

118TH CONGRESS
2D SESSION

H. R. 7859

To authorize the integration and administrative streamlining of Federal funding for Indian Tribes that have reservations, other Tribal lands, or ways of life at risk due to environmental impacts and natural disasters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2024

Mr. KILMER (for himself, Mr. SIMPSON, Ms. PEREZ, and Mr. COLE) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To authorize the integration and administrative streamlining of Federal funding for Indian Tribes that have reservations, other Tribal lands, or ways of life at risk due to environmental impacts and natural disasters, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Tribal Environmental Resiliency Resources Act” or the
6 “TERRA Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Statement of purpose.
- Sec. 3. Definitions.
- Sec. 4. Lead agency.

TITLE I—PROGRAM COMPONENTS; PLAN DEVELOPMENT AND
 APPROVAL

- Sec. 101. Integration of Federal programs authorized.
- Sec. 102. Eligible Federal programs.
- Sec. 103. Activities authorized under a Plan.
- Sec. 104. Plan requirements.
- Sec. 105. Technical assistance.
- Sec. 106. Plan submission and review.
- Sec. 107. Waiver authority.
- Sec. 108. Plan approval or denial.

TITLE II—PLAN IMPLEMENTATION; FUNDING ADMINISTRATION;
 INTERDEPARTMENTAL MEMORANDUM OF AGREEMENT; REPORT

- Sec. 201. Reduced reporting requirements.
- Sec. 202. Streamlined permitting and review implementation.
- Sec. 203. Expedited fee-to-trust process for Plan implementation.
- Sec. 204. Streamlined funding framework implementation.
- Sec. 205. Transfer and distribution of funds.
- Sec. 206. Administration of funds.
- Sec. 207. No reduction in amounts.
- Sec. 208. Interdepartmental memorandum of agreement.
- Sec. 209. Report required.

3 **SEC. 2. STATEMENT OF PURPOSE.**

4 The purpose of this Act is to empower Indian Tribes
 5 that have reservations, other Tribal lands, or ways of life
 6 at risk due to environmental impacts and natural disas-
 7 ters, including flooding, erosion, sea level rise, permafrost
 8 degradation, ocean acidification, extended drought, ex-
 9 treme temperatures, and more frequent and severe
 10 wildfires, hurricanes, and tornadoes, to integrate funding
 11 from multiple eligible Federal programs into comprehen-
 12 sive Plans designed to meet the needs of those Indian

1 Tribes and their communities with respect to preventing
2 or addressing those environmental impacts or natural dis-
3 asters, including by community-driven relocation, if appli-
4 cable, while—

5 (1) reducing administrative, reporting, and ac-
6 counting costs; and

7 (2) serving Tribally determined goals consistent
8 with the policy of self-determination, the unique
9 Government-to-Government relationship between the
10 Government of the United States and the Govern-
11 ments of Indian Tribes, and the unique Federal
12 trust responsibility to Indian Tribes and Indian peo-
13 ple assumed by the United States, including all Fed-
14 eral agencies.

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

17 (1) **AFFECTED AGENCY.**—The term “affected
18 agency” means a Federal agency that administers a
19 program that has been integrated, or is being pro-
20 posed for integration, into a Plan.

21 (2) **COORDINATED PROJECT SCHEDULE.**—The
22 term “coordinated project schedule” means the co-
23 ordinated project schedule required under section
24 202(c)(1).

1 (3) DEPARTMENT.—The term “Department”
2 means the Department of the Interior.

3 (4) FEDERAL AGENCY.—The term “Federal
4 agency” has the meaning given the term “agency”
5 in section 551 of title 5, United States Code.

6 (5) FEDERAL PARTNER.—The term “Federal
7 partner” means each of—

8 (A) the Department;

9 (B) the Department of Agriculture;

10 (C) the Department of the Army;

11 (D) the Department of Commerce;

12 (E) the Department of Defense;

13 (F) the Department of Energy;

14 (G) the Department of Health and Human
15 Services;

16 (H) the Department of Homeland Secu-
17 rity;

18 (I) the Department of Housing and Urban
19 Development;

20 (J) the Department of Justice;

21 (K) the Department of Transportation;

22 (L) the Department of the Treasury;

23 (M) the Environmental Protection Agency;

24 (N) the Federal Communications Commis-
25 sion;

1 (O) the Federal Energy Regulatory Com-
2 mission;

3 (P) the Advisory Council on Historic Pres-
4 ervation; and

5 (Q) any other Federal agency that oper-
6 ates a program determined eligible by the Sec-
7 retary for integration into a Plan under this
8 Act.

9 (6) FEDERAL PROGRAM.—The term “Federal
10 program” means any Federal program or Federal
11 funding source that an Indian Tribe integrates or
12 seeks to integrate into the Plan of the Indian Tribe.

13 (7) INDIAN TRIBE.—The term “Indian Tribe”
14 has the meaning given the term in section 4 of the
15 Indian Self-Determination and Education Assistance
16 Act (25 U.S.C. 5304).

17 (8) NEPA.—The term “NEPA” means the Na-
18 tional Environmental Policy Act of 1969 (42 U.S.C.
19 4321 et seq.).

20 (9) PARTICIPATING AGENCY.—The term “par-
21 ticipating agency” means a Federal agency that, re-
22 gardless of whether the Federal agency is a Federal
23 partner or an affected agency—

24 (A) has review, permitting, or other au-
25 thorization responsibility with respect to the

1 services or activities to be carried out under a
2 Plan, including responsibilities that require re-
3 view under NEPA, section 306108 of title 54,
4 United States Code (commonly known as the
5 “National Historic Preservation Act”), or other
6 applicable Federal law;

7 (B) is designated by the Secretary as a
8 participating agency for that Plan; and

9 (C) participates in the streamlined permit-
10 ting and review procedures for implementing
11 that Plan, in accordance with section 202.

12 (10) PLAN.—The term “Plan” means a Plan
13 authorized under this Act.

14 (11) SECRETARY.—The term “Secretary”
15 means the Secretary of the Interior.

