

a written application in accordance with paragraph (2).

(2) Requirements

The Secretary shall consider an application under this subsection only if the application—

(A) includes a copy of a resolution or other appropriate action by the governing body of the Indian tribe, as determined by the Secretary, in support of or authorizing the application;

(B) is received by the Secretary after June 22, 2016; and

(C) states that the Indian tribe is requesting to participate in the project.

(d) Duration

The project—

(1) shall remain in effect for a period of 10 years after June 22, 2016; but

(2) may be extended at the discretion of the Secretary.

(Pub. L. 114–178, title II, §203, June 22, 2016, 130 Stat. 433.)

§ 5613. Indian trust asset management plan

(a) Proposed plan

(1) Submission

After the date on which an Indian tribe receives a notice from the Secretary under section 5612(b)(2) of this title, the Indian tribe shall submit to the Secretary a proposed Indian trust asset management plan in accordance with paragraph (2).

(2) Contents

A proposed Indian trust asset management plan shall include provisions that—

(A) identify the trust assets that will be subject to the plan;

(B) establish trust asset management objectives and priorities for Indian trust assets that are located within the reservation, or otherwise subject to the jurisdiction, of the Indian tribe;

(C) allocate trust asset management funding that is available for the Indian trust assets subject to the plan in order to meet the trust asset management objectives and priorities;

(D) if the Indian tribe has contracted or compacted functions or activities under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)¹ relating to the management of trust assets—

(i) identify the functions or activities that are being or will be performed by the Indian tribe under the contracts, compacts, or other agreements under that Act, which may include any of the surface leasing or forest land management activities authorized by the proposed plan pursuant to section 5614(b) of this title; and

(ii) describe the practices and procedures that the Indian tribe will follow;

(E) establish procedures for nonbinding mediation or resolution of any dispute between the Indian tribe and the United States relating to the trust asset management plan;

(F) include a process for the Indian tribe and the Federal agencies affected by the trust asset management plan to conduct evaluations to ensure that trust assets are being managed in accordance with the plan; and

(G) identify any Federal regulations that will be superseded by the plan.

(3) Technical assistance and information

On receipt of a written request from an Indian tribe, the Secretary shall provide to the Indian tribe any technical assistance and information, including budgetary information, that the Indian tribe determines to be necessary for preparation of a proposed plan.

(b) Approval and disapproval of proposed plans

(1) Approval

(A) In general

Not later than 120 days after the date on which an Indian tribe submits a proposed Indian trust asset management plan under subsection (a), the Secretary shall approve or disapprove the proposed plan.

(B) Requirements for disapproval

The Secretary shall approve a proposed plan unless the Secretary determines that—

(i) the proposed plan fails to address a requirement under subsection (a)(2);

(ii) the proposed plan includes 1 or more provisions that are inconsistent with subsection (c); or

(iii) the cost of implementing the proposed plan exceeds the amount of funding available for the management of trust assets that would be subject to the proposed plan.

(2) Action on disapproval

(A) Notice

If the Secretary disapproves a proposed plan under paragraph (1)(B), the Secretary shall provide to the Indian tribe a written notice of the disapproval, including any reason why the proposed plan was disapproved.

(B) Action by tribes

If a proposed plan is disapproved under paragraph (1)(B), the Indian tribe may resubmit an amended proposed plan by not later than 90 days after the date on which the Indian tribe receives the notice under subparagraph (A).

(3) Failure to approve or disapprove

If the Secretary fails to approve or disapprove a proposed plan in accordance with paragraph (1), the plan shall be considered to be approved.

(4) Judicial review

An Indian tribe may seek judicial review of a determination of the Secretary under this subsection in accordance with subchapter II of chapter 5, and chapter 7, of title 5, (commonly known as the “Administrative Procedure Act”), if—

(A) the Secretary disapproves the proposed plan of the Indian tribe under paragraph (1); and

¹ See References in Text note below.

(B) the Indian tribe has exhausted all other administrative remedies available to the Indian tribe.

(c) Applicable laws

Subject to section 5614 of this title, an Indian trust asset management plan, and any activity carried out under the plan, shall not be approved unless the proposed plan is consistent with any treaties, statutes, and Executive orders that are applicable to the trust assets, or the management of the trust assets, identified in the plan.

(d) Termination of plan

(1) In general

An Indian tribe may terminate an Indian trust asset management plan on any date after the date on which a proposed Indian trust asset management plan is approved by providing to the Secretary—

(A) a notice of the intent of the Indian tribe to terminate the plan; and

(B) a resolution of the governing body of the Indian tribe authorizing the termination of the plan.

(2) Effective date

A termination of an Indian trust asset management plan under paragraph (1) takes effect on October 1 of the first fiscal year following the date on which a notice is provided to the Secretary under paragraph (1)(A).

(Pub. L. 114–178, title II, §204, June 22, 2016, 130 Stat. 434.)

Editorial Notes

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (a)(2)(D), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which was classified principally to subchapter II (§450 et seq.) of chapter 14 of this title prior to editorial reclassification as 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.

§ 5614. Forest land management and surface leasing activities

(a) Definitions

In this section:

(1) Forest land management activity

The term “forest land management activity” means any activity described in section 304(4) of the National Indian Forest Resources Management Act (25 U.S.C. 3103(4)).

(2) Interested party

The term “interested party” means an Indian or non-Indian individual, entity, or government the interests of which could be adversely affected by a tribal trust land leasing decision made by an applicable Indian tribe.

(3) Surface leasing transaction

The term “surface leasing transaction” means a residential, business, agricultural, or wind or solar resource lease of land the title to which is held—

(A) in trust by the United States for the benefit of an Indian tribe; or

(B) in fee by an Indian tribe, subject to restrictions against alienation under Federal law.

(b) Approval by Secretary

The Secretary may approve an Indian trust asset management plan that includes a provision authorizing the Indian tribe to enter into, approve, and carry out a surface leasing transaction or forest land management activity without approval of the Secretary, regardless of whether the surface leasing transaction or forest land management activity would require such an approval under otherwise applicable law (including regulations), if—

(1) the resolution or other action of the governing body of the Indian tribe referred to in section 5612(c)(2)(A) of this title expressly authorizes the inclusion of the provision in the Indian trust asset management plan; and

(2) the Indian tribe has adopted regulations expressly incorporated by reference into the Indian trust asset management plan that—

(A) with respect to a surface leasing transaction—

(i) have been approved by the Secretary pursuant to subsection (h)(4) of section 415 of this title; or

(ii) have not yet been approved by the Secretary in accordance with clause (i), but that the Secretary determines at or prior to the time of approval under this paragraph meet the requirements of subsection (h)(3) of section 415 of this title; or

(B) with respect to forest land management activities, the Secretary determines—

(i) are consistent with the regulations of the Secretary adopted under the National Indian Forest Resources Management Act (25 U.S.C. 3101 et seq.); and

(ii) provide for an environmental review process that includes—

(I) the identification and evaluation of any significant effects of the proposed action on the environment; and

(II) a process consistent with the regulations referred to in clause (i) for ensuring that—

(aa) the public is informed of, and has a reasonable opportunity to comment on, any significant environmental impacts of the proposed forest land management activity identified by the Indian tribe; and

(bb) the Indian tribe provides responses to relevant and substantive public comments on any such impacts before the Indian tribe approves the forest land management activity.

(c) Types of transactions

(1) In general

At the discretion of the Indian tribe, an Indian trust asset management plan may authorize the Indian tribe to carry out a surface leasing transaction, a forest land management activity, or both.

(2) Selection of specific transactions and activities

At the discretion of the Indian tribe, the Indian tribe may include in the integrated re-