

§ 224.110

25 CFR Ch. I (4–1–10 Edition)

§ 224.110 What must a petition to the Secretary contain?

A petition must contain:

(a) The petitioner's name and contact information;

(b) Specific facts demonstrating that the interested party under § 224.101, including identification of the affected interest;

(c) Specific facts demonstrating that the petitioner exhausted tribal remedies, if tribal laws, regulations, or procedures permitted the petitioner to allege tribal noncompliance with a TERA;

(d) A description of facts supporting the petitioner's allegation of the tribe's noncompliance with a TERA;

(e) A description of the adverse environmental impact that the petitioner's interest has sustained or will sustain because of the tribe's alleged noncompliance with the TERA;

(f) A copy of any written decision the tribe issued responding to the petitioner's claims;

(g) If applicable, a statement that the tribe has issued no written decision within a reasonable time related to a claim a petitioner has filed with the tribe under applicable tribal laws, regulations, or procedures;

(h) If applicable, a statement and supporting documentation that the tribe did not respond to the petitioner's request under § 224.105(a) for copies of any tribal laws, regulations, or procedures allowing the petitioner to allege that the tribe is not complying with a TERA; and

(i) Any other information relevant to the petition.

§ 224.111 When may a petitioner file a petition with the Secretary?

(a) A petitioner may file a petition with the Secretary:

(1) By delivering the petition to the Director within 30 days of receiving the tribe's final written decision addressing the allegation of noncompliance under applicable tribal laws, regulations, or procedures;

(2) Within a reasonable period following the tribe's constructive denial of the petition under § 224.106(c), and the Secretary will determine if the petition is timely in light of the applicable facts and circumstances; or

(3) The tribe did not respond to the petitioner's request for copies of any tribal laws, regulations, or procedures under § 224.105(a).

(b) A petitioner may file a petition directly with the Secretary if the tribe has no tribal laws, regulations or procedures that provide the petitioner an opportunity to allege tribal noncompliance with a TERA.

§ 224.112 What must the Director do upon receipt of a petition?

Within 20 days after receiving a petition, the Director must:

(a) Notify the tribe in writing that the Director has received a petition;

(b) Provide a copy of the complete petition to the tribe;

(c) Initiate a petition consultation with the tribe that will address the petitioner's allegation of a tribe's noncompliance with a TERA and alternatives to resolve any noncompliance; and

(d) Notify the tribe in writing by certified mail, return receipt requested, when the petition consultation is complete.

§ 224.113 What must the tribe do after it completes petition consultation with the Director?

(a) Within 45 days of receiving the Director's notice that the petition consultation is complete, the tribe must respond to any claim made in the petition by submitting a written response to the Director; and

(b) Within a reasonable time after 45 days following the completion of the petition consultation process, the tribe must cure or otherwise resolve each claim of noncompliance made in the petition.

§ 224.114 How may the tribe address a petition in its written response?

In addition to responding to the petitioner's claims, the tribe may also:

(a) Include its interpretation of relevant provisions of the TERA and other legal requirements;

(b) Discuss whether the petitioner is an interested party;

(c) State whether the petitioner has exhausted tribal remedies, and if so, how; and