16 **SEC. 4. LEAD AGENCY.**

17 Notwithstanding any other provision of law—

18 (1) the lead Federal agency responsible for im-
19 plementation of this Act is the Department; and

20 (2) unless otherwise provided in this Act, the
21 Secretary possesses sole and exclusive decision-
22 making authority for all Federal actions under this
23 Act, including the sole and exclusive authority to de-
24 termine whether a Federal program is eligible for in-
25 tegration into a Plan.

1 **TITLE I—PROGRAM COMPO-**
2 **NENTS; PLAN DEVELOPMENT**
3 **AND APPROVAL**

4 **SEC. 101. INTEGRATION OF FEDERAL PROGRAMS AUTHOR-**
5 **IZED.**

6 The Secretary shall, on approving a proposed Plan
7 submitted by an Indian Tribe under this Act, authorize
8 the Indian Tribe, in accordance with the Plan—

9 (1) to integrate funding from eligible Federal
10 programs (referred to in this section as the “inte-
11 grated Federal programs”), including by imple-
12 menting any waivers of statutory, regulatory, and
13 administrative requirements, regulations, policies,
14 and procedures granted under section 107;

15 (2) to carry out the core services and activities
16 that would otherwise be provided through the inte-
17 grated Federal programs in accordance with the des-
18 ignated purposes of the Plan;

19 (3) to reallocate funds from the integrated Fed-
20 eral programs, as needed, among the various serv-
21 ices and activities to be carried out under the Plan
22 in accordance with the designated purposes of the
23 Plan without the need for any waiver to be granted
24 under section 107;

1 (4) if appropriate, and in accordance with the
2 designated purposes of the Plan, to reallocate some
3 or all of the funds from the integrated Federal pro-
4 grams to costs associated with community-driven re-
5 location; and

6 (5) to provide a single report each year, based
7 on the model report developed under section
8 201(b)—

9 (A) in lieu of reporting, recordkeeping, au-
10 diting, or similar requirements or procedures
11 associated with the integrated Federal pro-
12 grams; and

13 (B) without the need for a waiver to be
14 granted under section 107.

15 **SEC. 102. ELIGIBLE FEDERAL PROGRAMS.**

16 To be eligible for integration into a Plan, a Federal
17 program must meet the following criteria with respect to
18 the purpose and nature of funding:

19 (1) PURPOSE.—The Federal program is imple-
20 mented for a purpose that helps to address environ-
21 mental resiliency, which may include advancing such
22 purpose through—

23 (A) climate resilience, mitigation, or relo-
24 cation;

1 (B) disaster relief, preparedness, or pre-
2 vention;

3 (C) environmental remediation;

4 (D) housing;

5 (E) infrastructure maintenance or develop-
6 ment;

7 (F) economic development;

8 (G) land management (including pur-
9 chasing, leasing, and fee-to-trust);

10 (H) capacity building;

11 (I) real estate services;

12 (J) natural resources management or de-
13 velopment;

14 (K) energy or utility services; and

15 (L) any purpose relating to, or otherwise
16 supporting or facilitating, a purpose described
17 in subparagraphs (A) through (K).

18 (2) NATURE OF FUNDING.—The funding of the
19 Federal program is provided based on—

20 (A) the eligibility of an Indian Tribe or
21 members of an Indian Tribe to receive funds—

22 (i) under a statutory or administrative
23 formula making funds available to the In-
24 dian Tribe or members of the Indian
25 Tribe; or

1 (ii) based solely or in part on the sta-
2 tus of the Indian Tribe or members of the
3 Indian Tribe as Indians under Federal law;

4 (B) the fact that an Indian Tribe or mem-
5 bers of an Indian Tribe have secured funds as
6 a result of a noncompetitive process or a spe-
7 cific designation;

8 (C) a competitive process under which In-
9 dian Tribes are designated eligible recipients,
10 regardless of whether the competitive funding is
11 for the benefit of the Indian Tribe because of
12 the status of the Indian Tribe or the status of
13 the beneficiaries the funding serves; or

14 (D) block grant funds provided to an In-
15 dian Tribe, regardless of whether the block
16 grant is for the benefit of the Indian Tribe be-
17 cause of the status of the Indian Tribe or the
18 status of the beneficiaries the grant serves.

19 **SEC. 103. ACTIVITIES AUTHORIZED UNDER A PLAN.**

20 Federal funding integrated into a Plan shall be ex-
21 pended for purposes—

22 (1) consistent with the core services or activities
23 that otherwise would have been provided or carried
24 out under the Federal programs integrated into the
25 Plan; or

1 (2) relating to community-driven relocation.

2 **SEC. 104. PLAN REQUIREMENTS.**

3 (a) IN GENERAL.—A Plan submitted by an Indian
4 Tribe to the Secretary for approval shall—

5 (1) identify the Federal programs to be inte-
6 grated into the Plan;

7 (2) be consistent with the purpose of this Act;

8 (3) describe, at the option of the Indian
9 Tribe—

10 (A) the nature and severity of the environ-
11 ment-related threats to the existing reservation
12 of the Indian Tribe, other Tribal lands, or ways
13 of life; and

14 (B) if applicable, a strategy for commu-
15 nity-driven relocation to be addressed by the
16 Plan, including—

17 (i) the general location of the pro-
18 posed relocation efforts; and

19 (ii) a summary of geospatial informa-
20 tion, if available, illustrating—

21 (I) the proposed relocation area;
22 and

23 (II) if applicable, the locations of
24 environmental, cultural, and historic
25 resources;

1 (4) describe the way in which Federal program
2 funds and services are to be integrated, consolidated,
3 and delivered to provide services and carry out ac-
4 tivities under the designated purposes of the Plan,
5 including provisions that detail how funding sources
6 are anticipated to be coordinated, consistent with
7 section 204(b);

8 (5) identify any need for taking land into trust
9 for the benefit of the Indian Tribe for environment-
10 related purposes, pursuant to section 203;

11 (6) identify the projected expenditures under
12 the Plan in a single budget covering all consolidated
13 funds;

14 (7) identify any Federal environmental or his-
15 toric preservation reviews, permits, or other author-
16 izations anticipated to be required to be completed
17 or obtained to implement the Plan, including any re-
18 views that may be required under NEPA or section
19 306108 of title 54, United States Code (commonly
20 known as the “National Historic Preservation Act”);

21 (8) identify any statutory, regulatory, or admin-
22 istrative requirements, regulations, policies, or proce-
23 dures that the Indian Tribe believes need to be
24 waived to efficiently and effectively implement the
25 Plan; and

1 (9) be approved by the governing body of the
2 Indian Tribe, by resolution or other applicable
3 means.

