

Bureau of Indian Affairs, Interior

§ 224.101

TERA remains in effect and the approved activities have not been rescinded by the Tribe or suspended or reassumed by the Department.

VIOLATION OR BREACH

§ 224.87 What are the obligations of a Tribe if it discovers a violation or breach?

As soon as practicable after discovering or receiving notice of a violation or breach of a lease, business agreement, or right-of-way of a Federal or Tribal environmental law resulting from an activity undertaken by a third party under a lease, business agreement, or right-of-way, the Tribe must provide written notice to the Secretary describing:

- (a) The nature of the violation or breach in reasonable detail;
- (b) The corrective action taken or planned by the Tribe; and
- (c) The proposed period for the corrective action to be completed.

§ 224.88 What must the Secretary do after receiving notice of a violation or breach from the Tribe?

After receiving notice of a violation or breach from the Tribe, the Secretary will:

- (a) Review the notice and conduct an investigation under § 224.135(b) including, as necessary:
 - (1) An on-site inspection; and
 - (2) A review of relevant records, including transactions and reports.
- (b) If the Secretary determines, after the investigation, that a violation or breach is not causing or will not cause imminent jeopardy to a physical trust asset, the Secretary will review, for concurrence or disapproval, the corrective action to be taken or imposed by the Tribe and the proposed period for completion of the corrective action;
- (c) If the Secretary determines, after the investigation, that a violation or breach is causing or will cause imminent jeopardy to a physical trust asset, the Secretary will proceed under the imminent jeopardy provisions of subpart F of this part.

§ 224.89 What procedures will the Secretary use to enforce leases, business agreements, or rights-of-way?

(a) The Secretary and a Tribe will consult with each other regarding enforcement of and Secretarial assistance needed to enforce leases, business agreements, or rights-of-way entered into under a TERA. When appropriate, the Secretary will:

- (1) Use the notification and enforcement procedures established in 25 CFR parts 162, 211 and 225 to ensure compliance with leases and business agreements; and
 - (2) Use the notification and enforcement procedures of 25 CFR part 169 to ensure compliance with rights-of-way.
- (b) All enforcement remedies established in 25 CFR parts 162, 211, 225, and 169 are available to the Secretary.

Subpart E—Interested Party Petitions

§ 224.100 May a person or entity ask the Secretary to review a Tribe's compliance with a TERA?

In accordance with this subpart, a person or entity that may be an interested party may submit to the Secretary a petition to review a Tribe's compliance with a TERA. However, before filing a petition with the Secretary, a person or entity that may be an interested party must first exhaust Tribal remedies, if a Tribe has provided for such remedies. If a Tribe has not provided for Tribal remedies, a person or entity that may be an interested party may file a petition directly with the Secretary.

§ 224.101 Who is an interested party?

For the purposes of this part, an interested party is a person or entity that the Secretary determines has demonstrated with substantial evidence that an interest of the person or entity has sustained, or will sustain, an adverse environmental impact as a result of a Tribe's failure to comply with a TERA.

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