

scribe, such program shall provide for the employment of Indian and Alaska Native professional foresters or forestry technicians in exchange for the Secretary's assumption of the employee's outstanding student loans. The period of employment shall be determined by the amount of the loan that is assumed.

(b) Postgraduate intergovernmental internships

For the purposes of training, skill development and orientation of Indian, Alaska native,¹ and Federal forestry personnel, and the enhancement of tribal and Bureau of Indian Affairs forestry programs, the Secretary shall establish and actively conduct a program for the cooperative internship of Federal, Indian, and Alaska Native forestry personnel. Such program shall—

(1) for agencies within the Department of the Interior—

(A) provide for the internship of Bureau of Indian Affairs, Alaska Native, and Indian forestry employees in the forestry-related programs of other agencies of the Department of the Interior, and

(B) provide for the internship of forestry personnel from other Department of the Interior agencies within the Bureau of Indian Affairs and, with the consent of the tribe, within tribal forestry programs;

(2) for agencies not within the Department of the Interior, provide, pursuant to an inter-agency agreement, internships within the Bureau of Indian Affairs and, with the consent of the tribe, within a tribal forestry program of other forestry personnel of such agencies who are above their sixth year of Federal service;

(3) provide for the continuation of salary and benefits for participating Federal employees by their originating agency;

(4) provide for salaries and benefits of participating Indian and Alaska Native forestry employees by the host agency; and

(5) provide for a bonus pay incentive at the conclusion of the internship for any participant.

(c) Continuing education and training

The Secretary shall maintain a program within the Division of Forestry of the Bureau of Indian Affairs for the ongoing education and training of Bureau of Indian Affairs, Alaska Native, and Indian forestry personnel. Such program shall provide for—

(1) orientation training for Bureau of Indian Affairs forestry personnel in tribal-Federal relations and responsibilities;

(2) continuing technical forestry education for Bureau of Indian Affairs, Alaska Native, and tribal forestry personnel; and

(3) developmental training of Indian and Alaska Native personnel in forest land based enterprises and marketing.

(Pub. L. 101-630, title III, §315, Nov. 28, 1990, 104 Stat. 4542.)

¹ So in original. Probably should be capitalized.

§ 3115. Cooperative agreement between Department of the Interior and Indian tribes

(a) Cooperative agreements

(1) To facilitate the administration of the programs and activities of the Department of the Interior, the Secretary is authorized to negotiate and enter into cooperative agreements with Indian tribes to—

(A) engage in cooperative manpower and job training and development programs,

(B) to develop and publish cooperative environmental education and natural resource planning materials, and

(C) to perform land and facility improvements, including forestry and other natural resources protection, fire protection, reforestation, timber stand improvement, debris removal, and other activities related to land and natural resource management.

The Secretary may enter into such agreements when the Secretary determines the public interest will be benefited.

(2) In such cooperative agreements, the Secretary is authorized to advance or reimburse funds to contractors from any appropriated funds available for similar kinds of work or by furnishing or sharing materials, supplies, facilities or equipment without regard to the provisions of section 3324, title 31, relating to the advance of public moneys.

(b) Supervision

In any agreement authorized by this section, Indian tribes and their employees may perform cooperative work under the supervision of the Department of the Interior in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for purposes of section¹ 2671 through 2680 of title 28 and section¹ 8101 through 8193 of title 5.

(c) Savings provision

Nothing in this chapter shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

(Pub. L. 101-630, title III, §316, Nov. 28, 1990, 104 Stat. 4543.)

§ 3115a. Tribal forest assets protection

(a) Definitions

In this section:

(1) Federal land

The term "Federal land" means—

(A) land of the National Forest System (as defined in section 1609(a) of title 16) administered by the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) public lands (as defined in section 1702 of title 43), the surface of which is administered by the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(2) Indian forest land or rangeland

The term "Indian forest land or rangeland" means land that—

¹ So in original. Probably should be "sections".

(A) is held in trust by, or with a restriction against alienation by, the United States for an Indian tribe or a member of an Indian tribe; and

(B)(i)(I) is Indian forest land (as defined in section 3103 of this title); or

(II) has a cover of grasses, brush, or any similar vegetation; or

(ii) formerly had a forest cover or vegetative cover that is capable of restoration.

(3) Indian tribe

The term “Indian tribe” has the meaning given the term in section 450b of this title.

(4) Secretary

The term “Secretary” means—

(A) the Secretary of Agriculture, with respect to land under the jurisdiction of the Forest Service; and

(B) the Secretary of the Interior, with respect to land under the jurisdiction of the Bureau of Land Management.

(b) Authority to protect Indian forest land or rangeland

(1) In general

Not later than 120 days after the date on which an Indian tribe submits to the Secretary a request to enter into an agreement or contract to carry out a project to protect Indian forest land or rangeland (including a project to restore Federal land that borders on or is adjacent to Indian forest land or rangeland) that meets the criteria described in subsection (c) of this section, the Secretary may issue public notice of initiation of any necessary environmental review or of the potential of entering into an agreement or contract with the Indian tribe pursuant to section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 2104 note; Public Law 105-277) (as amended by section 323 of the Department of the Interior and Related Agencies Appropriations Act, 2003 (117 Stat. 275)), or such other authority as appropriate, under which the Indian tribe would carry out activities described in paragraph (3).

(2) Environmental analysis

Following completion of any necessary environmental analysis, the Secretary may enter into an agreement or contract with the Indian tribe as described in paragraph (1).

(3) Activities

Under an agreement or contract entered into under paragraph (2), the Indian tribe may carry out activities to achieve land management goals for Federal land that is—

(A) under the jurisdiction of the Secretary; and

(B) bordering or adjacent to the Indian forest land or rangeland under the jurisdiction of the Indian tribe.

