

or breach of a lease, business agreement, or right-of-way of a Federal or tribal environmental law resulting from an activity undertaken by a third party under a lease, business agreement, or right-of-way, the tribe must provide written notice to the Director describing:

- (a) The nature of the violation or breach in reasonable detail;
- (b) The corrective action taken or planned by the tribe; and
- (c) The proposed period for the corrective action to be completed.

§ 224.88 What must the Director do after receiving notice of a violation or breach from the tribe?

After receiving notice of a violation or breach from the tribe, the Director will:

- (a) Review the notice and conduct an investigation under § 224.135(b) including, as necessary:
 - (1) An on-site inspection; and
 - (2) A review of relevant records, including transactions and reports.
- (b) If the Director determines, after the investigation, that a violation or breach is not causing or will not cause imminent jeopardy to a physical trust asset, the Director will review, for concurrence or disapproval, the corrective action to be taken or imposed by the tribe and the proposed period for completion of the corrective action;
- (c) If the Director determines, after the investigation, that a violation or breach is causing or will cause imminent jeopardy to a physical trust asset, the Director will proceed under the imminent jeopardy provisions of subpart F of this part.

§ 224.89 What procedures will the Secretary use to enforce leases, business agreements, or rights-of-way?

(a) The Secretary and a tribe will consult with each other regarding enforcement of and Secretarial assistance needed to enforce leases, business agreements, or rights-of-way entered into under a TERA. When appropriate, the Secretary will:

- (1) Use the notification and enforcement procedures established in 25 CFR parts 162, 211 and 225 to ensure compliance with leases and business agreements; and

(2) Use the notification and enforcement procedures of 25 CFR part 169 to ensure compliance with rights-of-way.

(b) All enforcement remedies established in 25 CFR parts 162, 211, 225, and 169 are available to the Secretary.

Subpart E—Interested Party Petitions

§ 224.100 May a person or entity ask the Secretary to review a tribe's compliance with a TERA?

In accordance with this subpart, a person or entity that may be an interested party may submit to the Secretary a petition to review a tribe's compliance with a TERA. However, before filing a petition with the Secretary, a person or entity that may be an interested party must first exhaust tribal remedies, if a tribe has provided for such remedies. If a tribe has not provided for tribal remedies, a person or entity that may be an interested party may file a petition directly with the Secretary.

§ 224.101 Who is an interested party?

For the purposes of this part, an interested party is a person or entity that has demonstrated that an interest of the person or entity has sustained, or will sustain, an adverse environmental impact as a result of a tribe's failure to comply with a TERA.

§ 224.102 Must a tribe establish a comment or hearing process for addressing environmental concerns?

Yes. The Act (25 U.S.C. 3504(e)(2)(C)(iii)(I), (II) and 25 U.S.C. 3504(e)(2)(B)(iii)(X)) and subpart B of this part require a tribe to establish an environmental review process under a TERA that:

- (a) Ensures that the public is notified about and has an opportunity to comment on the environmental impacts of proposed tribal action to be taken under a TERA;
- (b) Requires that the tribe respond to relevant and substantive comments about the environmental impacts of a proposed tribal action before the tribe approves a lease, business agreement, or right-of-way; and

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(c) Provides for a process for consultation with any affected States regarding off-reservation environmental impacts, if any, resulting from approval of a lease, business agreement, or right-of-way.

§ 224.103 Must a tribe establish other public participation processes?

No. Except for the environmental review process required by the Act and § 224.63(b)(1), a tribe is not required to establish a process for public participation concerning non-environmental issues in a TERA or leases, business agreements or rights-of-way undertaken under a TERA. However, a tribe may elect to establish procedures that permit the public to participate in public hearings or that expand the scope of matters about which the public may comment.

§ 224.104 Must a tribe enact tribal laws, regulations, or procedures permitting a person or entity to allege that a tribe is not complying with a TERA?

No. A tribe is not required, but may elect, to enact tribal laws, regulations, or procedures permitting a person or entity that may be an interested party to allege that a tribe is not complying with its TERA.

§ 224.105 How may a person or entity obtain copies of tribal laws, regulations, or procedures that would permit an allegation of noncompliance with a TERA?

(a) A person or entity that may be an interested party may obtain copies of tribal laws, regulations, or procedures that establish tribal remedies that permit a person or entity to allege that the tribe is not complying with its TERA by making a request to the tribe in accordance with the TERA and § 224.63(g).

(b) Upon obtaining copies of tribal laws, regulations, or procedures under subsection (a), a person or entity that may be an interested party may file a petition with the tribe under those tribal laws, regulations, or procedures.

(c) If the person or entity that may be an interested party files a petition alleging noncompliance with a TERA, the person or entity becomes a peti-

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tioner, and the tribe must respond according to § 224.106.

§ 224.106 If a tribe has enacted tribal laws, regulations, or procedures for challenging tribal action, how must the tribe respond to a petition?

If a tribe has enacted tribal laws, regulations, or procedures under which a petitioner may file a petition alleging noncompliance with a TERA, the tribe must:

(a) Within a reasonable time issue a final written decision under the tribal laws, regulations, or procedures that addresses the claim. The decision may include a determination of whether the petitioner is an interested party;

(b) Provide a copy of its final written decision to the petitioner; and

(c) If the tribe fails, within a reasonable period, to issue a written decision to a petitioner brings under applicable tribal laws, regulations, or procedures the petitioner may file a petition with the Secretary.

§ 224.107 What must a petitioner do before filing a petition with the Secretary?

Before a petitioner may file a petition with the Secretary under this subpart, the petitioner must have exhausted tribal remedies by participating in any tribal process under § 224.106, including any tribal appeal process.

§ 224.108 May tribes offer a resolution of a petitioner's claim?

Yes. In responding to a petition filed under tribal laws, regulations or procedures, a tribe may, with the petitioner's written consent, resolve the petitioner's claims.

§ 224.109 What must a petitioner claim or request in a petition filed with the Secretary?

In a petition filed with the Secretary, a petitioner must:

(a) Claim that the tribe, through its action or inaction has failed to comply with terms or provisions of a TERA, and, as a result, the petitioner's interest has sustained or will sustain an adverse environmental impact.

(b) Request that the Secretary review the claims raised in the petition; and