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§ 224.102 Must a Tribe establish a comment or hearing process for addressing environmental concerns?

Yes. The Act (25 U.S.C. 3504(e)(2)(C)(iii)(I), (II) and 25 U.S.C. 3504(e)(2)(B)(iii)(X)) and subpart B of this part require a Tribe to establish an environmental review process under a TERA that:

(a) Ensures that the public is notified about and has an opportunity to comment on the environmental impacts of proposed Tribal action to be taken under a TERA;

(b) Requires that the Tribe respond to relevant and substantive comments about the environmental impacts of a proposed Tribal action before the Tribe approves a lease, business agreement, or right-of-way; and

(c) Provides for a process for consultation with any affected States regarding off-reservation environmental impacts, if any, resulting from approval of a lease, business agreement, or right-of-way.

§ 224.103 Must a Tribe establish other public participation processes?

No. Except for the environmental review process required by the Act and § 224.63(b)(1), a Tribe is not required to establish a process for public participation concerning non-environmental issues in a TERA or leases, business agreements or rights-of-way undertaken under a TERA. However, a Tribe may elect to establish procedures that permit the public to participate in public hearings or that expand the scope of matters about which the public may comment.

§ 224.104 Must a Tribe enact Tribal laws, regulations, or procedures permitting a person or entity to allege that a Tribe is not complying with a TERA?

No. A Tribe is not required, but may elect, to enact Tribal laws, regulations, or procedures permitting a person or entity that may be an interested party to allege that a Tribe is not complying with its TERA.

§ 224.105 How may a person or entity obtain copies of Tribal laws, regulations, or procedures that would permit an allegation of noncompliance with a TERA?

(a) A person or entity that may be an interested party may obtain copies of Tribal laws, regulations, or procedures that establish Tribal remedies that permit a person or entity to allege that the Tribe is not complying with its TERA by making a request to the Tribe in accordance with the TERA and § 224.63(g).

(b) Upon obtaining copies of Tribal laws, regulations, or procedures under subsection (a), a person or entity that may be an interested party may file a petition with the Tribe under those Tribal laws, regulations, or procedures.

(c) If the person or entity that may be an interested party files a petition alleging noncompliance with a TERA, the person or entity becomes a petitioner, and the Tribe must respond according to § 224.106.

§ 224.106 If a Tribe has enacted Tribal laws, regulations, or procedures for challenging Tribal action, how must the Tribe respond to a petition?

If a Tribe has enacted Tribal laws, regulations, or procedures under which a petitioner may file a petition alleging noncompliance with a TERA, the Tribe must:

(a) Within a reasonable time issue a final written decision under the Tribal laws, regulations, or procedures that addresses the claim. The decision may include a determination of whether the petitioner is an interested party;

(b) Provide a copy of its final written decision to the petitioner; and

(c) If the Tribe fails, within a reasonable period, to issue a written decision to a petition that a petitioner brings under applicable Tribal laws, regulations, or procedures the petitioner may file a petition with the Secretary.

§ 224.107 What must a petitioner do before filing a petition with the Secretary?

Before a petitioner may file a petition with the Secretary under this subpart, the petitioner must have exhausted all tribal remedies by participating in any tribal process under § 224.106, and available under the laws,

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