

Bureau of Indian Affairs, Interior

§ 224.63

§§ 224.53 and 224.63 to determine whether to recommend any revisions to the proposed TERA.

[84 FR 69612, Dec. 18, 2019]

§ 224.60 What will the Secretary provide to the Tribe after the application consultation meeting?

Within 30 days following the meeting with the Tribe, the Secretary will provide to the Designated Tribal Official a written report on the application consultation meeting. The report must include the Secretary's recommendations, if any, for revising the proposed TERA that was submitted as part of the Tribe's application.

§ 224.61 What will the Tribe provide to the Secretary after receipt of the Secretary's report on the application consultation meeting?

If the Tribe wishes to proceed with the application, the Tribe must submit a final proposed TERA to the Secretary within 45 days following the date of the Tribe's receipt of the Secretary's report on the application consultation meeting.

§ 224.62 May a final proposed TERA differ from the original proposed TERA?

The final proposed TERA may or may not contain provisions that differ from the original proposed TERA submitted with the application. In either case, the 270-day review period will begin to run on the date the original complete application was received (under § 224.57).

[84 FR 69612, Dec. 18, 2019]

TERA REQUIREMENTS

§ 224.63 What provisions must a TERA contain?

A TERA must contain all the elements required by this section.

(a) A provision for the Secretary's periodic review and evaluation of the Tribe's performance under a TERA.

(b) A provision that recognizes the authority of the Secretary, upon a finding of imminent jeopardy to a physical trust asset, to take actions the Secretary determines to be necessary to protect the asset, including

reassumption under subparts F and G of this part.

(c) A provision under which the Tribe establishes and ensures compliance with an environmental review process for leases, business agreements, and rights-of-way which, at a minimum:

(1) Informs the public and provides opportunity for public comment on the environmental impacts of the approval of the lease, business agreement or right-of-way;

(2) Provides for Tribal responses to relevant and substantive public comments before Tribal approval of the lease, business agreement or right-of-way;

(3) Provides for sufficient Tribal administrative support and technical capability to carry out the environmental review process; and

(4) Develops adequate Tribal oversight of energy resource development activities under any lease, business agreement or right-of-way under a TERA that any other party conducts to determine whether the activities comply with the TERA and applicable Federal and Tribal environmental laws.

(d) Provisions that require, with respect to any lease, business agreement, or right-of-way approved under a TERA, all of the following:

(1) Express limitations on duration that meet the restrictions of the Act and this Part under § 224.86;

(2) Mechanisms for amendment, transfer, and renewal;

(3) Mechanisms for obtaining, reporting and evaluating the economic return to the Tribe;

(4) Assurances of the Tribe's compliance with all applicable environmental laws;

(5) Requirements that the lessee, operator, or right-of-way grantee will comply with all applicable environmental laws;

(6) Identification of Tribal representatives with the authority to approve a lease, business agreement, or right-of-way and the related energy development activities that would occur under a lease, business agreement, or right-of-way;

(7) Public notification that a lease, business agreement, or right-of-way has received final Tribal approval;