

§ 161.604

25 CFR Ch. I (4–1–10 Edition)

BIA will defer to any ongoing proceedings, as appropriate, in deciding whether to exercise any of the remedies available to BIA under § 161.606.

§ 161.604 What happens if a permit violation occurs?

(a) If the Resources Committee notifies BIA that a specific permit violation has occurred, BIA will initiate an appropriate investigation within 5 business days of that notification.

(b) Unless otherwise provided under tribal law, when BIA has reason to believe that a permit violation has occurred, BIA or the authorized tribal representative will provide written notice to the permittee within 5 business days.

§ 161.605 What will a written notice of a permit violation contain?

The written notice of a permit violation will provide the permittee with 10 days from the receipt of the written notice to:

(a) Cure the permit violation and notify BIA that the violation is cured;

(b) Explain why BIA should not cancel the permit;

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

(d) Request mediation under § 161.603.

§ 161.606 What will BIA do if the permittee doesn't cure a violation on time?

(a) If the permittee does not cure a violation within the required time period, or if the violation is not referred to District Grazing Committee for mediation, BIA will consult with the Navajo Nation, as appropriate, and determine whether:

(1) The permit may be canceled by BIA under paragraph (c) of this section and §§ 161.607 through 161.608;

(2) BIA may invoke any other remedies available to BIA under the permit;

(3) The Navajo Nation may invoke any remedies available to them under the permit; or

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

(b) If BIA grants a permittee a time extension to cure a violation, the permittee must proceed diligently to complete the necessary corrective actions within a reasonable or specified time from the date on which the extension is granted.

(c) If BIA cancels the permit, BIA will send the permittee and the District Grazing Committee a written notice of cancellation within 5 business days of the decision. BIA will also provide actual or constructive notice of the cancellation to the Navajo Nation, as appropriate. The written notice of cancellation will:

(1) Explain the grounds for cancellation;

(2) Notify the permittee of the amount of any unpaid fees and other financial obligations due under the permit;

(3) Notify the permittee of his or her right to appeal under 25 CFR part 2 of this title, as modified by § 161.607, including the amount of any appeal bond that must be posted with an appeal of the cancellation decision; and

(4) Order the permittee to cease grazing livestock on the next anniversary date of the grazing permit or 180 days following the receipt of the written notice of cancellation, whichever is sooner.

§ 161.607 What appeal bond provisions apply to permit cancellation decisions?

(a) The appeal bond provisions in § 2.5 of part 2 of this title will not apply to appeals from permit cancellation decision. Instead, when BIA decides to cancel a permit, BIA 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 title.

(b) An appeal bond should be set in an amount necessary to protect the Navajo Nation 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 the appeal of the permit cancellation decision.