

occurred, the Secretary may take any action the Secretary determines to be necessary to remedy the violation, including rescinding the approval of the tribal regulations and re-assuming responsibility for the approval of leases of tribal trust land.

### (3) Documentation

If the Secretary determines under paragraph (1) that a violation of tribal regulations has occurred and a remedy is necessary, the Secretary shall—

(A) make a written determination with respect to the regulations that have been violated;

(B) provide to the applicable Indian tribe a written notice of the alleged violation, together with the written determination; and

(C) prior to the exercise of any remedy, the rescission of the approval of the regulation involved, or the re-assumption of the trust asset transaction approval responsibilities, provide to the applicable Indian tribe—

- (i) a hearing on the record; and
- (ii) a reasonable opportunity to cure the alleged violation.

(Pub. L. 114-178, title II, §205, June 22, 2016, 130 Stat. 436.)

#### REFERENCES IN TEXT

The National Indian Forest Resources Management Act, referred to in subsec. (b)(2)(B)(i), is title III of Pub. L. 101-630, Nov. 28, 1990, 104 Stat. 4532, which is classified generally to chapter 33 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (d)(2), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which was classified principally to subchapter II (§450 et seq.) of chapter 14 of this title prior to editorial reclassification as chapter 46 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

### § 5615. Effect of subchapter

#### (a) Liability

Subject to section 5614 of this title and this section, nothing in this subchapter or an Indian trust asset management plan approved under section 5613 of this title shall independently diminish, increase, create, or otherwise affect the liability of the United States or an Indian tribe participating in the project for any loss resulting from the management of an Indian trust asset under an Indian trust asset management plan.

#### (b) Deviation from standard practices

The United States shall not be liable to any party (including any Indian tribe) for any term of, or any loss resulting from the terms of, an Indian trust asset management plan that provides for management of a trust asset at a less-stringent standard than the Secretary would otherwise require or adhere to in absence of an Indian trust asset management plan.

#### (c) Effect of termination of plan

Subsection (b) applies to losses resulting from a transaction or activity described in that subsection even if the Indian trust asset manage-

ment plan is terminated under section 5613(d) of this title or rescinded under section 5614(h) of this title.

### (d) Effect on other laws

#### (1) In general

Except as provided in sections 5613 and 5614 of this title and subsection (e), nothing in this subchapter amends or otherwise affects the application of any treaty, statute, regulation, or Executive order that is applicable to Indian trust assets or the management or administration of Indian trust assets.

#### (2) Indian Self-Determination Act

Nothing in this subchapter limits or otherwise affects the authority of an Indian tribe, including an Indian tribe participating in the project, to enter into and carry out a contract, compact, or other agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)<sup>1</sup> (including regulations).

### (e) Separate approval

An Indian tribe may submit to the Secretary tribal regulations described in section 5614(b) of this title governing forest land management activities for review and approval under this subchapter if the Indian tribe does not submit or intend to submit an Indian trust asset management plan.

### (f) Trust responsibility

Nothing in this subchapter enhances, diminishes, or otherwise affects the trust responsibility of the United States to Indian tribes or individual Indians.

(Pub. L. 114-178, title II, §206, June 22, 2016, 130 Stat. 439.)

#### REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (d)(2), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which was classified principally to subchapter II (§450 et seq.) of chapter 14 of this title prior to editorial reclassification as chapter 46 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

## SUBCHAPTER III—IMPROVING EFFICIENCY AND STREAMLINING PROCESSES

### § 5631. Purpose

The purpose of this subchapter is to ensure a more efficient and streamlined administration of duties of the Secretary of the Interior with respect to providing services and programs to Indians and Indian tribes, including the management of Indian trust resources.

(Pub. L. 114-178, title III, §301, June 22, 2016, 130 Stat. 439.)

### § 5632. Definitions

In this subchapter:

#### (1) BIA

The term “BIA” means the Bureau of Indian Affairs.

<sup>1</sup> See References in Text note below.

