.608

25 CFR Ch. I (4–1–13 Edition)

§ 161.608 When will a permit cancellation 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 BIA. The cancellation decision will remain ineffective if the permittee files an appeal under §161.607 and part 2 of this title, unless the decision is made immediately effective under part 2. While a cancellation decision is ineffective, the permittee must continue to comply with the other terms of the permit. If an appeal is not filed in accordance with §161.607 and part 2 of this title, the cancellation decision will be effective on the 31st day after the permittee receives the written notice of cancellation from BIA.

§ 161.609 Can BIA take emergency action if the rangeland is threatened?

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

§ 161.610 What will BIA do if livestock is not removed when a permit expires or is cancelled?

If the livestock is not removed after the expiration or cancellation of a permit, BIA will treat the unauthorized use as a trespass. BIA may remove the livestock on behalf of the Navajo Nation, and pursue any additional remedies available under applicable law, including the assessment of civil penalties and costs under subpart H.

Subpart H—Trespass

§ 161.700 What is trespass?

Under this part, trespass is any unauthorized use of, or action on, Navajo partitioned grazing lands.

§ 161.701 What is BIA's trespass policy?

BIA will:

- (a) Investigate accidental, willful, and/or incidental trespass on Navajo Partitioned Lands;
- (b) Respond to alleged trespass in a prompt, efficient manner;
- (c) Assess trespass penalties for the value of products used or removed, cost of damage to the Navajo Partitioned Lands, and enforcement costs incurred as a consequence of the trespass; and
- (d) Ensure, to the extent possible, that damage to Navajo Partitioned Lands resulting from trespass is rehabilitated and stabilized at the expense of the trespasser.

§ 161.702 Who will enforce this subpart?

(a) BIA enforces the provisions of this subpart. If the Navajo Nation adopts the provisions of this subpart, the Navajo Nation will have concurrent jurisdiction to enforce this subpart. Additionally, if the Navajo Nation so requests, BIA will defer to tribal prosecution of trespass on Navajo Partitioned Lands.

(b) Nothing in this subpart will be construed to diminish the sovereign authority of the Navajo Nation with respect to trespass.

NOTIFICATION

§ 161.703 How are trespassers notified of a trespass determination?

(a) Unless otherwise provided under tribal law, when BIA has reason to believe that a trespass on Navajo Partitioned Lands has occurred, BIA or the authorized tribal representative will provide written notice within 5 business days to:

- (1) The alleged trespasser;
 - (2) The possessor of trespass property; and
 - (3) Any known lien holder.
- (b) The written notice under paragraph (a) of this section will include the following:
- (1) The basis for the trespass determination;
 - (2) A legal description of where the trespass occurred;
 - (3) A verification of ownership of unauthorized property (*e.g.*, brands in the