4 (b) CONFIDENTIALITY.—Any information relating to
5 Tribal natural, cultural, and historical resources sub-
6 mitted in a Plan shall be—

7 (1) kept confidential; and

8 (2) exempt from the disclosure requirements
9 under section 552(b)(3) of title 5, United States
10 Code (commonly known as the “Freedom of Infor-
11 mation Act”) and chapter 10 of part I of title 5,
12 United States Code (commonly known as the “Fed-
13 eral Advisory Committee Act”).

14 **SEC. 105. TECHNICAL ASSISTANCE.**

15 (a) IN GENERAL.—On request of an Indian Tribe,
16 the Secretary shall provide technical assistance to the In-
17 dian Tribe with respect to any phase or aspect of a Plan,
18 including—

19 (1) project planning and design to develop a
20 proposed Plan for submission; and

21 (2) review by the Secretary of a draft proposed
22 Plan, in accordance with subsection (b).

23 (b) REVIEW BY SECRETARY.—If an Indian Tribe re-
24 quests review of a draft proposed Plan under subsection
25 (a)(2), the Secretary shall—

1 (1) provide an informal assessment of the likeli-
2 hood of approval by the Secretary of the draft pro-
3 posed Plan;

4 (2) identify any issues or missing information
5 that may prevent the approval of the draft proposed
6 Plan; and

7 (3) provide followup technical assistance to re-
8 solve any issues described in paragraph (2), as appli-
9 cable.

10 (c) REVIEW NOT A DECISION.—A review of a draft
11 proposed Plan under subsection (b) shall not constitute
12 an official Federal agency determination or decision.

13 (d) AGENCY CONSULTATION.—

14 (1) IN GENERAL.—In providing technical assist-
15 ance under subsection (a), on request of the Indian
16 Tribe receiving technical assistance, or as the Sec-
17 retary determines appropriate, the Secretary shall
18 consult with any Federal agencies anticipated to be
19 affected agencies or participating agencies with re-
20 spect to the applicable Plan.

21 (2) SCOPE.—Federal agencies with which the
22 Secretary consults under paragraph (1) shall provide
23 technical assistance with respect to any requested
24 phase or aspect of a Plan, including—

25 (A) waiver requests under section 107;

1 (B) streamlined funding frameworks under
2 section 204; and

3 (C) coordinated project scheduling under
4 section 202(c).

5 **SEC. 106. PLAN SUBMISSION AND REVIEW.**

6 (a) NOTICE.—An Indian Tribe shall notify the Sec-
7 retary, in writing, of the intent of the Indian Tribe to pre-
8 pare a proposed Plan.

9 (b) CONSULTATION.—On receipt of notice from an
10 Indian Tribe under subsection (a), the Secretary shall con-
11 sult with the Indian Tribe—

12 (1) to identify potential Federal programs that
13 may be integrated into the proposed Plan; and

14 (2) to identify any waivers of applicable statu-
15 tory, regulatory, or administrative requirements, reg-
16 ulations, policies, or procedures necessary to enable
17 the Indian Tribe to efficiently and effectively imple-
18 ment the proposed Plan.

19 (c) PLAN SUBMISSION.—A proposed Plan submitted
20 by an Indian Tribe to the Secretary shall satisfy the re-
21 quirements of this Act, including any requested waivers
22 under section 107.

23 **SEC. 107. WAIVER AUTHORITY.**

24 (a) TRIBAL WAIVER REQUEST.—In consultation with
25 the Secretary, an Indian Tribe submitting a proposed Plan

1 may include in the proposed Plan a request that the head
2 of an affected agency waive any statutory, regulatory, or
3 administrative requirement, regulation, policy, or proce-
4 dure that the Indian Tribe considers necessary to enable
5 the Indian Tribe to efficiently and effectively implement
6 the proposed Plan.

7 (b) WAIVER AUTHORITY.—

8 (1) IN GENERAL.—Notwithstanding any other
9 provision of law, but subject to paragraph (2), the
10 head of an affected agency shall waive any applica-
11 ble statutory, regulatory, or administrative require-
12 ment, regulation, policy, or procedure for which an
13 Indian Tribe has requested a waiver under sub-
14 section (a), including—

15 (A) matching requirements;

16 (B) competition procedures and other com-
17 petitive funding requirements;

18 (C) formula funding limitations;

19 (D) repayment obligations;

20 (E) deadlines; and

21 (F) any statutory requirements that may
22 be interpreted to prevent—

23 (i) the Indian Tribe from receiving
24 funds from multiple, or overlapping,
25 sources of Federal funding; or

1 (ii) the creation by the head of the af-
2 fected agency of a funding set-aside for In-
3 dian Tribes.

4 (2) LIMITATION.—A waiver requested by an In-
5 dian Tribe under paragraph (1) shall not be granted
6 if the head of the affected agency determines grant-
7 ing the waiver will be inconsistent with—

8 (A) the purpose of this Act; or

9 (B) the provision of law from which the
10 Federal program included in the Plan derives
11 its authority that is specifically applicable to In-
12 dians.

13 (c) WAIVER SUBMISSION AND REVIEW.—

14 (1) DETERMINATION ON WAIVER REQUEST.—
15 Not later than 45 days after the date on which an
16 Indian Tribe submits a waiver request under sub-
17 section (a), the head of the affected agency shall—

18 (A) make a determination on whether to
19 grant or deny the request; and

20 (B) provide written notice of the deter-
21 mination and the reasons for the determination
22 to the requesting Indian Tribe and the Sec-
23 retary.

