

§ 224.140

with a Federal law or the terms of the TERA;

(2) Responds to the Director's finding of imminent jeopardy to a physical trust asset;

(3) Describes the status of the tribe's cessation of specific conduct or specific action the tribe has taken to correct any condition causing imminent jeopardy to a physical trust asset; and

(4) Describes what further actions, if any, the tribe proposes to take to correct any condition, cited in the notice, causing imminent jeopardy to a physical trust asset.

§ 224.140 What must the Secretary do if the tribe fails to respond to or does not comply with the Director's order?

If the tribe does not respond to or does not comply with the Director's order under § 224.138(a)(3), the Secretary may take any actions the Secretary deems appropriate to protect the physical trust asset, which may include the immediate reassumption of all activities the tribe assumed under the TERA. The procedures in subpart G of this part do not apply to reassumption under this section.

§ 224.141 What must the Secretary do if the tribe responds to the Director's order?

(a) If the tribe responds in a timely manner to the Director's order under § 224.138, the Secretary must:

(1) Evaluate the tribe's response;

(2) Determine whether or not the tribe has complied with the TERA and the Federal law cited in the notice; and

(3) If the Secretary determines, after reviewing the tribe's response, that the tribe has not complied with the TERA or with a Federal law, the Secretary will determine whether the noncompliance caused imminent jeopardy to a physical trust asset.

(b) If the Secretary determines that the tribe's noncompliance has caused imminent jeopardy to a physical trust asset, the Secretary may:

(1) Order the tribe to take any action the Secretary deems necessary to comply with the TERA or Federal law and to protect the physical trust asset; or

(2) Take any action the Secretary deems necessary to protect the phys-

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ical 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 Director'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 Director'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 re-assumption.