

PRIOR PROVISIONS

A prior section 16 of Pub. L. 102-477 was classified to section 3415 of this title, prior to repeal by Pub. L. 115-93.

CHAPTER 37—INDIAN ENERGY

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Editorial Notes

CODIFICATION

Title XXVI of the Energy Policy Act of 1992, comprising this chapter, was originally enacted by Pub. L. 102-486, title XXVI, Oct. 24, 1992, 106 Stat. 3113, and amended by Pub. L. 103-437, Nov. 2, 1994, 108 Stat. 4581; Pub. L. 105-388, Nov. 13, 1998, 112 Stat. 3477. Title XXVI is shown herein, however, as having been added by Pub. L. 109-58, title V, §503(a), Aug. 8, 2005, 119 Stat. 764, without reference to such intervening amendments because of the extensive revision of the title's provisions by Pub. L. 109-58.

§ 3501. Definitions

In this chapter:

(1) The term “Director” means the Director of the Office of Indian Energy Policy and Programs, Department of Energy.

(2) The term “Indian land” means—

(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

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

(ii) by an Indian tribe or an individual Indian, subject to restriction against alienation under laws of the United States; or

(iii) by a dependent Indian community;

(C) land that is owned by an Indian tribe and was conveyed by the United States to a Native Corporation pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), or that was conveyed by the United States to a Native Corporation in exchange for such land;

(D) any land located in a census tract in which the majority of residents are Natives (as defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b))); and

(E) any land located in a census tract in which the majority of residents are persons who are enrolled members of a federally recognized Tribe or village.

(3) The term “Indian reservation” includes—

(A) an Indian reservation in existence in any State or States as of August 8, 2005;

(B) a public domain Indian allotment; and

(C) a dependent Indian community located within the borders of the United States, re-

gardless of whether the community is located—

(i) on original or acquired territory of the community; or

(ii) within or outside the boundaries of any State or States.

(4)(A) The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).¹

(B) For the purpose of paragraph (12) and sections 3503(b)(1)(C) and 3504 of this title, the term “Indian tribe” does not include any Native Corporation.

(5) The term “integration of energy resources” means any project or activity that promotes the location and operation of a facility (including any pipeline, gathering system, transportation system or facility, or electric transmission or distribution facility) on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land.

(6) The term “Native Corporation” has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(7) The term “organization” means a partnership, joint venture, limited liability company, or other unincorporated association or entity that is established to develop Indian energy resources.

(8) The term “Program” means the Indian energy resource development program established under section 3502(a) of this title.

(9) The term “qualified Indian tribe” means an Indian tribe that has—

(A) carried out a contract or compact under title I or IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) for a period of not less than 3 consecutive years ending on the date on which the Indian tribe submits the application without material audit exception (or without any material audit exceptions that were not corrected within the 3-year period) relating to the management of tribal land or natural resources; or

(B) substantial experience in the administration, review, or evaluation of energy resource leases or agreements or has otherwise substantially participated in the administration, management, or development of energy resources located on the tribal land of the Indian tribe.

(10) The term “Secretary” means the Secretary of the Interior.

(11) The term “sequestration” means the long-term separation, isolation, or removal of greenhouse gases from the atmosphere, including through a biological or geologic method such as reforestation or an underground reservoir.

(12) The term “tribal energy development organization” means—

(A) any enterprise, partnership, consortium, corporation, or other type of business organization that is engaged in the develop-

¹ See References in Text note below.

ment of energy resources and is wholly owned by an Indian tribe (including an organization incorporated pursuant to section 5124 of this title or section 5203 of this title); and

(B) any organization of two or more entities, at least one of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other assistance under section 3502 of this title or to enter into a lease or business agreement with, or acquire a right-of-way from, an Indian tribe pursuant to subsection (a)(2)(A)(ii) or (b)(2)(B) of section 3504 of this title.

(13) The term “tribal land” means any land or interests in land owned by any Indian tribe, title to which is held in trust by the United States, or is subject to a restriction against alienation under laws of the United States.

