

(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-

source management plan any 1 or more of the transactions and activities authorized to be included in the plan under subsection (b).

(d) Technical assistance

(1) In general

The Secretary may provide technical assistance, on request of an Indian tribe, for development of a regulatory environmental review process required under subsection (b)(2)(B)(ii).

(2) Indian Self-Determination and Education Assistance Act

The technical assistance to be provided by the Secretary pursuant to paragraph (1) may be made available through contracts, grants, or agreements entered into in accordance with, and made available to entities eligible for, contracts, grants, or agreements under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).¹

(e) Federal environmental review

Notwithstanding subsection (b), if an Indian tribe carries out a project or activity funded by a Federal agency, the Indian tribe shall have the authority to rely on the environmental review process of the applicable Federal agency, rather than any tribal environmental review process under this section.

(f) Documentation

If an Indian tribe executes a surface leasing transaction or forest land management activity, pursuant to tribal regulations under subsection (b)(2), the Indian tribe shall provide to the Secretary²

(1) a copy of the surface leasing transaction or forest land management activity documents, including any amendments to, or renewals of, the applicable transaction; and

(2) in the case of tribal regulations, a surface leasing transaction, or forest land management activities that allow payments to be made directly to the Indian tribe, documentation of the payments that is sufficient to enable the Secretary to discharge the trust responsibility of the United States under subsection (g).

(g) Trust responsibility

(1) In general

The United States shall not be liable for losses sustained—

(A) by an Indian tribe as a result of the execution of any forest land management activity pursuant to tribal regulations under subsection (b); or

(B) by any party to a lease executed pursuant to tribal regulations under subsection (b).

(2) Authority of Secretary

Pursuant to the authority of the Secretary to fulfill the trust obligation of the United States to Indian tribes under Federal law (including regulations), the Secretary may, on reasonable notice from the applicable Indian tribe and at the discretion of the Secretary,

enforce the provisions of, or cancel, any lease executed by the Indian tribe under this section.

(h) Compliance

(1) In general

An interested party, after exhausting any applicable tribal remedies, may submit to the Secretary a petition, at such time and in such form as the Secretary determines to be appropriate, to review the compliance of an applicable Indian tribe with any tribal regulations approved by the Secretary under this subsection.

(2) Violations

If the Secretary determines under paragraph (1) that a violation of tribal regulations has occurred, the Secretary may take any action the Secretary determines to be necessary to remedy the violation, including rescinding the approval of the tribal regulations and re-assuming responsibility for the approval of leases of tribal trust land.

(3) Documentation

If the Secretary determines under paragraph (1) that a violation of tribal regulations has occurred and a remedy is necessary, the Secretary shall—

(A) make a written determination with respect to the regulations that have been violated;

(B) provide to the applicable Indian tribe a written notice of the alleged violation, together with the written determination; and

(C) prior to the exercise of any remedy, the rescission of the approval of the regulation involved, or the re-assumption of the trust asset transaction approval responsibilities, provide to the applicable Indian tribe—

(i) a hearing on the record; and

(ii) a reasonable opportunity to cure the alleged violation.

(Pub. L. 114-178, title II, §205, June 22, 2016, 130 Stat. 436.)

Editorial Notes

REFERENCES IN TEXT

The National Indian Forest Resources Management Act, referred to in subsec. (b)(2)(B)(i), is title III of Pub. L. 101-630, Nov. 28, 1990, 104 Stat. 4532, which is classified generally to chapter 33 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (d)(2), 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.

§ 5615. Effect of subchapter

(a) Liability

Subject to section 5614 of this title and this section, nothing in this subchapter or an Indian trust asset management plan approved under section 5613 of this title shall independently diminish, increase, create, or otherwise affect the

¹ See References in Text note below.

² So in original. Probably should be followed by a dash.