

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

(10) 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.

(11) 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.

(12) 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.)

#### 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, as amended, 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.

#### 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.

#### 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 resource 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 resource 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 resource 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 resource development organizations for use in the promotion of energy resource development on Indian land and integration of energy resources; and

(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 tribal environmental review codes, and the creation and maintenance of a clearinghouse of best environmental management practices; and

(iii) recommended standards for reviewing the implementation of tribal environmental laws and policies within tribal judicial or other tribal appeals systems.

(3) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2006 through 2016.

#### (b) Department of Energy Indian energy education planning and management assistance program

(1) The Director shall establish programs to assist consenting Indian tribes in meeting energy education, research and development, planning, and management needs.

(2) In carrying out this subsection, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal energy resource development organization for use in carrying out—

(A) energy, energy efficiency, and energy conservation programs;

(B) studies and other activities supporting tribal acquisitions of energy supplies, services, and facilities, including the creation of tribal utilities to assist in securing electricity to promote electrification of homes and businesses on Indian land;

(C) planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and

(D) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.

(3)(A) The Director shall develop a program to support and implement research projects that provide Indian tribes with opportunities to participate in carbon sequestration practices on Indian land, including—

- (i) geologic sequestration;
- (ii) forest sequestration;
- (iii) agricultural sequestration; and
- (iv) any other sequestration opportunities the Director considers to be appropriate.

(B) The activities carried out under subparagraph (A) shall be—

- (i) coordinated with other carbon sequestration research and development programs conducted by the Secretary of Energy;
- (ii) conducted to determine methods consistent with existing standardized measurement protocols to account and report the quantity of carbon dioxide or other greenhouse gases sequestered in projects that may be implemented on Indian land; and
- (iii) reviewed periodically to collect and distribute to Indian tribes information on carbon sequestration practices that will increase the sequestration of carbon without threatening the social and economic well-being of Indian tribes.

(4)(A) The Director, in consultation with Indian tribes, may develop a formula for providing grants under this subsection.

(B) In providing a grant under this subsection, the Director shall give priority to any application received from an Indian tribe with inadequate electric service (as determined by the Director).

(C) In providing a grant under this subsection for an activity to provide, or expand the provision of, electricity on Indian land, the Director shall encourage cooperative arrangements between Indian tribes and utilities that provide service to Indian tribes, as the Director determines to be appropriate.

(5) The Secretary of Energy may issue such regulations as the Secretary determines to be necessary to carry out this subsection.

(6) There is authorized to be appropriated to carry out this subsection \$20,000,000 for each of fiscal years 2006 through 2016.

**(c) Department of Energy loan guarantee program**

(1) Subject to paragraphs (2) and (4), the Secretary of Energy may provide loan guarantees (as defined in section 661a of title 2) for an amount equal to not more than 90 percent of the unpaid principal and interest due on any loan made to an Indian tribe for energy development.

(2) In providing a loan guarantee under this subsection for an activity to provide, or expand the provision of, electricity on Indian land, the Secretary of Energy shall encourage cooperative arrangements between Indian tribes and utilities that provide service to Indian tribes, as the Secretary determines to be appropriate.

(3) A loan guarantee under this subsection shall be made by—

- (A) a financial institution subject to examination by the Secretary of Energy; or
- (B) an Indian tribe, from funds of the Indian tribe.

(4) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed \$2,000,000,000.

(5) The Secretary of Energy may issue such regulations as the Secretary of Energy deter-

mines are necessary to carry out this subsection.

(6) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

(7) Not later than 1 year after August 8, 2005, the Secretary of Energy shall submit to Congress a report on the financing requirements of Indian tribes for energy development on Indian land.

**(d) Preference**

(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

(2) In carrying out this subsection, a Federal agency or department shall not—

- (A) pay more than the prevailing market price for an energy product or byproduct; or
- (B) obtain less than prevailing market terms and conditions.

(Pub. L. 102-486, title XXVI, §2602, as added Pub. L. 109-58, title V, §503(a), Aug. 8, 2005, 119 Stat. 765.)

**CODIFICATION**

August 8, 2005, referred to in subsec. (c)(7), was in the original “the date of enactment of this section”, which was translated as meaning the date of enactment of Pub. L. 109-58, which amended this chapter generally, to reflect the probable intent of Congress.

**PRIOR PROVISIONS**

A prior section 3502, Pub. L. 102-486, title XXVI, §2602, Oct. 24, 1992, 106 Stat. 3113, related to tribal consultation in implementing provisions, prior to the general amendment of this chapter by Pub. L. 109-58.

**§ 3503. Indian tribal energy resource regulation**

**(a) Grants**

The Secretary may provide to Indian tribes, on an annual basis, grants for use in accordance with subsection (b).

**(b) Use of funds**

Funds from a grant provided under this section may be used—

- (1)(A) by an Indian tribe for the development of a tribal energy resource inventory or tribal energy resource on Indian land;
- (B) by an Indian tribe for the development of a feasibility study or other report necessary to the development of energy resources on Indian land;
- (C) by an Indian tribe (other than an Indian Tribe in the State of Alaska, except the Metlakatla Indian Community) for—
  - (i) the development and enforcement of tribal laws (including regulations) relating to tribal energy resource development; and
  - (ii) the development of technical infrastructure to protect the environment under applicable law; or
- (D) by a Native Corporation for the development and implementation of corporate policies and the development of technical infra-

structure to protect the environment under applicable law; or