

Bureau of Indian Affairs, Interior

§ 224.173

(b) The Tribe is taking specified measures to comply with the Secretary's requirements, and when the Tribe will complete such measures, if the Tribe needs more than 5 days to do so; or

(c) The Tribe will not comply with the Secretary's requirements.

§ 224.157 How must the Secretary proceed after receiving the Tribe's response?

(a) If the Secretary determines that the Tribe's proposed or completed actions to comply with the Secretary's requirements are adequate to correct the violation of the TERA or Federal law and any condition that caused the imminent jeopardy, the Secretary will:

(1) Notify the Tribe of the adequacy of its response in writing; and

(2) Terminate the reassumption proceedings in writing.

(b) If the Secretary determines that the Tribe's proposed or completed actions to comply with the Secretary's requirements are not adequate, then the Secretary will issue a written notice of reassumption.

§ 224.158 What must the Secretary include in a written notice of reassumption?

The written notice of reassumption must include:

(a) A description of the authorities the Secretary is reassuming;

(b) The reasons for the determination under § 224.157(b);

(c) The effective date of the reassumption; and

(d) A statement that the decision is a final agency action and is subject to judicial review.

§ 224.159 How will reassumption affect valid existing rights or lawful actions taken before the effective date of the reassumption?

Reassumption will not affect valid existing rights that vested before the effective date of the reassumption or lawful actions the Tribe and the Secretary took before the effective date of the reassumption.

§ 224.160 How will reassumption affect a TERA?

Reassumption of a TERA applies to all of the authority and activities as-

sumed under a TERA. Upon reassumption, the Tribe must also return all Departmental resources transferred under the TERA and any relevant records and documents to the Secretary.

§ 224.161 How may reassumption affect the Tribe's ability to enter into a new TERA or to modify another TERA to administer additional activities or to assume administration of activities that the Secretary previously reassumed?

Following reassumption, a Tribe may submit a request to enter into a new TERA or modify another TERA to administer additional activities, or assume administration of activities that the Secretary previously reassumed. In reviewing a subsequent Tribal request, however, the Secretary may consider the fact that activities were reassumed and any change in circumstances supporting the Tribe's request.

Subpart H—Rescission

§ 224.170 What is the purpose of this subpart?

This subpart explains the process and requirements under which a Tribe may rescind a TERA and therefore return to the Secretary all authority and activities assumed under that TERA.

§ 224.171 Who may rescind a TERA?

Only a Tribe may rescind a TERA.

§ 224.172 May a Tribe rescind only some of the activities subject to a TERA while retaining a portion of those activities?

No. A Tribe may only rescind a TERA in its entirety, including the authority to approve leases, business agreements and grant rights-of-way for specific energy resource development, not some of the authority or activities subject to the TERA.

§ 224.173 How does a Tribe rescind a TERA?

To rescind a TERA, a Tribe must submit to the Secretary a written Tribal resolution or other official action of the Tribe's governing body approving the voluntary rescission of the TERA. Upon rescission, the Tribe must also return all Departmental resources