

§ 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.)

Editorial Notes

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.

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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 by descent, renunciation, or consolidation agreement under section 2206 of this title, another trust or restricted interest in such parcel from the decedent; and

(10) “without regard to waste” means, with respect to a life estate interest in land, that the holder of such estate is entitled to the receipt of all income, including bonuses and royalties, from such land to the exclusion of the remaindermen.

(Pub. L. 97-459, title II, §202, Jan. 12, 1983, 96 Stat. 2517; Pub. L. 106-462, title I, §103(1), Nov. 7, 2000, 114 Stat. 1992; Pub. L. 108-374, §6(b), Oct. 27, 2004, 118 Stat. 1804; Pub. L. 110-453, title II, §207(a), Dec. 2, 2008, 122 Stat. 5030.)

Editorial Notes

REFERENCES IN TEXT

The Indian Reorganization Act, referred to in par. (2)(B), is act June 18, 1934, ch. 576, 48 Stat. 984, which was classified generally to subchapter V (§461 et seq.) of chapter 14 of this title prior to editorial reclassification as chapter 45 (§5101 et seq.) of this title. The term “Indian” was defined for purposes of this Act in section 479 of this title prior to editorial reclassification as section 5129 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.

This chapter, referred to in par. (6), was in the original “this Act”, which was translated as reading “this title”, meaning title II of Pub. L. 97-459, to reflect the probable intent of Congress.

AMENDMENTS

2008—Par. (4). Pub. L. 110-453, §207(a)(1), designated existing provisions as cls. (i) and (ii) and, in cl. (ii), substituted “an interest in land, the title to which interest” for “an interest in land, title to which”.

Par. (7). Pub. L. 110-453, §207(a)(2), added par. (7) and struck out former par. (7) which read as follows: “‘land’ means any real property, and includes within its meaning for purposes of this chapter improvements permanently affixed to real property;”.

2004—Par. (2). Pub. L. 108-374, §6(b)(1), added par. (2) and struck out former par. (2) which read as follows: “‘Indian’ means any person who is a member of any Indian tribe or is eligible to become a member of any Indian tribe, or any person who has been found to meet the definition of ‘Indian’ under a provision of Federal law if the Secretary determines that using such law’s definition of Indian is consistent with the purposes of this chapter;”.

Par. (4). Pub. L. 108-374, §6(b)(2), added par. (4) and struck out former par. (4) which read as follows: “‘trust or restricted lands’ means lands, title to which is held by the United States in trust for an Indian or an Indian tribe or lands title to which is held by Indians or an Indian tribe subject to a restriction by the United States against alienation; and”.

Pars. (6) to (10). Pub. L. 108-374, §6(b)(3), added pars. (6) to (10).

2000—Par. (1). Pub. L. 106-462, §103(1)(A), substituted “(1) ‘Indian tribe’ or ‘tribe’” for “(1) ‘tribe’”.

Par. (2). Pub. L. 106-462, §103(1)(B), added par. (2) and struck out former par. (2) which read as follows: “‘Indian’ means any person who is a member of a tribe or any person who is recognized as an Indian by the Secretary of the Interior;”.

Par. (5). Pub. L. 106-462, §103(1)(C)–(E), added par. (5).

¹ See References in Text note below.

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