

SUBCHAPTER II—INDIAN TRUST ASSET
MANAGEMENT DEMONSTRATION PROJECT

§ 5611. Definitions

In this subchapter:

(1) Indian tribe

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

(2) Project

The term “Project” means the Indian trust asset management demonstration project established under section 5612(a) of this title.

(3) Secretary

The term “Secretary” means the Secretary of the Interior.

(Pub. L. 114–178, title II, §202, June 22, 2016, 130 Stat. 433.)

Editorial Notes

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in par. (1), 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. Definitions of terms in the Act were contained in section 450b of this title, which was editorially reclassified as section 5304 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.

§ 5612. Establishment of demonstration project; selection of participating Indian tribes

(a) In general

The Secretary shall establish and carry out an Indian trust asset management demonstration project, in accordance with this subchapter.

(b) Selection of participating Indian tribes

(1) In general

An Indian tribe shall be eligible to participate in the project if—

(A) the Indian tribe submits to the Secretary an application under subsection (c); and

(B) the Secretary approves the application of the Indian tribe.

(2) Notice

(A) In general

The Secretary shall provide a written notice to each Indian tribe approved to participate in the project.

(B) Contents

A notice under subparagraph (A) shall include—

(i) a statement that the application of the Indian tribe has been approved by the Secretary; and

(ii) a requirement that the Indian tribe shall submit to the Secretary a proposed Indian trust asset management plan in accordance with section 5613 of this title.

¹ See References in Text note below.

(c) Application

(1) In general

To be eligible to participate in the project, an Indian tribe shall submit to the Secretary 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;

¹ See References in Text note below.

(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

(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—