

Tribal Emergency Response Resources Act (TERRA Act)

Summary of Key Sections

Sec. 2 – Statement of Purpose.

The TERRA Act is meant to enable Tribes that have lands or ways of life at risk due to natural disasters and environmental impacts to design Plans integrating Federal resources to comprehensively address these effects, including by relocating their Tribal communities if they so choose. These goals are consistent with the recognized unique trust responsibility owed by the Federal Government and all Federal agencies to Tribes and Tribal citizens.

Sec. 3 – Definitions.

Key terms include: *Federal partners*, meaning the listed Federal agencies and any other Federal agency that operates a program determined eligible for integration into a Plan; *affected agencies*, meaning Federal agencies that administer a program that has been integrated, or is being proposed for integration, into a Plan; and *participating agencies*, meaning Federal agencies with review, permitting, or other authorization responsibility regarding the services or activities to be carried out under a Plan. These categories are not mutually exclusive, but refer to different roles.

Sec. 4 – Lead Agency.

The Department of the Interior (DOI) is the lead agency responsible for the Act's implementation, with sole and exclusive decision-making authority for all Federal actions, except where otherwise provided, including for determining Federal program eligibility for integration into a Plan.

Title I—Program Components; Plan Development and Approval

Sec. 101 – Integration of Federal Programs Authorized.

Tribes may integrate funding from multiple Federal programs into comprehensive Plans, including by requesting waivers of statutory, regulatory, and administrative requirements, regulations, policies, and procedures from affected agencies to effectively implement the Plans. A Tribe may reallocate Plan funds in accordance with a Plan's designated purposes, including for community-driven relocation, without the need for any additional waiver or authorization.

Sec. 102 – Eligible Federal Programs.

A Federal program is eligible for integration into a TERRA Plan if it is: (1) implemented for a purpose that helps to address environmental resiliency, including by advancing such purpose through housing, infrastructure, economic development, or other means provided; and (2) funded based on Tribal or Indian status, or provided to Indian Tribes via competitive or noncompetitive processes or block grants.

Sec. 103 – Activities Authorized Under a Plan.

Plan expenditures must be for purposes consistent with the core services or activities of the integrated Federal programs, or for addressing community-driven relocation if applicable.

Sec. 104 – Plan Requirements.

Submitted Plans must identify, among other things: Federal programs to be integrated and a strategy for implementation and funding coordination; a single projected budget; any anticipated Federal reviews, permits, or other authorizations; and any statutory, regulatory, or administrative waivers the Tribe believes necessary to efficiently and effectively implement the Plan.

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Sec. 105 – Technical Assistance.

On a Tribe's request, DOI shall provide technical assistance at any phase and on any aspect of a Plan, and the Tribe may request an informal pre-submission review of a draft proposed Plan to identify any missing information or other concerns. Other Federal agencies may also be involved in providing technical assistance on the Tribe's request, or as DOI determines appropriate.

Sec. 106 – Plan Submission and Review.

Once a Tribe notifies DOI of its intent to prepare a proposed Plan, DOI must consult with the Tribe to identify potential Federal programs for integration into the proposed Plan and any administrative waivers that may be needed for effective implementation. Proposed Plans are submitted to DOI.

Sec. 107 – Waiver Authority.

An affected agency must grant any statutory, regulatory, or administrative waiver requested by a Tribe, unless the affected agency determines that doing so will be inconsistent with the TERRA Act or the Federal program's underlying statutory authority. Affected agencies have 45 days to respond to a waiver request, which is deemed approved if no action is taken during this time. Denial of a waiver request is subject to an interagency dispute resolution process, at the Tribe's option.

Sec. 108 – Plan Approval or Denial.

DOI has exclusive authority to determine whether to approve a Plan, in whole or in part. DOI has 90 days to reach a decision, and the Plan is deemed approved if no action is taken during this time. If denied, DOI must state the reasons for Plan denial with specificity and provide technical assistance to the Tribe to overcome those reasons, if possible. Tribes have access to both administrative and judicial remedies for denials of Plans and waivers.

Title II—Plan Implementation; Funding Administration; Interdepartmental Memorandum of Agreement; Report

Sec. 201 – Reduced Reporting Requirements.

