

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

§ 224.174

transferred under the TERA and any relevant records and documents.

§ 224.174 When does a voluntary rescission become effective?

A voluntary rescission becomes effective on the date specified by the Secretary, provided that the date is no more than 90 days after the Secretary receives the Tribal resolution or other official action the Tribe submits under § 224.173.

§ 224.175 How will rescission affect valid existing rights or lawful actions taken before the rescission?

Rescission does not affect valid existing rights that vested before the effective date of the rescission or lawful actions the Tribe and the Secretary took before the effective date of the rescission.

Subpart I—General Appeal Procedures

§ 224.180 What is the purpose of this subpart?

The purpose of this subpart is to explain who may appeal Departmental decisions or inaction under this part and the initial administrative appeal processes, and general administrative appeal processes, including how 25 CFR part 2 and 43 CFR part 4 apply, and the effective dates for appeal decisions.

§ 224.181 Who may appeal Departmental decisions or inaction under this part?

The following persons or entities may appeal Department decisions or inaction under this part:

(a) A Tribe or TEDO that is adversely affected by a decision of or inaction by an official of the Department of the Interior under this part;

(b) A third party who has entered into a lease, right-of-way, or business agreement with a Tribe under an approved TERA and is adversely affected by a decision of, or inaction by a Department official under this part; or

(c) An interested party who is adversely affected by a decision or inaction by the Secretary under subpart E of this part, provided that the interested party may appeal only those issues raised in its prior participation

25 CFR Ch. I (4–1–23 Edition)

under subpart E of this part and may not appeal any other decision rendered or inaction under this part.

[73 FR 12821, Mar. 10, 2008, as amended at 84 FR 69614, Dec. 18, 2019]

§ 224.182 What is the Initial Appeal Process?

The initial appeal process is as follows:

(a) Within 30 days of receiving an adverse decision by the Director or similar level official within 30 days after the time period within which the Secretary is required to act under subpart E, a party that may appeal under this subpart may file an appeal to the Principal Deputy Assistant Secretary—Indian Affairs;

(b) Within 60 days of receiving an appeal, the Principal Deputy Assistant Secretary—Indian Affairs will review the record and issue a written decision on the appeal; and

(c) Within 7 days of a decision by the Principal Deputy Assistant Secretary—Indian Affairs, the Secretary will provide a written copy of the decision to the Tribe and other participating parties.

[73 FR 12821, Mar. 10, 2008, as amended at 84 FR 69614, Dec. 18, 2019]

§ 224.183 What other administrative appeals processes also apply?

The administrative appeal processes in 25 CFR part 2 and 43 CFR part 4, subject to the limitations in § 224.184, apply to:

(a) An interested party's appeal from an adverse decision or inaction by the Principal Deputy Assistant Secretary—Indian Affairs under § 224.182; and

(b) An appeal by a Tribe or a person or entity that has entered into a lease, business agreement, or right-of-way from an adverse decision by or the inaction of a Departmental official taken under this part.

§ 224.184 How do other administrative appeals processes apply?

The administrative appeals process in 25 CFR part 2 and 43 CFR part 4 are modified, only as they apply to appeals under this part, as set forth in this section.

(a) The definition of interested party in 25 CFR part 2 and as incorporated in