24 (2) DEEMED APPROVAL.—If the head of an af-
25 fected agency does not provide written notice to the

1 Indian Tribe of a determination on a waiver request
2 within the 45-day period described in paragraph (1),
3 the waiver request shall be deemed to be granted.

4 (3) INTERAGENCY DISPUTE RESOLUTION.—

5 (A) IN GENERAL.—On the request of an
6 Indian Tribe that submitted a waiver request
7 under subsection (a), the Secretary shall estab-
8 lish and initiate an interagency dispute resolu-
9 tion process involving—

10 (i) the Secretary;

11 (ii) the Indian Tribe; and

12 (iii) the head of the affected agency.

13 (B) TIMELINE.—A dispute initiated under
14 subparagraph (A) shall be resolved not later
15 than 30 days after the date on which the proc-
16 ess is initiated under that subparagraph.

17 (C) FINAL AUTHORITY.—If the dispute
18 resolution process fails to resolve the dispute
19 between the Indian Tribe and the affected
20 agency, the head of the affected agency shall
21 have the final authority to resolve the dispute.

22 (D) NOTICE TO INDIAN TRIBE.—Not later
23 than 10 days after the date on which the dis-
24 pute is resolved under this paragraph, the Sec-
25 retary shall provide the Indian Tribe with—

- 1 (i) the final determination on the
2 waiver request; and
3 (ii) notice of the right to file an ap-
4 peal in accordance with section 108(d)(2).

5 **SEC. 108. PLAN APPROVAL OR DENIAL.**

6 (a) IN GENERAL.—The Secretary shall have the sole
7 and exclusive authority to approve or disapprove—

- 8 (1) a Plan submitted by an Indian Tribe; and
9 (2) the integration of a Federal program into
10 the Plan.

11 (b) APPROVAL OR DENIAL PROCESS.—

12 (1) IN GENERAL.—Except as provided in sub-
13 section (c), not later than 90 days after the date on
14 which the Secretary receives a proposed Plan sub-
15 mitted by an Indian Tribe, the Secretary shall—

- 16 (A) approve or deny the Plan; and
17 (B) provide written notice of that decision
18 to the Indian Tribe.

19 (2) APPROVAL.—If the Secretary approves a
20 Plan, the Secretary shall authorize the transfer and
21 distribution of funds associated with the Federal
22 programs integrated into the Plan.

23 (3) DENIAL.—If the Secretary denies a Plan,
24 the Secretary shall provide to the Indian Tribe writ-
25 ten notification of disapproval that contains a spe-

1 cific finding that clearly demonstrates, or that is
2 supported by controlling legal authority, that the
3 Plan does not meet the requirements of this Act.

4 (4) PARTIAL APPROVAL.—If the Secretary de-
5 termines a Plan cannot be approved in its entirety,
6 the Secretary shall approve any portion of the Plan
7 that can be approved and deny any portion of the
8 proposed Plan that cannot be approved, pursuant to
9 the processes described in this subsection.

10 (5) DEEMED APPROVAL.—If the Secretary does
11 not provide written notice to an Indian Tribe of a
12 decision on a Plan within the 90-day period de-
13 scribed in paragraph (1), the Plan shall be deemed
14 approved.

15 (c) EXTENSION OF TIME.—

16 (1) IN GENERAL.—Subject to paragraph (2),
17 the Secretary may extend or otherwise alter the 90-
18 day period described in subsection (b)(1) if, before
19 expiration of the original 90-day period, the Sec-
20 retary obtains the express written consent of the In-
21 dian Tribe that submitted the applicable Plan.

22 (2) EXTENSION RESTRICTIONS.—An extension
23 or alteration of the 90-day period under paragraph
24 (1) may only be—

25 (A) provided once; and

1 (B) for a period of not more than 90 days.

2 (d) REVIEW OF DENIAL.—In addition to the require-
3 ments of subsection (b)(3), if the Secretary denies or par-
4 tially denies a proposed Plan the Secretary shall—

5 (1) provide technical assistance to the applica-
6 ble Indian Tribe with respect to the denied proposed
7 Plan, or the denied portion of the proposed Plan, to
8 ensure the proposed Plan meets the requirements of
9 this Act, if possible; and

10 (2) inform the Indian Tribe of the option of the
11 Indian Tribe to request a hearing on the record be-
12 fore an administrative law judge with the right to
13 engage in full discovery relevant to any issue raised
14 in the matter and the opportunity for appeal on the
15 matters raised by the Secretary under subsection
16 (b)(3), under such rules and regulations as the Sec-
17 retary may issue.

18 (e) CIVIL ACTIONS.—

19 (1) IN GENERAL.—An Indian Tribe may bring
20 a civil action in a district court of the United States
21 against—

22 (A) the Secretary for a Plan denial under
23 this section; and

24 (B) an affected agency for a waiver denial
25 under section 107.

1 (2) ADMINISTRATIVE EXHAUSTION NOT RE-
2 QUIRED.—An Indian Tribe may bring a civil action
3 under paragraph (1) without regard to whether the
4 Indian Tribe had an administrative hearing for a
5 Plan denial under subsection (d)(2) or engaged in
6 the dispute resolution process for a waiver denial
7 under section 107(c)(3).

8 (3) RELIEF.—In a civil action brought by an
9 Indian Tribe under paragraph (1), a district court of
10 the United States may order appropriate relief (in-
11 cluding injunctive relief to reverse a denial of a Plan
12 or a waiver to compel an officer or employee of the
13 United States, or any agency thereof, to perform a
14 duty provided under this Act or regulations promul-
15 gated under this Act) against any action by an offi-
16 cer or employee of the United States or any Federal
17 agency contrary to this Act or regulations promul-
18 gated under this Act.

1 **TITLE II—PLAN IMPLEMENTA-**
2 **TION; FUNDING ADMINISTRA-**
3 **TION; INTERDEPARTMENTAL**
4 **MEMORANDUM OF AGREE-**
5 **MENT; REPORT**

6 **SEC. 201. REDUCED REPORTING REQUIREMENTS.**

7 (a) CERTAIN FEDERAL PROGRAM REQUIREMENTS
8 SUPERSEDED.—An Indian Tribe with a Plan approved by
9 the Secretary under section 108—

10 (1) shall be required to submit a single report
11 each year based on the model report developed by
12 the Secretary under subsection (b)(1) in accordance
13 with the Plan of the Indian Tribe; and

14 (2) shall not be required to comply with report-
15 ing, recordkeeping, auditing, or similar requirements
16 or procedures required by individual Federal pro-
17 grams integrated into the Plan of the Indian Tribe.

