

§ 224.64

under a TERA adequately document essential transactions, furnish information necessary to protect its legal and financial rights, and enable the Secretary to discharge the trust responsibility if:

(1) Any other party violates the terms of any lease, business agreement, or right-of-way; or

(2) Any provision of a lease, business agreement or right-of-way violates the TERA.

§ 224.64 How may a tribe assume management of development of different types of energy resources?

In order for a tribe to assume authority for approving leases, business agreements, and rights-of-way for development of another energy resource that is not included in the TERA, a tribe must apply for a new TERA covering the authority for the development of another energy resource it wishes to assume. The Secretary's consideration of a new TERA will include a determination of the tribe's capacity to develop that type of energy resource and will trigger the public notice and opportunity for comment consistent with § 224.67.

§ 224.65 How may a tribe assume additional activities under a TERA?

A tribe may assume additional activities related to the development of the same type of energy resource included in a TERA by negotiating with the Secretary an amendment to the existing TERA to include the additional activities. The Secretary will determine in each case whether the tribe has sufficient capacity to carry out additional activities the tribe may wish to assume under an approved TERA.

§ 224.66 How may a tribe reduce the scope of the TERA?

A tribe may reduce the scope of the TERA by negotiating with the Secretary an amendment to the existing TERA to eliminate an activity assumed under the TERA or a type of energy resource development managed under the TERA. Any such reduction in scope must include the return of all relevant Departmental resources transferred under the TERA and any relevant records and documents.

25 CFR Ch. I (4-1-11 Edition)

PUBLIC NOTIFICATION AND COMMENT

§ 224.67 What must the Secretary do upon the Director's receipt of a final proposed TERA?

(a) Within 10 days of the Director's receipt of a final proposed TERA, the Secretary must submit a notice for publication in the FEDERAL REGISTER advising the public:

(1) That the Secretary is considering a final proposed TERA for approval or disapproval; and

(2) Of any National Environmental Policy Act (NEPA) review the Secretary is conducting.

(b) The FEDERAL REGISTER notice will:

(1) Contain information advising the public how to request and receive copies of or participate in any NEPA reviews, as prescribed in subpart C of this part, related to approval of the final proposed TERA; and

(2) Contain information advising the public how to comment on a final proposed TERA.

§ 224.68 How will the Secretary use public comments?

(a) The Secretary will review and consider public comments in deciding to approve or disapprove the final proposed TERA; and

(b) The Secretary will provide copies of the comments to the Designated Tribal Official;

(c) Upon mutual agreement between the tribe and the Secretary, the tribe 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 Director. The Secretary and the tribe will consult on whether an extension of the review period is necessary under § 224.62(b).