

(d) Determine what action, if any, the Secretary must take to protect the physical trust asset, which could include temporary suspension of the activity that resulted in non-compliance with the TERA or other applicable Federal laws or rescinding approval of all or part of the TERA.

§ 224.138 What must the Secretary do if a Tribe's noncompliance has caused imminent jeopardy to a physical trust asset?

If the Secretary finds that a Tribe's noncompliance with a Federal law or the terms of a TERA has caused imminent jeopardy to a physical trust asset, the Secretary must:

(a) Immediately notify the Tribe by a telephone call to the Designated Tribal Official followed by a written notice by facsimile to the Designated Tribal Official and the Tribal governing body of the imminent jeopardy to a physical trust asset. The notice must contain:

(1) A description of the Tribe's non-compliance with Federal law or the terms of the TERA;

(2) A description of the physical trust asset and the nature of the imminent jeopardy to a physical trust asset resulting from the Tribe's noncompliance; and

(3) An order to the Tribe to cease specific conduct or take specific action deemed necessary by the Secretary to correct any condition that caused the imminent jeopardy to a physical trust asset.

(b) Issue a finding that the Tribe's noncompliance with the TERA or a Federal law has caused imminent jeopardy to a physical trust asset.

§ 224.139 What must a Tribe do after receiving a notice of imminent jeopardy to a physical trust asset?

(a) Upon receipt of a notice of imminent jeopardy to a physical trust asset, the Tribe must cease specific conduct outlined in the notice or take specific action the Secretary orders that is necessary to correct any condition causing the imminent jeopardy; and

(b) Within 5 days of receiving a notice of imminent jeopardy to a physical trust asset, the Tribe must submit a written response to the Secretary that:

(1) Responds to the Secretary's finding that the Tribe has failed to comply

with a Federal law or the terms of the TERA;

(2) Responds to the Secretary's finding of imminent jeopardy to a physical trust asset;

(3) Describes the status of the Tribe's cessation of specific conduct or specific action the Tribe has taken to correct any condition causing imminent jeopardy to a physical trust asset; and

(4) Describes what further actions, if any, the Tribe proposes to take to correct any condition, cited in the notice, causing imminent jeopardy to a physical trust asset.

§ 224.140 What must the Secretary do if the Tribe fails to respond to or does not comply with the Secretary's order?

If the Tribe does not respond to or does not comply with the Secretary's order under § 224.138(a)(3), the Secretary may take any actions the Secretary deems appropriate to protect the physical trust asset, which may include the immediate reassumption of all activities the Tribe assumed under the TERA. The procedures in subpart G of this part do not apply to reassumption under this section.

§ 224.141 What must the Secretary do if the Tribe responds to the Secretary's order?

(a) If the Tribe responds in a timely manner to the Secretary's order under § 224.138, the Secretary must:

(1) Evaluate the Tribe's response;

(2) Determine whether or not the Tribe has complied with the TERA and the Federal law cited in the notice; and

(3) If the Secretary determines, after reviewing the Tribe's response, that the Tribe has not complied with the TERA or with a Federal law, the Secretary will determine whether the non-compliance caused imminent jeopardy to a physical trust asset.

(b) If the Secretary determines that the Tribe's noncompliance has caused imminent jeopardy to a physical trust asset, the Secretary may:

(1) Order the Tribe to take any action the Secretary deems necessary to comply with the TERA or Federal law and to protect the physical trust asset; or