18 (b) DUTIES OF SECRETARY.—The Secretary shall—

19 (1) develop a model report, to be made available
20 to the Indian Tribes, that describes all services or
21 activities undertaken and expenditures made under a
22 Plan;

23 (2) develop and use a single monitoring and
24 oversight system for Plans, which shall record all in-

1 formation relevant to the administration of Plans,
2 including, for each Plan—

3 (A) annual reports submitted by Indian
4 Tribes under this section;

5 (B) streamlined funding frameworks, as
6 updated by the Secretary pursuant to section
7 204(b)(2)(B); and

8 (C) coordinated project schedules, includ-
9 ing any environmental review timetables in-
10 cluded in those coordinated project schedules,
11 as updated by the Secretary pursuant to section
12 202(c)(2)(B); and

13 (3) maintain and make available to Indian
14 Tribes a list of all—

15 (A) Federal programs approved and denied
16 for integration into Plans; and

17 (B) waiver requests granted and denied
18 under section 107.

19 (c) MODEL REPORT FORMAT.—

20 (1) REQUIREMENTS.—The model report devel-
21 oped under subsection (b)(1) shall contain informa-
22 tion sufficient—

23 (A) to determine whether the Indian Tribe
24 has complied with the requirements of the Plan
25 of the Indian Tribe; and

1 (B) to enable the head of each affected
2 agency to determine whether the Indian Tribe
3 has complied with all directly applicable statu-
4 tory and regulatory requirements of the inte-
5 grated Federal programs of each affected agen-
6 cy that are not—

7 (i) superseded on integration into a
8 Plan; or

9 (ii) waived under section 107.

10 (2) LIMITATION.—The model report developed
11 under subsection (b)(1) shall not require an Indian
12 Tribe to report on the expenditure of funds ex-
13 pressed by fund source or single agency code trans-
14 ferred to the Indian Tribe under a Plan.

15 **SEC. 202. STREAMLINED PERMITTING AND REVIEW IMPLE-**
16 **MENTATION.**

17 (a) IDENTIFICATION OF FEDERAL AGENCIES.—

18 (1) IN GENERAL.—On approval of a Plan by
19 the Secretary under section 108, the Secretary, in
20 consultation with the Indian Tribe, shall identify
21 and invite all Federal agencies that have permitting,
22 review, approval, or other authorization responsibil-
23 ities with respect to the services or activities to be
24 carried out under the Plan, including responsibilities
25 that require review under NEPA, section 306108 of

1 title 54, United States Code (commonly known as
2 the “National Historic Preservation Act”), and other
3 applicable Federal law, to participate in the stream-
4 lined permitting and review process described in this
5 section.

6 (2) LEAD AGENCY.—The Department shall be
7 the lead Federal agency responsible for implementa-
8 tion of this Act.

9 (b) PARTICIPATING AGENCIES.—

10 (1) IN GENERAL.—A Federal agency invited
11 under subsection (a) shall be designated as a partici-
12 pating agency for a Plan, unless the Federal agency
13 informs the Secretary in writing not later than 14
14 days after the date on which the Federal agency re-
15 ceives the invitation from the Secretary under that
16 subsection that the Federal agency—

17 (A) has no jurisdiction or review, permit-
18 ting, or other authorization responsibility with
19 respect to the services or activities to be carried
20 out under the Plan; or

21 (B) does not intend to exercise review, per-
22 mitting, or other authorization responsibility re-
23 lating to, or submit comments on, implementa-
24 tion of the Plan.

1 (2) CHANGED CIRCUMSTANCES.—At the request
2 of a Federal agency based on a showing of changed
3 circumstances, the Secretary may designate a Fed-
4 eral agency that has opted out under paragraph
5 (1)(A) to be a participating agency.

6 (3) EFFECT.—Designation as a participating
7 agency under paragraph (1) shall not grant the par-
8 ticipating agency authority or jurisdiction over—

9 (A) the Plan; or

10 (B) the services and activities to be carried
11 out under the Plan beyond the existing statu-
12 tory authority of the participating agency, if
13 any, to approve particular services or activities
14 under the Plan.

15 (c) COORDINATED PROJECT SCHEDULE.—

16 (1) IN GENERAL.—Not later than 60 days after
17 the date on which a Plan submitted to the Secretary
18 is approved by the Secretary under section 108, the
19 Secretary and the applicable Indian Tribe, in con-
20 sultation with each participating agency designated
21 under subsection (b)(1), shall develop a coordinated
22 project schedule for completing any review and ob-
23 taining any permit or other authorization required to
24 carry out the services and activities under the Plan,
25 except those requirements waived under section 107.

1 (2) REQUIRED INFORMATION.—

2 (A) IN GENERAL.—A coordinated project
3 schedule shall include the following information:

4 (i) A list of, and roles and responsibil-
5 ities for, all participating agencies with re-
6 view, permitting, or other authorization re-
7 sponsibility for services or activities under
8 the Plan.

9 (ii) A discussion of potential avoid-
10 ance, minimization, and mitigation strate-
11 gies, if known and required by applicable
12 Federal law.

13 (iii) A plan and schedule for public
14 and Tribal outreach and coordination, to
15 the extent required by applicable Federal
16 law.

17 (iv) If applicable, an environmental
18 review timetable, as described in subsection
19 (d).

20 (B) UPDATES.—The information described
21 in subparagraph (A) shall be updated by the
22 Secretary not less frequently than once per
23 quarter.

