

Bureau of Indian Affairs, Interior

§ 224.159

NOTICE OF INTENT TO REASSUME

§ 224.153 Must the Secretary notify the tribe of an intent to reassume the authority granted?

If the Secretary determines under § 224.152 that reassumption is necessary to protect the physical trust asset, the Secretary will issue a written notice to the tribal governing body of the Secretary's intent to reassume.

§ 224.154 What must a notice of intent to reassume include?

A notice of intent to reassume must include:

(a) A statement of the reasons for the intended reassumption, including, as applicable, a copy of the Secretary's written finding of imminent jeopardy to a physical trust asset;

(b) A description of specific measures that the tribe must take to correct the violation and any condition that caused the imminent jeopardy to a physical trust asset;

(c) The time period within which the tribe must take the measures to correct the violation of the TERA and any condition that caused the imminent jeopardy to a physical trust asset; and

(d) The effective date of the reassumption, if the tribe does not meet the requirements in paragraphs (b) and (c) of this section.

§ 224.155 When must a tribe respond to a notice of intent to reassume?

The tribe must respond to the Director in writing by mail, facsimile, or overnight express within 5 days of receiving the Secretary's notice of intent to reassume. If sent by mail, the tribe must send the response by certified mail, with return receipt requested. The Director will consider the date of the written response as the date it is postmarked.

§ 224.156 What information must the tribe's response to the notice of intent to reassume include?

The tribe's response to the notice of intent to reassume must state that:

(a) The tribe has complied with the Secretary's requirements in the notice of intent to reassume;

(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.