

(c) Adaptation of procedures

The Secretary shall adapt the negotiated rule-making procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian Tribes.

(d) Effect**(1) Repeal**

The Secretary may repeal any regulation that is inconsistent with this chapter.

(2) Conflicting provisions

Subject to section 101(a) of the PROGRESS for Indian Tribes Act and except with respect to programs described under section 5363(c) of this title, this subchapter shall supersede any conflicting provision of law (including any conflicting regulations).

(3) Effectiveness without regard to regulations

The lack of promulgated regulations on an issue shall not limit the effect or implementation of this subchapter.

(Pub. L. 93-638, title IV, §413, as added Pub. L. 116-180, title I, §101(e), Oct. 21, 2020, 134 Stat. 877.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1), was in the original “this Act”, meaning Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

Section 101(a) of the PROGRESS for Indian Tribes Act, referred to in subsec. (d)(2), is section 101(a) of Pub. L. 116-180, which is set out as a note under section 5361 of this title.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5367 of this title prior to repeal by Pub. L. 116-180.

§ 5374. Effect of circulars, policies, manuals, guidance, and rules

Unless expressly agreed to by a participating Indian Tribe in a compact or funding agreement, the participating Indian Tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the Department, except for—

- (1) the eligibility provisions of section 5324(g) of this title; and
- (2) regulations promulgated pursuant to section 5373 of this title.

(Pub. L. 93-638, title IV, §414, as added Pub. L. 116-180, title I, §101(e), Oct. 21, 2020, 134 Stat. 878.)

§ 5375. Appeals

Except as provided in section 5366(d) of this title, in any administrative action, appeal, or civil action for judicial review of any decision made by the Secretary under this subchapter, the Secretary shall have the burden of proof of demonstrating by a preponderance of the evidence—

(1) the validity of the grounds for the decision; and

(2) the consistency of the decision with the requirements and policies of this subchapter.

(Pub. L. 93-638, title IV, §415, as added Pub. L. 116-180, title I, §101(e), Oct. 21, 2020, 134 Stat. 878.)

§ 5376. Application of other provisions

Section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991 (Public Law 101-512; 104 Stat. 1959), shall apply to compacts and funding agreements entered into under this subchapter.

(Pub. L. 93-638, title IV, §416, as added Pub. L. 116-180, title I, §101(e), Oct. 21, 2020, 134 Stat. 878.)

Editorial Notes

REFERENCES IN TEXT

Section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991, referred to in text, is section 314 of Pub. L. 101-512, which is set out as a note under section 5321 of this title.

§ 5377. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Pub. L. 93-638, title IV, §417, as added Pub. L. 116-180, title I, §101(e), Oct. 21, 2020, 134 Stat. 878.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5368 of this title prior to repeal by Pub. L. 116-180.

SUBCHAPTER V—TRIBAL SELF-GOVERNANCE—INDIAN HEALTH SERVICE**Editorial Notes**

CODIFICATION

Subchapter is comprised of title V of Pub. L. 93-638, as added by Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 712. Another title V of Pub. L. 93-638, as added by Pub. L. 106-568, title XIII, §1302, Dec. 27, 2000, 114 Stat. 2936, was redesignated title VIII, and is classified to subchapter VII (§5421 et seq.) of this chapter.

§ 5381. Definitions**(a) In general**

In this subchapter:

(1) Construction project

The term “construction project”—

(A) means an organized noncontinuous undertaking to complete a specific set of predetermined objectives for the planning, environmental determination, design, construction, repair, improvement, or expansion of buildings or facilities, as described in a construction project agreement; and

(B) does not include construction program administration and activities described in paragraphs (1) through (3) of section 5304(m)