

under this subsection shall not exceed \$2,000,000,000.

(5) Not later than 1 year after December 18, 2018, the Secretary of Energy shall issue such regulations as the Secretary of Energy determines are necessary to carry out this subsection.

(6) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

(7) Not later than 1 year after August 8, 2005, the Secretary of Energy shall submit to Congress a report on the financing requirements of Indian tribes for energy development on Indian land.

(d) Preference

(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

(2) In carrying out this subsection, a Federal agency or department shall not—

- (A) pay more than the prevailing market price for an energy product or byproduct; or
- (B) obtain less than prevailing market terms and conditions.

(Pub. L. 102-486, title XXVI, § 2602, as added Pub. L. 109-58, title V, § 503(a), Aug. 8, 2005, 119 Stat. 765; amended Pub. L. 115-325, title I, §§ 101, 104, 105(b), Dec. 18, 2018, 132 Stat. 4445, 4455, 4456; Pub. L. 116-260, div. Z, title VIII, § 8013(b), (c), Dec. 27, 2020, 134 Stat. 2592, 2593.)

Editorial Notes

CODIFICATION

August 8, 2005, referred to in subsec. (c)(7), was in the original “the date of enactment of this section”, which was translated as meaning the date of enactment of Pub. L. 109-58, which amended this chapter generally, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 3502, Pub. L. 102-486, title XXVI, § 2602, Oct. 24, 1992, 106 Stat. 3113, related to tribal consultation in implementing provisions, prior to the general amendment of this chapter by Pub. L. 109-58.

AMENDMENTS

2020—Subsec. (b)(5)(D), (E). Pub. L. 116-260, § 8013(b), added subpars. (D) and (E).

Subsec. (b)(7). Pub. L. 116-260, § 8013(c), substituted “\$30,000,000 for each of fiscal years 2021 through 2025” for “\$20,000,000 for each of fiscal years 2006 through 2016”.

2018—Subsec. (a)(1). Pub. L. 115-325, § 105(b)(1)(A), substituted “tribal energy development organizations” for “tribal energy resource development organizations”.

Subsec. (a)(2). Pub. L. 115-325, § 105(b)(1)(B), substituted “tribal energy development organizations” for “tribal energy resource development organizations” wherever appearing.

Subsec. (a)(2)(E). Pub. L. 115-325, § 101(a)(1), added subpar. (E).

Subsec. (a)(4). Pub. L. 115-325, § 101(a)(2), added par. (4).

Subsec. (b)(2). Pub. L. 115-325, §§ 101(b)(1), 105(b)(2), substituted “Indian tribe, intertribal organization, or tribal energy development organization” for “Indian

tribe or tribal energy resource development organization” in introductory provisions.

Subsec. (b)(2)(C) to (E). Pub. L. 115-325, § 101(b)(2), (3), added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively.

Subsec. (b)(3) to (7). Pub. L. 115-325, § 104, added par. (3) and redesignated former pars. (3) to (6) as (4) to (7), respectively.

Subsec. (c)(1). Pub. L. 115-325, § 101(c)(1), inserted “or a tribal energy development organization” after “Indian tribe”.

Subsec. (c)(3). Pub. L. 115-325, § 101(c)(2)(A), substituted “guaranteed” for “guarantee” in introductory provisions.

Subsec. (c)(3)(C). Pub. L. 115-325, § 101(c)(2)(B)–(D), added subpar. (C).

Subsec. (c)(5). Pub. L. 115-325, § 101(c)(3), substituted “Not later than 1 year after December 18, 2018, the Secretary of Energy shall” for “The Secretary of Energy may”.

§ 3503. Indian tribal energy resource regulation

(a) Grants

The Secretary may provide to Indian tribes, on an annual basis, grants for use in accordance with subsection (b).

(b) Use of funds

Funds from a grant provided under this section may be used—

(1)(A) by an Indian tribe for the development of a tribal energy resource inventory or tribal energy resource on Indian land;

(B) by an Indian tribe for the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

(C) by an Indian tribe (other than an Indian Tribe in the State of Alaska, except the Metlakatla Indian Community) for—

(i) the development and enforcement of tribal laws (including regulations) relating to tribal energy resource development; and

(ii) the development of technical infrastructure to protect the environment under applicable law; or

(D) by a Native Corporation for the development and implementation of corporate policies and the development of technical infrastructure to protect the environment under applicable law; and

(2) by an Indian tribe for the training of employees that—

(A) are engaged in the development of energy resources on Indian land; or

(B) are responsible for protecting the environment.

(c) Other assistance

(1) In carrying out the obligations of the United States under this chapter, the Secretary shall ensure, to the maximum extent practicable and to the extent of available resources, that on the request of an Indian tribe or a tribal energy development organization, the Indian tribe or tribal energy development organization shall have available scientific and technical information and expertise, for use in the regulation, development, and management of energy resources of the Indian tribe on Indian land.