(c) Selection criteria

The criteria referred to in subsection (b) of this section, with respect to an Indian tribe, are whether—

(1) the Indian forest land or rangeland under the jurisdiction of the Indian tribe borders on or is adjacent to land under the jurisdiction of

the Forest Service or the Bureau of Land Management;

(2) Forest Service or Bureau of Land Management land bordering on or adjacent to the Indian forest land or rangeland under the jurisdiction of the Indian tribe—

(A) poses a fire, disease, or other threat to—

(i) the Indian forest land or rangeland under the jurisdiction of the Indian tribe; or

(ii) a tribal community; or

(B) is in need of land restoration activities;

(3) the agreement or contracting activities applied for by the Indian tribe are not already covered by a stewardship contract or other instrument that would present a conflict on the subject land; and

(4) the Forest Service or Bureau of Land Management land described in the application of the Indian tribe presents or involves a feature or circumstance unique to that Indian tribe (including treaty rights or biological, archaeological, historical, or cultural circumstances).

(d) Notice of denial

If the Secretary denies a tribal request under subsection (b)(1) of this section, the Secretary may issue a notice of denial to the Indian tribe, which—

(1) identifies the specific factors that caused, and explains the reasons that support, the denial;

(2) identifies potential courses of action for overcoming specific issues that led to the denial; and

(3) proposes a schedule of consultation with the Indian tribe for the purpose of developing a strategy for protecting the Indian forest land or rangeland of the Indian tribe and interests of the Indian tribe in Federal land.

(e) Proposal evaluation and determination factors

In entering into an agreement or contract in response to a request of an Indian tribe under subsection (b)(1) of this section, the Secretary may—

(1) use a best-value basis; and

(2) give specific consideration to tribally-related factors in the proposal of the Indian tribe, including—

(A) the status of the Indian tribe as an Indian tribe;

(B) the trust status of the Indian forest land or rangeland of the Indian tribe;

(C) the cultural, traditional, and historical affiliation of the Indian tribe with the land subject to the proposal;

(D) the treaty rights or other reserved rights of the Indian tribe relating to the land subject to the proposal;

(E) the indigenous knowledge and skills of members of the Indian tribe;

(F) the features of the landscape of the land subject to the proposal, including watersheds and vegetation types;

(G) the working relationships between the Indian tribe and Federal agencies in coordi-

nating activities affecting the land subject to the proposal; and

(H) the access by members of the Indian tribe to the land subject to the proposal.

(f) No effect on existing authority

Nothing in this section—

(1) prohibits, restricts, or otherwise adversely affects the participation of any Indian tribe in stewardship agreements or contracting under the authority of section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 2104 note; Public Law 105-277) (as amended by section 323 of the Department of the Interior and Related Agencies Appropriations Act, 2003 (117 Stat. 275)) or other authority invoked pursuant to this section; or

(2) invalidates any agreement or contract under that authority.

(g) Report

Not later than 4 years after July 22, 2004, the Secretary shall submit to Congress a report that describes the Indian tribal requests received and agreements or contracts that have been entered into under this section.

(Pub. L. 108-278, § 2, July 22, 2004, 118 Stat. 868.)

REFERENCES IN TEXT

Section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999, referred to in subsecs. (b)(1) and (f)(1), was section §101(e) [title III, §347] of Pub. L. 105-277, div. A, as amended, which was set out as a note under section 2104 of Title 16, Conservation, prior to repeal by Pub. L. 113-79, title VIII, §8205(b), Feb. 7, 2014, 128 Stat. 921. Provisions similar to §101(e) [title III, §347] of Pub. L. 105-277, div. A, as amended, were enacted by Pub. L. 108-148, title VI, §604, as added Pub. L. 113-79, title VIII, §8205(a), Feb. 7, 2014, 128 Stat. 918 and are classified to section 6591c of Title 16, Conservation.

This section, referred to in subsecs. (f) and (g), was in the original “this Act”, meaning Pub. L. 108-278, July 22, 2004, 118 Stat. 868, which enacted this section and provisions set out as a note under section 3101 of this title.

CODIFICATION

Section was enacted as part of the Tribal Forest Protection Act of 2004, and not as part of the National Indian Forest Resources Management Act which comprises this chapter.

§ 3116. Obligated service; breach of contract

(a) Obligated service

Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this chapter, the Secretary shall adopt such regulations as are necessary to provide for the offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

(b) Breach of contract; repayment

Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the

financial assistance provided, prorated for the amount of time of obligated service performed, together with interest on such amount which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

(Pub. L. 101-630, title III, §317, Nov. 28, 1990, 104 Stat. 4544.)

§ 3117. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this chapter.

(Pub. L. 101-630, title III, §318, Nov. 28, 1990, 104 Stat. 4544.)

§ 3118. Regulations

Except as otherwise provided by this chapter, the Secretary is directed to promulgate final regulations for the implementation of the¹ chapter within eighteen months from November 28, 1990. All regulations promulgated pursuant to this chapter shall be developed by the Secretary with the participation of the affected Indian tribes.

(Pub. L. 101-630, title III, §319, Nov. 28, 1990, 104 Stat. 4544.)

§ 3119. Severability

If any provision of this chapter, or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision or circumstance and the remainder of this chapter shall not be affected thereby.

(Pub. L. 101-630, title III, §320, Nov. 28, 1990, 104 Stat. 4544.)

§ 3120. Trust responsibility

Nothing in this chapter shall be construed to diminish or expand the trust responsibility of the United States toward Indian forest lands, or any legal obligation or remedy resulting therefrom.

(Pub. L. 101-630, title III, §321, Nov. 28, 1990, 104 Stat. 4544.)

CHAPTER 34—INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION

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¹ So in original. Probably should be “this”.