§ 224.182 What is the Initial Appeal Process?

(c) An interested party who is adversely affected by a decision of or inaction by the Director under subpart E of this part, provided that the interested party may appeal only those issues raised in its prior participation under subpart E of this part and may not appeal any other decision rendered or inaction under this part.

§ 224.183 What other administrative appeals processes also apply?

The administrative appeal processes in 25 CFR part 2 and 43 CFR part 4, subject to the limitations in § 224.184, apply to:

(a) The definition of interested party in 25 CFR part 2 and as incorporated in 43 CFR part 4 does not apply to this part.

(b) The right of persons or entities other than an appealing party to participate in appeals under 25 CFR part 2 and 43 CFR part 4 does not apply to this part, except as permitted under paragraph (c) of this section.

(c) The only persons or entities, other than appealing parties, under § 224.181(a) to (c), who may participate in an appeal under this part are:

1. The Secretary, if an appeal is taken from a decision of the Director or Principal Deputy Assistant Secretary—Indian Affairs;

2. A tribe, which may intervene, appear as an amicus curiae, or otherwise appear in any appeal taken under this part by a person or entity who has entered into a lease, business agreement, or right-of-way with the tribe or by an interested party under this part;

3. A person or entity that has entered into a lease, business agreement, or right-of-way with a tribe, may intervene, appear as an amicus curiae, or otherwise appear in any appeal taken under this part by the tribe or by an interested party under this part.

(d) The Secretary does not have an obligation to provide notice and service upon non-appealing persons as provided in 25 CFR part 2 and 43 CFR part 4. The only exception to this principle is that notice and service of all documents must be served consistent with the requirements of 25 CFR part 2 and 43 CFR part 4 on those persons or entities identified in paragraph (c) of this section.

§ 224.184 How do other administrative appeals processes apply?

The administrative appeals processes in 25 CFR part 2 and 43 CFR part 4 are modified, only as they apply to appeals under this part, as set forth in this section.

§ 224.185 When are decisions under this part effective?

Decisions under subpart I are effective as follows:

(a) Decisions of the Secretary disapproving a final proposed TERA or a revised final proposed TERA under subpart C of this part, a finding of imminent jeopardy to a physical trust asset under subpart F of this part, and decisions by the Secretary or the Assistant Secretary—Indian Affairs to resume activities under subpart G of this part.
are final for the Department. These decisions and findings are effective upon issuance.

(b) Decisions under this part, other than those in paragraph (a) of this section, that adversely affect a tribe and for which an appeal is pending are not final for the Department and are not effective while the appeal is pending, unless:

(1) The tribe had an opportunity for a hearing before the decision was issued;
(2) The tribe had a reasonable amount of time to comply with the TERA after the decision was issued; and
(3) The Interior Board of Indian Appeals (Board), the Secretary, or Assistant Secretary—Indian Affairs issued a written decision that, notwithstanding a reasonable period given the tribe to comply with the TERA, the tribe has failed to take the actions necessary to comply with the TERA.

(c) All other decisions rendered by the Board or the Assistant Secretary—Indian Affairs in an appeal from a Director’s decision under subparts E, F, or G of this part are effective when issued.

PART 225—OIL AND GAS, GEOTHERMAL, AND SOLID MINERALS AGREEMENTS

Subpart A—General

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