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may make changes in the final proposed TERA based on the comments received; and

(d) If the Tribe revises the final proposed TERA based on public comments, the Tribal governing body must approve the changes, the authorized representative of the Tribe must sign the final proposed TERA as revised, and the Tribe must send the revised final proposed TERA to the Secretary.

[73 FR 12821, Mar. 10, 2008, as amended at 84 FR 69612, Dec. 18, 2019]

Subpart C—Approval of Tribal Energy Resource Agreements

§ 224.70 Will the Secretary review a proposed TERA under the National Environmental Policy Act?

Yes, the Secretary will conduct a review under the National Environmental Policy Act (NEPA) of the potential impacts on the quality of the human environment that might arise from approving a final proposed TERA. The scope of the Secretary's evaluation will be limited to the scope of the TERA. The public comment period, when required, under the NEPA review will occur concurrently with the public comment period for a TERA under § 224.67.

§ 224.71 What standards will the Secretary use to decide to approve a final proposed TERA?

The Secretary must approve a final proposed TERA unless:

- (a) The Tribe does not meet the definition of a "qualified Tribe" in § 224.30;
- (b) A provision of the TERA violates applicable Federal law (including regulations) or a treaty applicable to the Tribe; or
- (c) The TERA fails to include the provisions required by § 224.63.

[84 FR 69612, Dec. 18, 2019]

§§ 224.72–224.73 [Reserved]

§ 224.74 When must the Secretary approve or disapprove a final proposed TERA?

The Secretary must approve or disapprove a final proposed TERA within 270 days of the Secretary's receipt of a complete application for a TERA. If the Secretary fails to approve or dis-

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approve a final proposed TERA within 270 days, the TERA takes effect on the 271st day after the Secretary's receipt of a complete application from a qualified Tribe.

[84 FR 69612, Dec. 18, 2019]

§ 224.75 What must the Secretary do upon approval or disapproval of a final proposed TERA?

Within 10 days of the Secretary's approval or disapproval of a final proposed TERA, the Secretary must notify the Tribal governing body in writing and take the following actions:

If the Secretary's decision is . . .	Then the Secretary will . . .
(a) To approve the final proposed TERA.	(1) Sign the TERA making it effective on the date of signature, and return the signed TERA to the Tribal governing body; and (2) Maintain a copy of the TERA and any subsequent amendments or supplements to the TERA.
(b) To disapprove the final proposed TERA.	Send the Tribe a notice of disapproval that must include: (1) A detailed written explanation of each reason for the disapproval; (2) The changes or other actions required to address each reason for the Secretary's disapproval; (3) An opportunity to revise and resubmit the TERA; and (4) A statement that the decision is a final agency action and is subject to judicial review.

[73 FR 12821, Mar. 10, 2008, as amended at 84 FR 69612, Dec. 18, 2019]

§ 224.76 Upon notification of disapproval, may a Tribe re-submit a revised final proposed TERA?

Yes, within 45 days of receiving the notice of disapproval, or a later date as the Secretary and the Tribe agree to in writing, the Tribe may re-submit a revised final proposed TERA, approved by the Tribal governing body and signed by the Tribe's authorized representative, to the Secretary that addresses the Secretary's concerns. The Secretary must approve or disapprove the revised final proposed TERA within 90 days of the Secretary's receipt of the revised final proposed TERA. If the Secretary does not approve or disapprove the revised proposed TERA within that time, it will take effect on the 91st day. Within 10 days of the Secretary's approval or disapproval of a

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revised final proposed TERA, the Secretary must notify the Tribal governing body in writing and take the following actions:

If the Secretary's decision is . . .	Then the Secretary will . . .
(a) To approve the revised final proposed TERA.	(1) Sign the TERA making it effective on the date of signature, and return the signed TERA to the Tribal governing body; and (2) Maintain a copy of the TERA and any subsequent amendments or supplements to the TERA.
(b) To disapprove the revised final proposed TERA.	Send the Tribe a notice of disapproval that must include: (1) The reasons for the disapproval; and (2) A statement that the decision is a final agency action and is subject to judicial review.

[73 FR 12821, Mar. 10, 2008, as amended at 84 FR 69612, Dec. 18, 2019]

§ 224.77 Who may appeal the Secretary's decision on a final proposed TERA or a revised final proposed TERA?

Only a Tribe applying for a TERA may appeal the Secretary's decision to disapprove a final proposed TERA or a revised final proposed TERA in accordance with the appeal procedures contained in subpart I of this part. No other person or entity may appeal the Secretary's decision. The Secretary's decision to approve a final proposed TERA or a revised final proposed TERA is a final agency action.

§ 224.78 How long will a TERA remain in effect?

A TERA that takes effect under this part remains in effect to the extent any provision of the TERA is consistent with applicable Federal law (including regulations), unless and until either:

- The Secretary reassumes all activities included within a TERA without the consent of the Tribe under Subpart G; or
- The Tribe rescinds a TERA under Subpart H.

[84 FR 69613, Dec. 18, 2019]

§ 224.79 Will the Secretary make non-expended amounts available to the Tribe?

Upon written request of a Tribe for whom an approved TERA is in effect,

the Secretary will provide to the Tribe those amounts that the Secretary would otherwise have expended to carry out any program, function, service, or activity (or portion thereof) that the Secretary does not expend as a result of the Tribe carrying out the activities under a TERA. The Secretary will provide the Tribe with a full accounting of the amounts as calculated based on the specific terms of the TERA, the scope of the contracted functions, and applicable circumstances.

[84 FR 69613, Dec. 18, 2019]

Subpart D—Implementation of Tribal Energy Resource Agreements

APPLICABLE AUTHORITIES AND RESPONSIBILITIES

§ 224.80 Under what authority will a Tribe perform activities for energy resource development?

A Tribe will perform activities for energy resource development activities undertaken under a TERA under the Federal authorities provided in the approved TERA. Notwithstanding anything in this part or an approved TERA to the contrary, a Tribe will retain all sovereign and other powers it otherwise possesses.

[73 FR 12821, Mar. 10, 2008, as amended at 84 FR 69613, Dec. 18, 2019]

§ 224.81 What laws are applicable to activities?

Federal and Tribal laws apply to activities under a TERA, unless otherwise specified in the TERA.

§ 224.82 What activities will the Department continue to perform after approval of a TERA?

After approval of a TERA, the Department will provide a Tribe:

- All activities that the Department performs unless the Tribe has assumed such activities under the TERA;
- Access to title status information and support services needed by a Tribe in the course of evaluating proposals for leases, business agreements, or rights-of-way;