24 (d) ENVIRONMENTAL REVIEW TIMETABLE.—

1 (1) ESTABLISHMENT.—As part of a coordinated
2 project schedule, the Secretary, in consultation with
3 the applicable Indian Tribe, each participating agen-
4 cy, and, if appropriate, any State in which the rel-
5 evant services or activities in the Plan are located,
6 shall establish an environmental review timetable
7 that includes intermediate and final completion
8 dates for all required environmental reviews nec-
9 essary for each permit or other authorization re-
10 quired by a participating agency to support comple-
11 tion of the services or activities in the Plan that
12 have not otherwise been waived under section 107,
13 including any review required pursuant to NEPA.

14 (2) TERM.—To the maximum extent prac-
15 ticable, and consistent with applicable Federal law,
16 an environmental review timetable established under
17 paragraph (1) shall not exceed an overall term of 1
18 year after a Plan is approved.

19 (3) DETERMINATIONS.—If a participating agen-
20 cy is required to issue a determination with respect
21 to an environmental review, permit, or other author-
22 ization as part of the coordinated project schedule
23 described in paragraph (1), the participating agency
24 shall issue the determination not later than 90 days
25 after all the required information for the environ-

1 mental review, permit, or other authorization is in
2 possession of the participating agency.

3 (4) DELAY.—If the Secretary determines that
4 an environmental review, permit, or other authoriza-
5 tion will not be completed or issued in accordance
6 with this subsection, the Secretary shall—

7 (A) notify the participating agency respon-
8 sible for completing the environmental review or
9 issuing the permit or other authorization of the
10 discrepancy; and

11 (B) request that the participating agency
12 take such measures as the Secretary, in con-
13 sultation with the participating agency, deter-
14 mines appropriate to comply with that environ-
15 mental review timetable.

16 (e) COORDINATION OF REQUIRED REVIEWS AND AU-
17 THORIZATIONS.—

18 (1) CONCURRENT REVIEWS.—To efficiently in-
19 tegrate the exercise of review, permitting, and other
20 authorization responsibilities, each participating
21 agency shall, to the maximum extent practicable—

22 (A) carry out the responsibilities of the
23 participating agency with respect to a Plan con-
24 currently, and in conjunction with, the respon-
25 sibilities of other participating agencies, includ-

1 ing reviews required under NEPA and section
2 306108 of title 54, United States Code (com-
3 monly known as the “National Historic Preser-
4 vation Act”), unless the participating agency
5 determines that doing so would impair the abil-
6 ity of the participating agency to carry out the
7 other statutory obligations of the participating
8 agency;

9 (B) formulate and implement administra-
10 tive, policy, and procedural mechanisms to en-
11 able the participating agency to ensure comple-
12 tion of the process for reviews and issuance of
13 permits and other authorizations in a timely,
14 coordinated, and responsible manner; and

15 (C) where an environmental impact state-
16 ment is required for services or activities in a
17 Plan pursuant to section 102(2)(C) of NEPA
18 (42 U.S.C. 4332(2)(C)), prepare a single, inter-
19 agency environmental impact statement for the
20 services or activities unless the Secretary pro-
21 vides justification in the coordinated project
22 schedule that multiple environmental impact
23 statements are more efficient.

24 (2) ADOPTION, INCORPORATION BY REF-
25 ERENCE, AND USE OF DOCUMENTS.—

1 (A) IN GENERAL.—On the request of an
2 Indian Tribe, the Secretary shall consider and,
3 as appropriate, adopt or incorporate by ref-
4 erence, the analysis and documentation pre-
5 pared for a Plan under the laws and procedures
6 of the Indian Tribe as the documentation, or
7 part of the documentation, required to complete
8 a review or issue a permit or other authoriza-
9 tion for the Plan.

10 (B) NEPA COMPLIANCE.—A document
11 adopted under subparagraph (A) or a document
12 that includes documentation incorporated under
13 that subparagraph may serve as the documenta-
14 tion required for an environmental review or a
15 supplemental environmental review required to
16 be prepared by a lead agency pursuant to
17 NEPA.

18 (3) PRESUMPTION OF NEGATIVE IMPACTS OF
19 TAKING NO ACTION.—For all environmental reviews
20 required pursuant to NEPA that require consider-
21 ation of a no action alternative, there shall be a pre-
22 sumption that, given the ongoing threats addressed
23 by this Act, the effects of taking no action will be
24 negative for the Indian Tribe.

25 (f) PETITION TO COURT.—

1 (1) RIGHT TO PETITION.—An Indian Tribe may
2 obtain a review of an alleged failure by a partici-
3 pating agency to act in accordance with an applica-
4 ble deadline described in a coordinated project
5 schedule by filing a written petition with a court of
6 competent jurisdiction seeking an order under para-
7 graph (2).

8 (2) COURT ORDER.—If a court of competent ju-
9 risdiction finds that a participating agency has failed
10 to act in accordance with an applicable deadline de-
11 scribed in paragraph (1), the court shall set a sched-
12 ule and deadline for the participating agency to act
13 as soon as practicable, which shall not exceed 90
14 days from the date on which the order of the court
15 is issued, unless the court determines a longer time
16 is necessary to comply with applicable law.

17 **SEC. 203. EXPEDITED FEE-TO-TRUST PROCESS FOR PLAN**
18 **IMPLEMENTATION.**

19 (a) MANDATORY TRUST ACQUISITIONS.—On request
20 of an Indian Tribe, the Secretary shall take land into trust
21 for the benefit of the Indian Tribe if the Indian Tribe—

22 (1) acquired the land using funds distributed in
23 accordance with a Plan; or

24 (2) after the Indian Tribe acquires the land, the
25 Secretary determines the Indian Tribe faces immi-

1 nent environmental risk if not able to immediately
2 relocate.