**(2) Department**

The term “Department” means the Department of the Interior.

**(3) Secretary**

The term “Secretary” means the Secretary of the Interior.

**(4) Under Secretary**

The term “Under Secretary” means the Under Secretary for Indian Affairs established under section 5633(a) of this title.

(Pub. L. 114–178, title III, §302, June 22, 2016, 130 Stat. 439.)

**§ 5633. Under Secretary for Indian Affairs****(a) Establishment of position**

Notwithstanding any other provision of law, the Secretary may establish in the Department the position of Under Secretary for Indian Affairs, who shall report directly to the Secretary.

**(b) Appointment****(1) In general**

Except as provided in paragraph (2), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

**(2) Exception**

The individual serving as the Assistant Secretary for Indian Affairs on June 22, 2016, may assume the position of Under Secretary without appointment under paragraph (1), if—

(A) that individual was appointed as Assistant Secretary for Indian Affairs by the President, by and with the advice and consent of the Senate; and

(B) not later than 180 days after June 22, 2016, the Secretary approves the assumption.

**(c) Duties**

In addition to any other duties directed by the Secretary, the Under Secretary shall—

(1) coordinate with the Special Trustee for American Indians to ensure an orderly transition of the functions of the Special Trustee to one or more appropriate agencies, offices, or bureaus within the Department, as determined by the Secretary;

(2) to the maximum extent practicable, supervise and coordinate activities and policies of the BIA with activities and policies of—

(A) the Bureau of Reclamation;

(B) the Bureau of Land Management;

(C) the Office of Natural Resources Revenue;

(D) the National Park Service; and

(E) the United States Fish and Wildlife Service; and

(3) provide for regular consultation with Indians and Indian tribes that own interests in trust resources and trust fund accounts.

**(d) Personnel provisions****(1) Appointments**

The Under Secretary may appoint and fix the compensation of such officers and employees as the Under Secretary determines to be necessary to carry out any function transferred under this section.

**(2) Requirements**

Except as otherwise provided by law—

(A) any officer or employee described in paragraph (1) shall be appointed in accordance with the civil service laws;

(B) the compensation of such an officer or employee shall be fixed in accordance with title 5; and

(C) in appointing or otherwise hiring any employee, the Under Secretary shall give preference to Indians in accordance with section 5116 of this title.

(Pub. L. 114–178, title III, §303, June 22, 2016, 130 Stat. 440.)

**§ 5634. Office of Special Trustee for American Indians****(a) Information to Congress**

Notwithstanding sections 4042 and 4043 of this title, not later than 1 year after June 22, 2016, the Secretary shall prepare and, after consultation with Indian tribes and appropriate Indian organizations, submit to the Committee on Natural Resources of the House of Representatives, the Committee on Indian Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate—

(1) an identification of all functions, other than the collection, management, and investment of Indian trust funds, that the Office of the Special Trustee performs independently or in concert with the BIA or other Federal agencies, specifically those functions that affect or relate to management of nonmonetary trust resources;

(2) a description of any functions of the Office of the Special Trustee that will be transitioned to other bureaus or agencies within the Department prior to the termination date of the Office, as described in paragraph (3), together with the timeframes for those transfers; and

(3) a transition plan and timetable for the termination of the Office of the Special Trustee, to occur not later than 2 years after the date of submission, unless the Secretary determines that an orderly transition cannot be accomplished within 2 years, in which case the Secretary shall include—

(A) a statement of all reasons why the transition cannot be effected within that time; and

(B) an alternative date for completing the transition.

**(b) Fiduciary trust officers**

Subject to applicable law and regulations, the Secretary, at the request of an Indian tribe or a consortium of Indian tribes, shall include fiduciary trust officers in a contract, compact, or other agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).<sup>1</sup>

**(c) Effect of section**

Nothing in this section or the submission required by this section—

(1) shall cause the Office of the Special Trustee to terminate; or

<sup>1</sup> See References in Text note below.