

§ 224.113

when the petition consultation is complete.

§ 224.113 What must the Tribe do after it completes petition consultation with the Secretary?

(a) Within 45 days of receiving the Secretary's notice that the petition consultation is complete, the Tribe must respond to any claim made in the petition by submitting a written response to the Secretary; and

(b) Within a reasonable time after 45 days following the completion of the petition consultation process, the Tribe must cure or otherwise resolve each claim of noncompliance made in the petition.

§ 224.114 How may the Tribe address a petition in its written response?

In addition to responding to the petitioner's claims, the Tribe may also:

(a) Include its interpretation of relevant provisions of the TERA and other legal requirements;

(b) Discuss whether the petitioner is an interested party;

(c) State whether the petitioner has exhausted Tribal remedies, and if so, how; and

(d) Propose to cure or otherwise resolve the claims within the time frame in § 224.113(b).

§ 224.115 When in the petition process must the Secretary investigate a Tribe's compliance with a TERA?

The Secretary must investigate the petitioner's claims of the Tribe's non-compliance with a TERA only after making a threshold determination that the petitioner is an interested party and:

(a) The Tribe has denied or failed to respond to each claim made in the petition within the period under § 224.113(a); or

(b) The Tribe has failed, refused, or was unable to cure or otherwise resolve each claim made in the petition within a reasonable period, as determined by the Secretary, after the expiration of the period in § 224.113(b).

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

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§ 224.116 What is the time period in which the Secretary must investigate a Tribe's compliance with a TERA?

(a) If the Secretary determines under § 224.115 that one of the threshold determinations in § 224.114 has been met, then within 120 days of the Secretary's receipt of a petition, the Secretary must determine:

(1) Whether the petitioner is an interested party; and

(2) If the petitioner is an interested party, whether or not a Tribe is in compliance with the TERA as alleged in the petition;

(b) The Secretary may extend the time for the Tribe making the determinations in paragraph (a) of this section for up to 120 days in any case in which the Secretary determines that additional time is necessary to evaluate the claims in the petition and the Tribe's written response, if any. If the Secretary decides to extend the time, the Secretary must notify the petitioner and the Tribe in writing of the extension.

[84 FR 69613, Dec. 18, 2019]

§ 224.117 Must the Secretary make a determination of the Tribe's compliance with a TERA?

(a) Yes. Upon a finding that one of the threshold determinations in § 224.115 has been met, the Secretary must make a determination of the Tribe's compliance with a TERA within the time period in § 224.116.

(b) If the Secretary determines that the Tribe is in compliance with the TERA, the Secretary will notify the Tribe and the petitioner in writing;

(c) If the Secretary determines that the Tribe is not in compliance with the TERA, the Secretary will notify the Tribe and the petitioner in writing and, in addition, must provide the Tribe:

(1) A written determination that describes the manner in which the TERA has been violated together with a written notice of the violations;

(2) Notice of a reasonable opportunity to comply with the TERA; and

(3) Notice of the Tribe's opportunity for a hearing.