(2) The Secretary may carry out paragraph (1)—

(A) directly, through the use of Federal officials; or

(B) indirectly, by providing financial assistance to an Indian tribe or tribal energy development organization to secure independent assistance.

(Pub. L. 102-486, title XXVI, § 2603, as added Pub. L. 109-58, title V, § 503(a), Aug. 8, 2005, 119 Stat. 768; amended Pub. L. 115-325, title I, § 102, Dec. 18, 2018, 132 Stat. 4447.)

Editorial Notes

PRIOR PROVISIONS

A prior section 3503, Pub. L. 102-486, title XXVI, § 2603, Oct. 24, 1992, 106 Stat. 3114; Pub. L. 105-388, § 10, Nov. 13, 1998, 112 Stat. 3484, related to promotion of energy resource development and energy vertical integration on Indian reservations, prior to the general amendment of this chapter by Pub. L. 109-58.

AMENDMENTS

2018—Subsec. (c)(1). Pub. L. 115-325, § 102(1), substituted “on the request of an Indian tribe or a tribal energy development organization, the Indian tribe or tribal energy development organization” for “on the request of an Indian tribe, the Indian tribe”.

Subsec. (c)(2)(B). Pub. L. 115-325, § 102(2), inserted “or tribal energy development organization” after “Indian tribe”.

§ 3504. Leases, business agreements, and rights-of-way involving energy development or transmission

(a) Leases and business agreements

In accordance with this section—

(1) an Indian tribe may, at the discretion of the Indian tribe, enter into a lease or business agreement for the purpose of energy resource development on tribal land, including a lease or business agreement for—

(A) exploration for, extraction of, processing of, or other development of the energy mineral resources of the Indian tribe located on tribal land;

(B) construction or operation of—

(i) an electric production, generation, transmission, or distribution facility (including a facility that produces electricity from renewable energy resources) located on tribal land; or

(ii) a facility to process or refine energy resources, at least a portion of which have been developed on or produced from tribal land; or

(C) pooling, unitization, or communitization of the energy mineral resources of the Indian tribe located on tribal land with any other energy mineral resource (including energy mineral resources owned by the Indian tribe or an individual Indian in fee, trust, or restricted status or by any other persons or entities) if the owner, or, if appropriate, lessee, of the resources has consented or consents to the pooling, unitization, or communitization of the other resources under any lease or agreement; and

(2) a lease or business agreement described in paragraph (1) shall not require review by, or the approval of, the Secretary under section 81 of this title, or any other provision of law (in-

cluding regulations), if the lease or business agreement—

(A) was executed—

(i) in accordance with the requirements of a tribal energy resource agreement in effect under subsection (e) (including the periodic review and evaluation of the activities of the Indian tribe under the agreement, to be conducted pursuant to subparagraphs (D) and (E) of subsection (e)(2)); or

(ii) by the Indian tribe and a tribal energy development organization for which the Indian tribe has obtained a certification pursuant to subsection (h); and

(B) has a term that does not exceed—

(i) 30 years; or

(ii) in the case of a lease for the production of oil resources, gas resources, or both, 10 years and as long thereafter as oil or gas is produced in paying quantities.

(b) Rights-of-way

An Indian tribe may grant a right-of-way over tribal land without review or approval by the Secretary if the right-of-way—

(1) serves—

(A) an electric production, generation, transmission, or distribution facility (including a facility that produces electricity from renewable energy resources) located on tribal land;

(B) a facility located on tribal land that extracts, produces, processes, or refines energy resources; or

(C) the purposes, or facilitates in carrying out the purposes, of any lease or agreement entered into for energy resource development on tribal land;

(2) was executed—

(A) in accordance with the requirements of a tribal energy resource agreement in effect under subsection (e) (including the periodic review and evaluation of the activities of the Indian tribe under the agreement, to be conducted pursuant to subparagraphs (D) and (E) of subsection (e)(2)); or

(B) by the Indian tribe and a tribal energy development organization for which the Indian tribe has obtained a certification pursuant to subsection (h); and

(3) has a term that does not exceed 30 years.

(c) Renewals

A lease or business agreement entered into, or a right-of-way granted, by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

(d) Validity

No lease or business agreement entered into, or right-of-way granted, pursuant to this section shall be valid unless the lease, business agreement, or right-of-way is authorized by subsection (a) or (b).

(e) Tribal energy resource agreements

(1) IN GENERAL.—

(A) AUTHORIZATION.—On or after December 18, 2018, a qualified Indian tribe may submit to the Secretary a tribal energy resource agree-