

§ 224.75

§ 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) The basis of the disapproval; (2) The changes or other actions required to address the Secretary's basis for disapproval; and (3) A statement that the decision is a final agency action and is subject to judicial review.

§ 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 Director that addresses the Secretary's concerns. Unless the Secretary and the tribe otherwise agree, the Secretary must approve or disapprove the revised final proposed TERA within 60 days of the Director's receipt of the revised final proposed TERA. Within 10 days of the Secretary's approval or disapproval of a 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.

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If the Secretary's decision is . . .	Then the Secretary will . . .
(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.

§ 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.

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 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.

§ 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:
(a) All activities that the Department performs unless the tribe has assumed such activities under the TERA;