

agreement and shall consider, among other things, the potential economic return to the tribe; the potential environmental, social, and cultural effects on the tribe; and provisions for resolving disputes that may arise between the parties to the agreement: *Provided*, That the Secretary shall not be required to prepare any study regarding environmental, socioeconomic, or cultural effects of the implementation of a Minerals Agreement apart from that which may be required under section 4332(2)(C) of title 42.

(c) Prior notice of proposed finding; privileged information

Not later than thirty days prior to formal approval or disapproval of any Minerals Agreement, the Secretary shall provide written findings forming the basis of his intent to approve or disapprove such agreement to the affected Indian tribe. Notwithstanding any other law, such findings and all projections, studies, data or other information possessed by the Department of the Interior regarding the terms and conditions of the Minerals Agreement, the financial return to the Indian parties thereto, or the extent, nature, value or disposition of the Indian mineral resources, or the production, products or proceeds thereof, shall be held by the Department of the Interior as privileged proprietary information of the affected Indian or Indian tribe.

(d) Delegation; final action; appeal; burden on Secretary

The authority to disapprove agreements under this section may only be delegated to the Assistant Secretary of the Interior for Indian Affairs. The decision of the Secretary or, where authority is delegated, of the Assistant Secretary of the Interior for Indian Affairs, to disapprove a Minerals Agreement shall be deemed a final agency action. The district courts of the United States shall have jurisdiction to review the Secretary's disapproval action and shall determine the matter de novo. The burden is on the Secretary to sustain his action.

(e) Nonliability of United States; continuing obligations

Where the Secretary has approved a Minerals Agreement in compliance with the provisions of this chapter and any other applicable provision of law, the United States shall not be liable for losses sustained by a tribe or individual Indian under such agreement: *Provided*, That the Secretary shall continue to have a trust obligation to ensure that the rights of a tribe or individual Indian are protected in the event of a violation of the terms of any Minerals Agreement by any other party to such agreement: *Provided further*, That nothing in this chapter shall absolve the United States from any responsibility to Indians, including those which derive from the trust relationship and from any treaties, Executive orders, or agreement between the United States and any Indian tribe.

(Pub. L. 97-382, § 4, Dec. 22, 1982, 96 Stat. 1938.)

§ 2104. Secretary's review of prior Minerals Agreements

(a) Time; criteria; notice of modifications; time for compliance; effect of noncompliance

The Secretary shall review, within ninety days of December 22, 1982, any existing Minerals Agreement, which does not purport to be a lease, entered into by any Indian tribe and approved by the Secretary after January 1, 1975, but prior to December 22, 1982, to determine if such agreement complies with the purposes of this chapter. Such review shall be limited to the terms of the agreement and shall not address questions of the parties' compliance therewith. The Secretary shall notify the affected tribe and other parties to the agreement of any modifications necessary to bring an agreement into compliance with the purposes of this chapter. The tribe and other parties to such agreement shall within ninety days after notice make such modifications. If such modifications are not made within ninety days, the provisions of this chapter may not be used as a defense in any proceeding challenging the validity of the agreement.

(b) Review before promulgation of regulations; not Federal action

The review required by subsection (a) of this section may be performed prior to the promulgation of regulations required under section 2107 of this title and shall not be considered a Federal action within the meaning of that term in section 4332(2)(C) of title 42.

(Pub. L. 97-382, § 5, Dec. 22, 1982, 96 Stat. 1939.)

§ 2105. Effect of other provisions

Nothing in this chapter shall affect, nor shall any Minerals Agreement approved pursuant to this chapter be subject to or limited by, sections 396a to 396g of this title, or any other law authorizing the development or disposition of the mineral resources of an Indian or Indian tribe.

(Pub. L. 97-382, § 6, Dec. 22, 1982, 96 Stat. 1940.)

§ 2106. Assistance to tribes or individuals during Minerals Agreement negotiations

In carrying out the obligations of the United States, the Secretary shall ensure that upon the request of an Indian tribe or individual Indian and to the extent of his available resources, such tribe or individual Indian shall have available advice, assistance, and information during the negotiation of a Minerals Agreement. The Secretary may fulfill this responsibility either directly through the use of Federal officials and resources or indirectly by providing financial assistance to the Indian tribe or individual Indian to secure independent assistance.