(Pub. L. 102-486, title XXVI, §2601, as added Pub. L. 109-58, title V, §503(a), Aug. 8, 2005, 119 Stat. 764; amended Pub. L. 115-325, title I, §105(a), Dec. 18, 2018, 132 Stat. 4455; Pub. L. 116-260, div. Z, title VIII, §8013(a), Dec. 27, 2020, 134 Stat. 2592.)

Editorial Notes

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (2)(C), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in pars. (4)(A) and (9)(A), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203. Titles I and IV of the Act are classified principally to subchapter I (§5321 et seq.) and generally to subchapter IV (§5361 et seq.), respectively, of chapter 46 of this title. Section 4 of the Act was classified to section 450b of this title prior to editorial reclassification as section 5304 of this title. For complete classification of this Act to the Code, see section 1 of Pub. L. 93-638, set out as a Short Title note under section 5301 of this title and Tables.

PRIOR PROVISIONS

A prior section 3501, Pub. L. 102-486, title XXVI, §2601, Oct. 24, 1992, 106 Stat. 3113, defined terms, prior to the general amendment of this chapter by Pub. L. 109-58.

AMENDMENTS

2020—Par. (2)(D), (E). Pub. L. 116-260 added subpars. (D) and (E).

2018—Pars. (9) to (11). Pub. L. 115-325, §105(a)(1), (2), added par. (9) and redesignated former pars. (9) and (10) as (10) and (11), respectively. Former par. (11) redesignated (12).

Par. (12). Pub. L. 115-325, §105(a)(3), added par. (12) and struck out former par. (12) which read as follows: “The term ‘tribal energy resource development organization’ means an organization of two or more entities, at least one of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other assistance under section 3502 of this title.”

Pub. L. 115-325, §105(a)(1), redesignated par. (11) as (12). Former par. (12) redesignated (13).

Par. (13). Pub. L. 115-325, §105(a)(1), redesignated par. (12) as (13).

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115-325, §1, Dec. 18, 2018, 132 Stat. 4445, provided that: “This Act [enacting sections 167 and 3507 of this title, amending this section, sections 415, 3115a, 3502 to 3504, and 3506 of this title, section 800 of Title 16, Conservation, and section 6863 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 3104 and 3504 of this title and section 800 of Title 16] may be cited as the ‘Indian Tribal Energy Development and Self-Determination Act Amendments of 2017.’”

CONSULTATION WITH INDIAN TRIBES

Pub. L. 109-58, title V, §504, Aug. 8, 2005, 119 Stat. 778, provided that: “In carrying out this title [enacting this chapter, section 7144e of Title 42, The Public Health and Welfare, and subchapter V (§16001) of chapter 149 of Title 42, amending section 4132 of this title and section 5315 of Title 5, Government Organization and Employees, and enacting provisions set out as a note under section 15801 of Title 42] and the amendments made by this title, the Secretary [of Energy] and the Secretary of the Interior shall, as appropriate and to the maximum extent practicable, involve and consult with Indian tribes.”

§3502. Indian tribal energy resource development

(a) Department of the Interior program

(1) To assist Indian tribes in the development of energy resources and further the goal of Indian self-determination, the Secretary shall establish and implement an Indian energy resource development program to assist consenting Indian tribes and tribal energy development organizations in achieving the purposes of this chapter.

(2) In carrying out the Program, the Secretary shall—

(A) provide development grants to Indian tribes and tribal energy development organizations for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land, and to properly account for resulting energy production and revenues;

(B) provide grants to Indian tribes and tribal energy development organizations for use in carrying out projects to promote the integration of energy resources, and to process, use, or develop those energy resources, on Indian land;

(C) provide low-interest loans to Indian tribes and tribal energy development organizations for use in the promotion of energy resource development on Indian land and integration of energy resources;

(D) provide grants and technical assistance to an appropriate tribal environmental organization, as determined by the Secretary, that represents multiple Indian tribes to establish a national resource center to develop tribal capacity to establish and carry out tribal environmental programs in support of energy-related programs and activities under this chapter, including—

(i) training programs for tribal environmental officials, program managers, and other governmental representatives;

(ii) the development of model environmental policies and tribal laws, including