

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

through Federal agencies other than the Bureau; and

(3) to identify any obstacles to Indian access to Federal or private programs relating to agriculture or related rural development programs generally available to the public at large.

(c) Implementation

Within one year after December 3, 1993, the Secretary shall provide the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate with a status report on the development of the comparative analysis required by this section and shall file a final report with the Congress not later than 18 months after December 3, 1993.

(Pub. L. 103-177, title I, §104, Dec. 3, 1993, 107 Stat. 2016.)

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CHANGE OF NAME

Subcommittee on Native American Affairs changed to Subcommittee for Indigenous Peoples of the United States.

§ 3715. Leasing of Indian agricultural lands

(a) Authority of Secretary

The Secretary is authorized to—

(1) approve any agricultural lease or permit with (A) a tenure of up to 10 years, or (B) a tenure longer than 10 years but not to exceed 25 years unless authorized by other Federal law, when such longer tenure is determined by the Secretary to be in the best interest of the Indian landowners and when such lease or permit requires substantial investment in the development of the lands or crops by the lessee; and

(2) lease or permit agricultural lands to the highest responsible bidder at rates less than the Federal appraisal after satisfactorily advertising such lands for lease, when, in the opinion of the Secretary, such action would be in the best interest of the Indian landowner.

(b) Authority of tribe

When authorized by an appropriate tribal resolution establishing a general policy for leasing of Indian agricultural lands, the Secretary—

(1) shall provide a preference to Indian operators in the issuance and renewal of agricultural leases and permits so long as the lessor receives fair market value for his property;

(2) shall waive or modify the requirement that a lessee post a surety or performance bond on agricultural leases and permits issued by the Secretary;

(3) shall provide for posting of other collateral or security in lieu of surety or other bonds;

(4) when such tribal resolution sets forth a tribal definition of what constitutes “highly fractionated undivided heirship lands” and adopts an alternative plan for providing notice to owners, may waive or modify any general notice requirement of Federal law and proceed to negotiate and lease or permit such highly

fractionated undivided interest heirship lands in conformity with tribal law in order to prevent waste, reduce idle land acreage, and ensure income; and

(5) shall approve leases and permits of tribally owned agricultural lands at rates determined by the tribal governing body.

(c) Rights of individual landowners

(1) Nothing in this section shall be construed as limiting or altering the authority or right of an individual allottee or Indian tribe in the legal or beneficial use of his, her, or its own land or to enter into an agricultural lease of the surface interest of his, her, or its allotment or land under any other provision of law.

(2)(A) The owners of a majority interest in any trust or restricted land are authorized to enter into an agricultural lease of the surface interest of a trust or restricted allotment, and such lease shall be binding upon the owners of the minority interests in such land if the terms of the lease provide such minority interests with not less than fair market value for such land.

(B) For the purposes of subparagraph (A), a majority interest in trust or restricted land is an interest greater than 50 percent of the legal or beneficial title.

(3) The provisions of subsection (b) shall not apply to a parcel of trust or restricted land if the owners of at least 50 percent of the legal or beneficial interest in such land file with the Secretary a written objection to the application of all or any part of such tribal rules to the leasing of such parcel of land.

(Pub. L. 103-177, title I, §105, Dec. 3, 1993, 107 Stat. 2017; Pub. L. 103-435, §12(a), Nov. 2, 1994, 108 Stat. 4572.)

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AMENDMENTS

1994—Subsec. (b)(5). Pub. L. 103-435, §12(a)(1), added par. (5).

Subsec. (c)(1). Pub. L. 103-435, §12(a)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Nothing in this section shall be construed as limiting or altering the authority or right of an individual allottee in the legal or beneficial use of his or her own land or to enter into an agricultural lease of the surface interest of his or her allotment under any other provision of law.”

SUBCHAPTER II—EDUCATION IN
AGRICULTURE MANAGEMENT

§ 3731. Indian and Alaska Native agriculture management education assistance programs

(a) Agricultural resources intern program

(1) Notwithstanding the provisions of title 5 governing appointments in the competitive service, the Secretary shall establish and maintain in the Bureau or other appropriate office or bureau within the Department of the Interior at least 20 agricultural resources intern positions for Indian and Alaska Native students enrolled in an agriculture study program. Such positions shall be in addition to the forester intern positions authorized in section 3113(a) of this title.

(2) For purposes of this subsection—

(A) the term “agricultural resources intern” means an Indian who—