(Pub. L. 97-382, § 7, Dec. 22, 1982, 96 Stat. 1940.)

§ 2107. Regulations; consultation with Indian organizations; pending agreements

Within one hundred and eighty days of December 22, 1982, the Secretary of the Interior shall promulgate rules and regulations to facilitate implementation of this chapter. The Secretary shall, to the extent practicable, consult with national and regional Indian organizations and

tribes with expertise in mineral development both in the initial formulation of rules and regulations and any future revision or amendment of such rules and regulations. Where there is pending before the Secretary for his approval a Minerals Agreement of the type authorized by section 2102 of this title which was submitted prior to December 22, 1982, the Secretary shall evaluate and approve or disapprove such agreement based upon section 2103 of this title, but shall not withhold or delay such approval or disapproval on the grounds that the rules and regulations implementing this chapter have not been promulgated.

(Pub. L. 97-382, § 8, Dec. 22, 1982, 96 Stat. 1940.)

§ 2108. Tribal right to develop mineral resources

Nothing in this chapter shall impair any right of an Indian tribe organized under section 16 or 17 of the Act of June 18, 1934 (48 Stat. 987), as amended [25 U.S.C. 5123, 5124], to develop their mineral resources as may be provided in any constitution or charter adopted by such tribe pursuant to that Act [25 U.S.C. 5101 et seq.].

(Pub. L. 97-382, § 9, Dec. 22, 1982, 96 Stat. 1940.)

REFERENCES IN TEXT

Act of June 18, 1934, referred to in text, popularly known as the Indian Reorganization Act, is classified generally to chapter 45 (§5101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

CHAPTER 24—INDIAN LAND CONSOLIDATION

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§ 2201. Definitions

For the purpose of this chapter—

(1) “Indian tribe” or “tribe” means any Indian tribe, band, group, pueblo, or community for which, or for the members of which, the United States holds lands in trust;

(2) “Indian” means—

(A) any person who is a member of any Indian tribe, is eligible to become a member of any Indian tribe, or is an owner (as of October 27, 2004) of a trust or restricted interest in land;

(B) any person meeting the definition of Indian under the Indian Reorganization Act (25 U.S.C. 479)¹ and the regulations promulgated thereunder; and

(C) with respect to the inheritance and ownership of trust or restricted land in the State of California pursuant to section 2206 of this title, any person described in subparagraph (A) or (B) or any person who owns a trust or restricted interest in a parcel of such land in that State.²

(3) “Secretary” means the Secretary of the Interior;

(4)(i) “trust or restricted lands” means lands, title to which is held by the United States in trust for an Indian tribe or individual, or which is held by an Indian tribe or individual subject to a restriction by the United States against alienation; and (ii) “trust or restricted interest in land” or “trust or restricted interest in a parcel of land” means an interest in land, the title to which interest is held in trust by the United States for an Indian tribe or individual, or which is held by an Indian tribe or individual subject to a restriction by the United States against alienation.²

(5) “heirs of the first or second degree” means parents, children, grandchildren, grandparents, brothers and sisters of a decedent.²

(6) “parcel of highly fractionated Indian land” means a parcel of land that the Secretary, pursuant to authority under a provision of this chapter, determines to have, as evidenced by the Secretary’s records at the time of the determination—

(A) 50 or more but less than 100 co-owners of undivided trust or restricted interests, and no 1 of such co-owners holds a total undivided trust or restricted interest in the parcel that is greater than 10 percent of the entire undivided ownership of the parcel; or

(B) 100 or more co-owners of undivided trust or restricted interests;

(7) the term “land” means any real property;

(8) “person” or “individual” means a natural person;

(9) “eligible heirs” means, for purposes of section 2206 of this title, any of a decedent’s children, grandchildren, great grandchildren, full siblings, half siblings by blood, and parents who are—

(A) Indian; or

(B) lineal descendants within 2 degrees of consanguinity of an Indian; or

(C) owners of a trust or restricted interest in a parcel of land for purposes of inheriting

¹ See References in Text note below.

² So in original. The period probably should be a semicolon.