

month for comparable property or grazing privileges, or the estimated commercial value or replacement costs of the products or property.

(c) BIA will determine the value of the products or property illegally used or removed based upon a valuation of similar products or property.

§ 161.714 How will BIA determine the costs associated with enforcement of the trespass?

Costs of enforcement may include detection and all actions taken by us through prosecution and collection of damages. This includes field examination and survey, damage appraisal, investigation assistance and report preparation, witness expenses, demand letters, court costs, attorney fees, and other costs.

§ 161.715 What will BIA do if a trespasser fails to pay penalties, damages and costs?

This section applies if a trespasser fails to pay the assessed penalties, damages, and costs as directed. Unless otherwise provided by applicable Navajo Nation law, BIA will:

(a) Refuse to issue the permittee a permit for use, development, or occupancy of Navajo Partitioned Lands; and

(b) Forward the case for appropriate legal action.

§ 161.716 How are the proceeds from trespass distributed?

Unless otherwise provided by Navajo Nation law:

(a) BIA will treat any amounts recovered under § 161.712 as proceeds from the sale of agricultural property from the Navajo Partitioned Lands upon which the trespass occurred.

(b) Proceeds recovered under § 161.712 may be distributed to:

(1) Repair damages of the Navajo Partitioned Lands and property; or

(2) Reimburse the affected parties, including the permittee for loss due to the trespass, as negotiated and provided in the permit.

(c) Reimburse for costs associated with the enforcement.

(d) If any money is left over after the distribution of the proceeds described in paragraph (b) of this section, BIA will return it to the trespasser or, where the owner of the impounded property cannot be identified within 180 days, the net proceeds of the sale will be deposited into the appropriate Navajo Nation account or transferred to the Navajo Nation under applicable tribal law.

§ 161.717 What happens if BIA does not collect enough money to satisfy the penalty?

BIA will send written notice to the trespasser demanding immediate settlement and advising the trespasser that unless settlement is received within 5 business days from the date of receipt, BIA will forward the case for appropriate legal action. BIA may send a copy of the notice to the Navajo Nation, permittee, and any known lien holders.

Subpart I—Concurrence/Appeals/Amendments

§ 161.800 How does the Navajo Nation to provide concurrence to BIA?

(a) Actions taken by BIA under this part require concurrence of the Navajo Nation under the Settlement Act.

(b) For any action requiring the concurrence of the Resource Committee, the following procedures will apply:

(1) Unless a longer time is specified in a particular section, or unless BIA grants an extension of time, the Resources Committee will have 45 days to review and concur with the proposed action;

(2) If the Resources Committee concurs in writing with all or part of BIA proposed action, the action or a portion of it may be immediately implemented;

(3) If the Resources Committee does not concur with all or part of the proposed action within the time prescribed in paragraph (b)(1) of this section, BIA will submit to the Resources Committee a written declaration of non-concurrence. BIA will then notify the Resources Committee in writing of a formal hearing to be held not sooner than 30 days from the date of the non-concurrence declaration;

(4) The formal hearing on non-concurrence will permit the submission of written evidence and argument concerning the proposal. BIA will take minutes of the hearing. Following the hearing, BIA may amend, alter, or otherwise change the proposed action. If, following a hearing, BIA alters or amends portions of the proposed plan of action, BIA will submit the altered or amended portions of the plan to the Resources Committee for its concurrence; and

(5) If the Resources Committee fails or refuses to give its concurrence to the proposal, BIA may implement the proposal only after issuing a written order, based upon findings of fact, that the proposed action is necessary to protect the land under the Settlement Act and the Agricultural Act.

§ 161.801 May decisions under this part be appealed?

(a) Appeals of BIA decisions issued under this part may be taken in accordance with procedures set out in part 2 of this title.

(b) All appeals of decisions by the Grazing Committee and Resource Committee will be forwarded to the appropriate hearing body of the Navajo Nation.

§ 161.802 How will the Navajo Nation recommend amendments to this part?

The Resources Committee will have final authority on behalf of the Navajo Nation to approve amendments to the Navajo Partitioned Lands grazing provisions, upon the recommendation of the Grazing Committee and the Navajo-Hopi Land Commission, and the concurrence of BIA.

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. H049C]

RIN 1218-AA05

Assigned Protection Factors

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule; notice of hearing.

SUMMARY: OSHA is convening an informal public hearing to receive testimony and documentary evidence on Assigned Protection Factors.

DATES: *Informal public hearing.* The Agency will hold the informal public hearing in Washington, DC beginning January 28, 2004. The hearing will commence at 10 a.m. on the first day, and at 9 a.m. on the second and subsequent days, which will be scheduled, if necessary.

Notice of Intention to Appear to provide testimony at the informal public hearing. Parties who intend to present testimony at the informal public hearing must notify OSHA in writing of their intention to do so no later than December 12, 2003. (Parties who submitted a Notice of Intention to Appear in response to the Notice of Proposed Rulemaking (NPRM) need not submit another notice.)

Hearing testimony and documentary evidence. Parties who are requesting more than 10 minutes to present their testimony or who will be submitting