Tribes are not required to comply with reporting, recordkeeping, auditing, or similar obligations for individual integrated Federal programs. Instead, Plans are subject to a single model report, submitted to DOI once annually, that does not break down expenditures by source or agency. DOI shall develop the model report, as well as a single oversight system for monitoring all Plans and requested waivers, and for tracking all related documentation DOI is responsible for updating. DOI must also track and make available to Tribes a list of all Federal programs and waivers that have been approved and denied.

Sec. 202 – Streamlined Permitting and Review Implementation.

Federal agencies that have permitting, review, approval, or other authorization responsibilities with respect to a Plan, including responsibilities that trigger review under the National Environmental Policy Act or the National Historic Preservation Act, become participating agencies for purposes of this section. DOI and the Tribe consult with the participating agencies to establish a coordinated project schedule and, if applicable, an environmental review timetable, to create a comprehensive schedule for all reviews and authorizations (not otherwise waived) to be completed. Participating agencies must take steps to

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increase efficiency, including by carrying out concurrent reviews to the maximum extent practicable. DOI is responsible for ensuring compliance with the coordinated project schedule, and Tribes have access to administrative and judicial remedies to enforce compliance.

Sec. 203 – Expedited Fee-to-Trust Process for Plan Implementation.

On request, DOI *must* take land into trust when the Tribe acquires it using Plan funds or when it previously acquired the land but, at DOI's determination, faces imminent environmental risk if not able to immediately relocate. Otherwise, DOI *may* hold land in trust, on request, when the Tribe owns the land and intends to use it pursuant to a Plan. For such discretionary acquisitions, DOI shall use an expedited process that exempts the Tribe from certain documentation requirements under 25 C.F.R. Part 151, applies the administrative process for an on-reservation or initial Indian acquisition under 25 C.F.R. §§ 151.9(c) or 151.12(c), as applicable, and requires the Secretary to act on the request using streamlined environmental review and within the 90-day timeline for evaluating a proposed Plan.

Sec. 204 – Streamlined Funding Framework Implementation.

DOI, in consultation with the Tribe, leads affected agencies in developing a streamlined funding framework that includes a timetable and other mechanisms governing how funds will flow to the Tribe to best optimize Plan implementation. Affected agencies must develop policies and procedures to coordinate with other affected agencies. DOI monitors compliance and must update funding information for each Plan at least once per quarter.

Sec. 205 – Transfer and Distribution of Funds.

DOI is responsible for receiving Plan funds transferred from affected agencies and distributing them to Tribes. Affected agencies must transfer Plan funds to DOI within 30 days of apportionment, and DOI must distribute those funds to the Tribe within 45 days of receipt. At the Tribe's request, funds may be distributed via an existing ISDEAA agreement. Affected agencies may also establish funding set-asides for implementing the TERRA Act.

Sec. 206 – Administration of Funds.

Tribes may reallocate distributed Plan funds without additional Federal approval or waiver, and are not required to keep records tracing funds to a specific source. Plan funds are available without fiscal year limitation, carrying over into future fiscal years without the need for additional justification. Tribes are entitled to 100% of indirect costs associated with the transfer of funds and to the full amount of administrative costs. Tribes retain interest earned on any Plan funds, which does not diminish the overall amount the Tribe is authorized or eligible to receive, and Plan funds are treated as non-Federal funds for purposes of meeting matching requirements under any other Federal law.

Sec. 207 – No Reduction in Amounts.

Neither the TERRA Act nor any Plan under it decreases the amount of Federal funds otherwise available to a Tribe, and a Federal program's inclusion in a Plan does not affect that Federal program's eligibility for inclusion in an ISDEAA agreement.

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Sec. 208 – Interdepartmental Memorandum of Agreement.

The Office of the Assistant Secretary for Indian Affairs will lead all Federal partners in negotiating a memorandum of agreement providing for TERRA Act implementation. Tribal representatives shall consult in this process. The Federal partners must reach an agreement within 180 days of the TERRA Act's enactment, and the agreement must provide, among other things, for the creation of a Tribal working group to advise the Federal partners, with meetings on an annual basis. Federal employees may also be detailed to DOI to assist with TERRA Act implementation.

Sec. 209 – Report Required.

Within two years of enactment, DOI, in consultation with affected agencies and Tribal representatives, will submit a report to Congress on the status of the TERRA Act's implementation.