

Bureau of Indian Affairs, Interior

§ 224.112

regulations, or procedures of the Tribe, including any tribal appeal process.

[84 FR 69613, Dec. 18, 2019]

§ 224.108 May Tribes offer a resolution of a petitioner's claim?

Yes. In responding to a petition filed under Tribal laws, regulations or procedures, a Tribe may, with the petitioner's written consent, resolve the petitioner's claims.

§ 224.109 What must a petitioner claim or request in a petition filed with the Secretary?

In a petition filed with the Secretary, a petitioner must:

(a) Claim that the Tribe, through its action or inaction has failed to comply with terms or provisions of a TERA, and, as a result, the petitioner's interest has sustained or will sustain an adverse environmental impact.

(b) Request that the Secretary review the claims raised in the petition; and

(c) Request that the Secretary take whatever action is necessary to bring a Tribe into compliance with the TERA.

§ 224.110 What must a petition to the Secretary contain?

A petition must contain:

(a) The petitioner's name and contact information;

(b) Specific facts demonstrating that the petitioner is an interested party under § 224.101, including identification of the affected interest;

(c) Specific facts demonstrating that the petitioner exhausted Tribal remedies, if Tribal laws, regulations, or procedures permitted the petitioner to allege Tribal noncompliance with a TERA;

(d) A description of facts supporting the petitioner's allegation of the Tribe's noncompliance with a TERA;

(e) A description of the adverse environmental impact that the petitioner's interest has sustained or will sustain because of the Tribe's alleged noncompliance with the TERA;

(f) A copy of any written decision the Tribe issued responding to the petitioner's claims;

(g) If applicable, a statement that the Tribe has issued no written decision within a reasonable time related to a claim a petitioner has filed with the

Tribe under applicable Tribal laws, regulations, or procedures;

(h) If applicable, a statement and supporting documentation that the Tribe did not respond to the petitioner's request under § 224.105(a) for copies of any Tribal laws, regulations, or procedures allowing the petitioner to allege that the Tribe is not complying with a TERA; and

(i) Any other information relevant to the petition.

[73 FR 12821, Mar. 10, 2008, as amended at 84 FR 69613, Dec. 18, 2019]

§ 224.111 When may a petitioner file a petition with the Secretary?

(a) A petitioner may file a petition with the Secretary:

(1) By delivering the petition to the Secretary within 30 days of receiving the Tribe's final written decision addressing the allegation of noncompliance under applicable Tribal laws, regulations, or procedures;

(2) Within a reasonable period following the Tribe's constructive denial of the petition under § 224.106(c), and the Secretary will determine if the petition is timely in light of the applicable facts and circumstances; or

(3) The Tribe did not respond to the petitioner's request for copies of any Tribal laws, regulations, or procedures under § 224.105(a).

(b) A petitioner may file a petition directly with the Secretary if the Tribe has no Tribal laws, regulations or procedures that provide the petitioner an opportunity to allege Tribal noncompliance with a TERA.

§ 224.112 What must the Secretary do upon receipt of a petition?

Within 20 days after receiving a petition, the Secretary must:

(a) Notify the Tribe in writing that the Secretary has received a petition;

(b) Provide a copy of the complete petition to the Tribe;

(c) Initiate a petition consultation with the Tribe that will address the petitioner's allegation of a Tribe's noncompliance with a TERA and alternatives to resolve any noncompliance; and

(d) Notify the Tribe in writing by certified mail, return receipt requested,