

§ 224.150

(2) Take any action the Secretary deems necessary to protect the physical trust asset, including reassumption under subpart G of this part.

(c) If the Secretary determines, after reviewing the Tribe's response, that the Tribe has complied with the TERA and with Federal law, the Secretary will withdraw the Secretary's order.

(d) The Secretary must base a finding of imminent jeopardy to a physical trust asset on the Tribe's non-compliance with a TERA or violation of a Federal law.

Subpart G—Reassumption

§ 224.150 What is the purpose of this subpart?

This subpart explains when and how the Secretary may reassume all activities included within a TERA without the consent of the Tribe.

§ 224.151 When may the Secretary reassume activities?

Upon issuing a written finding of imminent jeopardy to a physical trust asset, the Secretary may reassume activities under a TERA in accordance with this subpart. The Secretary may also reassume activities approved under a TERA in response to a petition from an interested party under subpart E of this part. Only the Secretary or the Assistant Secretary—Indian Affairs may reassume activities under a TERA.

§ 224.152 Must the Secretary always reassume the activities upon a finding of imminent jeopardy to a physical trust asset?

(a) The Secretary may take whatever actions the Secretary deems necessary to protect the physical trust asset. At the discretion of the Secretary, these actions may include reassumption of the activities a Tribe assumed under a TERA.

(b) If the Tribe does not respond to or does not comply with the Secretary's order under § 224.138(a)(3), the Secretary must immediately reassume all activities the Tribe assumed under the TERA. The notice procedures in this subpart will not apply to such immediate reassumption.

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NOTICE OF INTENT TO REASSUME

§ 224.153 Must the Secretary notify the Tribe of an intent to reassume the authority granted?

If the Secretary determines under § 224.152 that reassumption is necessary to protect the physical trust asset, the Secretary will issue a written notice to the Tribal governing body of the Secretary's intent to reassume.

§ 224.154 What must a notice of intent to reassume include?

A notice of intent to reassume must include:

(a) A statement of the reasons for the intended reassumption, including, as applicable, a copy of the Secretary's written finding of imminent jeopardy to a physical trust asset;

(b) A description of specific measures that the Tribe must take to correct the violation and any condition that caused the imminent jeopardy to a physical trust asset;

(c) The time period within which the Tribe must take the measures to correct the violation of the TERA and any condition that caused the imminent jeopardy to a physical trust asset; and

(d) The effective date of the reassumption, if the Tribe does not meet the requirements in paragraphs (b) and (c) of this section.

§ 224.155 When must a Tribe respond to a notice of intent to reassume?

The Tribe must respond to the Secretary in writing by mail, facsimile, or overnight express within 5 days of receiving the Secretary's notice of intent to reassume. If sent by mail, the Tribe must send the response by certified mail, with return receipt requested. The Secretary will consider the date of the written response as the date it is postmarked.

§ 224.156 What information must the Tribe's response to the notice of intent to reassume include?

The Tribe's response to the notice of intent to reassume must state that:

(a) The Tribe has complied with the Secretary's requirements in the notice of intent to reassume;