3 (b) DISCRETIONARY TRUST ACQUISITIONS.—On re-
4 quest of an Indian Tribe, the Secretary may take into
5 trust for the benefit of the Indian Tribe any land owned
6 by the Indian Tribe and intended for use pursuant to a
7 Plan, regardless of when the land was acquired, in accord-
8 ance with this section and the procedures described in part
9 151 of title 25, Code of Federal Regulations (or successor
10 regulations), except that—

11 (1)(A) the Indian Tribe shall not be subject to
12 the documentation requirements described in that
13 part; but

14 (B) the Indian Tribe shall be required to con-
15 sult with the Secretary to ensure the necessary in-
16 formation for the trust acquisition request is in-
17 cluded in the Plan (or in subsequent materials); and

18 (2) the Secretary shall—

19 (A) evaluate the trust acquisition request
20 using the procedures for an on-reservation ac-
21 quisition pursuant to 25 CFR 151.9(c) or an
22 initial Indian acquisition pursuant to 25 CFR
23 151.12(c) (as in effect on the date of the enact-
24 ment of this Act), as applicable, regardless of
25 the actual location of the land;

1 (B) evaluate the request using the environ-
2 mental review process described in section 202,
3 as applicable; and

4 (C) act on the request of an Indian Tribe
5 in accordance with the timeframe for approving
6 or denying a Plan under section 108.

7 **SEC. 204. STREAMLINED FUNDING FRAMEWORK IMPLE-**
8 **MENTATION.**

9 (a) IN GENERAL.—The Secretary, in consultation
10 with the applicable Indian Tribe, shall lead all affected
11 agencies with funding integrated into a Plan in developing
12 and implementing the streamlined funding frameworks de-
13 scribed in this section.

14 (b) STREAMLINED FUNDING FRAMEWORK.—

15 (1) IN GENERAL.—In consultation with the ap-
16 plicable Indian Tribe, the Secretary shall develop a
17 streamlined funding framework for each Plan that
18 details how funding sources will be coordinated for
19 the Federal programs integrated into a Plan, con-
20 sistent with the requirements of this Act.

21 (2) REQUIRED INFORMATION.—

22 (A) IN GENERAL.—Each streamlined fund-
23 ing framework developed under paragraph (1)
24 shall include the following information:

1 (i) A list of, and roles and responsibil-
2 ities for, all affected agencies with Federal
3 programs integrated into a Plan.

4 (ii) A funding timetable establishing a
5 comprehensive schedule of dates by
6 which—

7 (I) all funds are expected to be
8 apportioned to the affected agencies;
9 and

10 (II) those funds shall be trans-
11 ferred to the Secretary and disbursed
12 to the Indian Tribe, in accordance
13 with the requirements of section 205.

14 (B) UPDATES.—The information described
15 in subparagraph (A) shall be updated by the
16 Secretary not less frequently than once per
17 quarter.

18 (3) AFFECTED AGENCIES.—To efficiently and
19 effectively integrate funding from Federal programs
20 according to a Plan, each affected agency shall, to
21 the maximum extent practicable—

22 (A) formulate and implement administra-
23 tive, policy, and procedural mechanisms to en-
24 able the affected agency to coordinate funding

1 with the funding sources of other affected agen-
2 cies; and

3 (B) carry out the obligations of the af-
4 fected agency with respect to a Plan under any
5 other applicable Federal law concurrently, and
6 in conjunction with, other affected agencies, un-
7 less the affected agency determines that doing
8 so would impair the ability of the affected agen-
9 cy to carry out other statutory obligations of
10 the affected agency.

11 **SEC. 205. TRANSFER AND DISTRIBUTION OF FUNDS.**

12 (a) RESPONSIBILITY.—The Secretary shall be re-
13 sponsible for—

14 (1) the receipt of all funds covered by a Plan
15 approved by the Secretary under section 108; and

16 (2) the distribution of those funds to the appli-
17 cable Indian Tribe by not later than 45 days after
18 the date on which the Secretary receives those funds
19 from the affected agency.

20 (b) SET-ASIDES.—Notwithstanding any other provi-
21 sion of law—

22 (1) an affected agency may establish and imple-
23 ment, for the purposes of carrying out this Act, a
24 set-aside of funding for Indian Tribes from any Fed-
25 eral program the affected agency administers; and

1 (2) the amount for a set-aside described in
2 paragraph (1) shall be not less than 10 percent of
3 the total appropriations made available for the appli-
4 cable Federal program.

5 (c) TRANSFER OF FUNDS.—Notwithstanding any
6 other provision of law, not later than 30 days after the
7 date on which funds are apportioned to an affected agency
8 to carry out a Federal program integrated into a Plan,
9 the head of the affected agency that administers the Fed-
10 eral program integrated into the Plan shall transfer those
11 funds, through a nonexpenditure transfer, to the Secretary
12 for distribution to an Indian Tribe.

13 (d) DISTRIBUTION OF FUNDS.—Notwithstanding any
14 other provision of law, at the request of an Indian Tribe,
15 all funds distributed to the Indian Tribe in accordance
16 with a Plan shall be distributed to the Indian Tribe pursu-
17 ant to an existing contract, compact, or funding agree-
18 ment entered into under the Indian Self-Determination
19 and Education Assistance Act (25 U.S.C. 5301 et seq.).

20 (e) EMERGENCY DISTRIBUTION OF FUNDS.—Not-
21 withstanding any other provision of law, the Secretary
22 may, at the request of an Indian Tribe, distribute limited
23 funding on an interim basis before the date on which the
24 Secretary approves a Plan under section 108.

1 **SEC. 206. ADMINISTRATION OF FUNDS.**

2 (a) REQUIREMENTS.—

3 (1) IN GENERAL.—

4 (A) CONSOLIDATION AND REALLOCATION
5 OF FUNDS.—Notwithstanding any other provi-
6 sion of law, all funds transferred to an Indian
7 Tribe pursuant to a Plan may be consolidated,
8 reallocated, and rebudgeted for any purpose in
9 the Plan, without additional Federal approval
10 or a waiver under section 107, to best meet the
11 needs of the applicable Indian Tribe.

12 (B) AUTHORIZED USE OF FUNDS.—Funds
13 used to carry out a Plan shall be administered
14 in such a manner as the Secretary determines
15 to be appropriate to ensure the funds are spent
16 on services and activities carrying out the pur-
17 poses authorized under the Plan.

18 (C) EFFECT.—Nothing in this section
19 interferes with the ability of the Secretary to
20 use accounting procedures that conform to gen-
21 erally accepted accounting principles, auditing
22 procedures, and safeguarding of funds that con-
23 form to chapter 75 of title 31, United States
24 Code (commonly known as the “Single Audit
25 Act of 1984”).

