

(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.)

§ 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.)

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

§ 3115a. Tribal forest assets protection**(a) Definitions**

In this Act:

(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—

- (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 5304 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), 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), 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), 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), 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 coordinating 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 Act—

(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 Act; 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 Act.

(Pub. L. 108-278, §2, July 22, 2004, 118 Stat. 868; Pub. L. 115-325, title II, §202(b)(1), Dec. 18, 2018, 132 Stat. 4459.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (f), and (g), is Pub. L. 108-278, July 22, 2004, 118 Stat. 868, which enacted this section and provisions set out as notes under sections 3101 and 3115b of this title.

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.

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.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-325 substituted “In this Act” for “In this section” in introductory provisions.

§ 3115b. Tribal forest management demonstration project

(a) In general

The Secretary of the Interior and the Secretary may carry out demonstration projects by which federally recognized Indian Tribes or Tribal organizations may contract to perform administrative, management, and other functions of programs of the Tribal Forest Protection Act of 2004 (25 U.S.C. 3115a et seq.) through contracts entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304 et seq.).

(b) Requirements

With respect to any contract or project carried out under subsection (a)—

(1) on National Forest System land, the Secretary shall carry out all functions delegated to the Secretary of the Interior under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304 et seq.);

(2) the Secretary or the Secretary of the Interior, as applicable, shall make any decisions required to be made under—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) the Tribal Forest Protection Act of 2004 (25 U.S.C. 3115a et seq.); and

(3) the contract or project shall be entered into under, and in accordance with, section 403(b)(2) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5363(b)(2)).

(Pub. L. 115–334, title VIII, §8703, Dec. 20, 2018, 132 Stat. 4877.)

REFERENCES IN TEXT

The Tribal Forest Protection Act of 2004, referred to in subsecs. (a) and (b)(2)(B), is Pub. L. 108–278, July 22, 2004, 118 Stat. 868. For complete classification of this Act to the Code, see section 1 of Pub. L. 108–278, set out as a Short Title of 2004 Amendment note under section 3101 of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsecs. (a) and (b)(1), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to chapter 46 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see section 1 of Pub. L. 93–638, set out as a Short Title note under section 5301 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (b)(2)(A), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

CODIFICATION

Section was enacted as part of the Agriculture Improvement Act of 2018, and not as part of the National Indian Forest Resources Management Act which comprises this chapter.

PURPOSE

Pub. L. 115–325, title II, §202(a), Dec. 18, 2018, 132 Stat. 4459, provided that: “The purpose of this section [amending section 3115a of this title and enacting provisions set out as notes under this section] is to establish a biomass demonstration project for federally recognized Indian tribes and Alaska Native corporations to promote biomass energy production.”

ALASKA NATIVE BIOMASS DEMONSTRATION PROJECT

Pub. L. 115–325, title II, §202(c), Dec. 18, 2018, 132 Stat. 4461, provided that:

“(1) DEFINITIONS.—In this subsection:

“(A) FEDERAL LAND.—The term ‘Federal land’ means—

“(i) land of the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)) administered by the Secretary of Agriculture, acting through the Chief of the Forest Service; and

“(ii) public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), the surface of which is administered by the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

“(B) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

“(C) SECRETARY.—The term ‘Secretary’ means—

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

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

“(D) TRIBAL ORGANIZATION.—The term ‘tribal organization’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

“(2) AGREEMENTS.—For each of fiscal years 2017 through 2021, the Secretary shall enter into an agreement or contract with an Indian tribe or a tribal organization to carry out a demonstration project to promote biomass energy production (including biofuel, heat, and electricity generation) by providing reliable supplies of woody biomass from Federal land.

“(3) DEMONSTRATION PROJECTS.—In each fiscal year for which projects are authorized, at least 1 new demonstration project that meets the eligibility criteria described in paragraph (4) shall be carried out under contracts or agreements described in paragraph (2).

“(4) ELIGIBILITY CRITERIA.—To be eligible to enter into a contract or agreement under this subsection, an Indian tribe or tribal organization shall submit to the Secretary an application—

“(A) containing such information as the Secretary may require; and

“(B) that includes a description of the demonstration project proposed to be carried out by the Indian tribe or tribal organization.

“(5) SELECTION.—In evaluating the applications submitted under paragraph (4), the Secretary shall—

“(A) take into consideration whether a proposed project would—

“(i) increase the availability or reliability of local or regional energy;

“(ii) enhance the economic development of the Indian tribe;

“(iii) result in or improve the connection of electric power transmission facilities serving the Indian tribe with other electric transmission facilities;

“(iv) improve the forest health or watersheds of Federal land or non-Federal land;

“(v) demonstrate new investments in infrastructure; or

“(vi) otherwise promote the use of woody biomass; and

“(B) exclude from consideration any merchantable logs that have been identified by the Secretary for commercial sale.

“(6) IMPLEMENTATION.—The Secretary shall—

“(A) ensure that the criteria described in paragraph (4) are publicly available by not later than 120 days after the date of enactment of this subsection [Dec. 18, 2018]; and

“(B) to the maximum extent practicable, consult with Indian tribes and appropriate tribal organizations likely to be affected in developing the application and otherwise carrying out this subsection.