

Editorial Notes

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (a), 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 Short Title note set out under section 5301 of this title and Tables.

§ 3712. Indian participation in land management activities**(a) Tribal recognition**

The Secretary shall conduct all land management activities on Indian agricultural land in accordance with goals and objectives set forth in the approved agricultural resource management plan, in an integrated resource management plan, and in accordance with all tribal laws and ordinances, except in specific instances where such compliance would be contrary to the trust responsibility of the United States.

(b) Tribal laws

Unless otherwise prohibited by Federal law, the Secretary shall comply with tribal laws and ordinances pertaining to Indian agricultural lands, including laws regulating the environment and historic or cultural preservation, and laws or ordinances adopted by the tribal government to regulate land use or other activities under tribal jurisdiction. The Secretary shall—

- (1) provide assistance in the enforcement of such tribal laws;
- (2) provide notice of such laws to persons or entities undertaking activities on Indian agricultural lands; and
- (3) upon the request of an Indian tribe, require appropriate Federal officials to appear in tribal forums.

(c) Waiver of regulations

In any case in which a regulation or administrative policy of the Department of the Interior conflicts with the objectives of the agricultural resource management plan provided for in section 3711 of this title, or with a tribal law, the Secretary may waive the application of such regulation or administrative policy unless such waiver would constitute a violation of a Federal statute or judicial decision or would conflict with his general trust responsibility under Federal law.

(d) Sovereign immunity

This section does not constitute a waiver of the sovereign immunity of the United States, nor does it authorize tribal justice systems to review actions of the Secretary.

(Pub. L. 103-177, title I, §102, Dec. 3, 1993, 107 Stat. 2015.)

§ 3713. Indian agricultural lands trespass**(a) Civil penalties; regulations**

Not later than one year after December 3, 1993, the Secretary shall issue regulations that—

- (1) establish civil penalties for the commission of trespass on Indian agricultural lands, which provide for—
 - (A) collection of the value of the products illegally used or removed plus a penalty of double their values;

(B) collection of the costs associated with damage to the Indian agricultural lands caused by the act of trespass; and

(C) collection of the costs associated with enforcement of the regulations, including field examination and survey, damage appraisal, investigation assistance and reports, witness expenses, demand letters, court costs, and attorney fees;

(2) designate responsibility within the Department of the Interior for the detection and investigation of Indian agricultural lands trespass; and

(3) set forth responsibilities and procedures for the assessment and collection of civil penalties.

(b) Treatment of proceeds

The proceeds of civil penalties collected under this section shall be treated as proceeds from the sale of agricultural products from the Indian agricultural lands upon which such trespass occurred.

(c) Concurrent jurisdiction

Indian tribes which adopt the regulations promulgated by the Secretary pursuant to subsection (a) shall have concurrent jurisdiction with the United States to enforce the provisions of this section and the regulations promulgated thereunder. The Bureau and other agencies of the Federal Government shall, at the request of the tribal government, defer to tribal prosecutions of Indian agricultural land trespass cases. Tribal court judgments regarding agricultural trespass shall be entitled to full faith and credit in Federal and State courts to the same extent as a Federal court judgment obtained under this section. Nothing in this chapter shall be construed to diminish the sovereign authority of Indian tribes with respect to trespass.

(Pub. L. 103-177, title I, §103, Dec. 3, 1993, 107 Stat. 2015.)

§ 3714. Assessment of Indian agricultural management programs**(a) Assessment**

Within six months after December 3, 1993, the Secretary, in consultation with affected Indian tribes, shall enter into a contract with a non-Federal entity knowledgeable in agricultural management on Federal and private lands to conduct an independent assessment of Indian agricultural land management and practices. Such assessment shall be national in scope and shall include a comparative analysis of Federal investment and management efforts for Indian trust and restricted agricultural lands as compared to federally-owned lands managed by other Federal agencies or instrumentalities and as compared to federally-served private lands.

(b) Purposes

The purposes of the assessment shall be—

- (1) to establish a comprehensive assessment of the improvement, funding, and development needs for all Indian agricultural lands;
- (2) to establish a comparison of management and funding provided to comparable lands owned or managed by the Federal Government