

Bureau of Indian Affairs, Interior

§ 224.82

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;