1 (2) SEPARATE RECORDS AND AUDITS NOT RE-
2 QUIRED.—Notwithstanding any other provision of
3 law (including regulations and circulars of any agen-
4 cy (including Office of Management and Budget Cir-
5 cular A–133)), an Indian Tribe that has in place a
6 Plan approved under section 108 shall not be re-
7 quired—

8 (A) to maintain separate records that trace
9 any service or activity conducted under the Plan
10 to the Federal program for which the funds
11 were initially authorized or transferred;

12 (B) to allocate expenditures among those
13 Federal programs;

14 (C) to audit expenditures by the original
15 source of the Federal program; or

16 (D) to report on or in accordance with any
17 requirements associated with the underlying
18 Federal program, where instead only 1 annual
19 report on the Plan is required pursuant to the
20 model report developed by the Secretary under
21 section 201(b)(1).

22 (b) CARRYOVER.—

23 (1) IN GENERAL.—Any funds transferred to an
24 Indian Tribe under section 205(c) that are not obli-
25 gated or expended prior to the beginning of the fis-

1 cal year after the fiscal year for which the funds
2 were appropriated shall remain available for obliga-
3 tion or expenditure, without fiscal year limitation,
4 subject to the condition that the funds shall be obli-
5 gated or expended in accordance with the Plan of
6 the Indian Tribe.

7 (2) NO ADDITIONAL DOCUMENTATION.—An In-
8 dian Tribe shall not be required to provide any addi-
9 tional justification or documentation of the purposes
10 of a Plan as a condition of receiving or expending
11 carryover funds described in paragraph (1).

12 (c) INDIRECT COSTS.—Notwithstanding any other
13 provision of law, an Indian Tribe shall be entitled to re-
14 cover 100 percent of any indirect costs incurred by the
15 Indian Tribe as a result of the transfer of funds to the
16 Indian Tribe under section 205(c).

17 (d) MATCHING FUNDS.—Notwithstanding any other
18 provision of law, any funds transferred to an Indian Tribe
19 under section 205(c) shall be treated as non-Federal funds
20 for purposes of meeting matching requirements under any
21 other Federal law.

22 (e) INTEREST OR OTHER INCOME.—An Indian Tribe
23 shall be entitled to retain interest earned on any funds
24 transferred to the Indian Tribe under section 205(c) and
25 that interest shall not diminish the amount of funds the

1 Indian Tribe is authorized to receive under the Plan in
2 the year the interest is earned (or in any subsequent fiscal
3 year).

4 **SEC. 207. NO REDUCTION IN AMOUNTS.**

5 (a) IN GENERAL.—In no case shall the amount of
6 Federal funds available to an Indian Tribe that seeks to
7 propose a Plan under section 106 be reduced as a result
8 of—

9 (1) the enactment of this Act; or

10 (2) the approval or implementation of a Plan of
11 the Indian Tribe.

12 (b) INTERACTION WITH OTHER LAWS.—The integra-
13 tion of a Federal program into a Plan shall not—

14 (1) modify, limit, or otherwise affect the eligi-
15 bility of the Federal program for contracting under
16 the Indian Self-Determination and Education Assist-
17 ance Act (25 U.S.C. 5301 et seq.); or

18 (2) eliminate the applicability of any provision
19 of that Act, as the provision relates to a specific
20 Federal program eligible for contracting under that
21 Act.

22 **SEC. 208. INTERDEPARTMENTAL MEMORANDUM OF AGREE-**
23 **MENT.**

24 (a) MEMORANDUM OF AGREEMENT REQUIRED.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of enactment of this Act, the Office
3 of the Assistant Secretary for Indian Affairs shall
4 lead the Federal partners in negotiating and enter-
5 ing into an interdepartmental memorandum of
6 agreement providing for the implementation of this
7 Act.

8 (2) TRIBAL CONSULTATION.—In negotiating
9 and entering to an interdepartmental memorandum
10 of agreement under paragraph (1), the Department
11 and the Federal partners shall consult with rep-
12 resentatives of Indian Tribes.

13 (b) REQUIREMENTS AND RESTRICTIONS.—The inter-
14 departmental memorandum of agreement required under
15 subsection (a)(1)—

16 (1) shall include provisions relating to—

17 (A) interagency cooperation with respect to
18 the procedures for approval of Plans by the
19 Secretary under section 108 and the granting
20 of waivers by affected agencies under section
21 107;

22 (B) establishing a Tribal working group to
23 advise the Federal partners on overall program
24 management and implementation; and

1 (C) ensuring an annual meeting between
2 the Federal partners and the Tribal working
3 group described in subparagraph (B); and

4 (2) shall not—

5 (A) introduce additional criteria for Fed-
6 eral program eligibility;

7 (B) limit the role of the Department as the
8 lead Federal agency responsible for implementa-
9 tion of this Act; or

10 (C) restrict the role of the Secretary and
11 exclusive decisionmaking authority for all Fed-
12 eral actions under this Act, including the sole
13 and exclusive authority to determine whether a
14 Federal program is eligible for integration into
15 a Plan.

16 (c) APPLICABILITY.—Chapter 10 of title 5, United
17 States Code (commonly known as the “Federal Advisory
18 Committee Act”), shall not apply to the Tribal working
19 group described in subsection (b)(1)(B) or any Federal
20 agency coordinating with that Tribal working group.

21 (d) DETAIL OF FEDERAL EMPLOYEES.—An em-
22 ployee of the Federal Government may be detailed to the
23 Department for the purposes of carrying out this Act with-
24 out reimbursement and without interruption or loss of civil
25 service status or privilege.

1 **SEC. 209. REPORT REQUIRED.**

2 Not later than 2 years after the date of enactment
3 of this Act, the Secretary, in consultation with affected
4 agencies and representatives of Indian Tribes, shall sub-
5 mit to the Committee on Indian Affairs of the Senate and
6 the Committee on Natural Resources of the House of Rep-
7 resentatives a report on the status of the implementation
8 of this Act.

○