



1 (2) by adding at the end the following:

2 “(4) PLANNING.—

3 “(A) IN GENERAL.—In carrying out the  
4 program established by paragraph (1), the Sec-  
5 retary shall provide technical assistance to in-  
6 terested Indian tribes to develop energy plans,  
7 including—

8 “(I) plans for electrification;

9 “(ii) plans for oil and gas permitting,  
10 renewable energy permitting, energy effi-  
11 ciency, electricity generation, transmission  
12 planning, water planning, and other plan-  
13 ning relating to energy issues;

14 “(iii) plans for the development of en-  
15 ergy resources and to ensure the protection  
16 of natural, historic, and cultural resources;  
17 and

18 “(iv) any other plans that would as-  
19 sist an Indian tribe in the development or  
20 use of energy resources.

21 “(B) COOPERATION.—In establishing the  
22 program under paragraph (1), the Secretary  
23 shall work in cooperation with the Office of In-  
24 dian Energy Policy and Programs of the De-  
25 partment of Energy.”.

1 (b) DEPARTMENT OF ENERGY INDIAN ENERGY EDU-  
2 CATION PLANNING AND MANAGEMENT ASSISTANCE PRO-  
3 GRAM.—Section 2602(b)(2) of the Energy Policy Act of  
4 1992 (25 U.S.C. 3502(b)(2)) is amended—

5 (1) in the matter preceding subparagraph (A),  
6 by inserting “, intertribal organization,” after “In-  
7 dian tribe”;

8 (2) by redesignating subparagraphs (C) and  
9 (D) as subparagraphs (D) and (E), respectively; and

10 (3) by inserting after subparagraph (B) the fol-  
11 lowing:

12 “(C) activities to increase the capacity of  
13 Indian tribes to manage energy development  
14 and energy efficiency programs;”.

15 (c) DEPARTMENT OF ENERGY LOAN GUARANTEE  
16 PROGRAM.—Section 2602(c) of the Energy Policy Act of  
17 1992 (25 U.S.C. 3502(c)) is amended—

18 (1) in paragraph (1), by inserting “or a tribal  
19 energy development organization” after “Indian  
20 tribe”;

21 (2) in paragraph (3)—

22 (A) in the matter preceding subparagraph  
23 (A), by striking “guarantee” and inserting  
24 “guaranteed”;

25 (B) in subparagraph (A), by striking “or”;

1 (C) in subparagraph (B), by striking the  
2 period at the end and inserting “; or”;

3 (D) by adding at the end the following:

4 “(C) a tribal energy development organiza-  
5 tion, from funds of the tribal energy develop-  
6 ment organization.”; and

7 (3) in paragraph (5), by striking “The Sec-  
8 retary of Energy may” and inserting “Not later  
9 than 1 year after the date of enactment of the Na-  
10 tive American Energy Act, the Secretary of Energy  
11 shall”.

12 **SEC. 3. INDIAN TRIBAL ENERGY RESOURCE REGULATION.**

13 Section 2603(c) of the Energy Policy Act of 1992 (25  
14 U.S.C. 3503(c)) is amended—

15 (1) in paragraph (1), by striking “on the re-  
16 quest of an Indian tribe, the Indian tribe” and in-  
17 serting “on the request of an Indian tribe or a tribal  
18 energy development organization, the Indian tribe or  
19 tribal energy development organization”; and

20 (2) in paragraph (2)(B), by inserting “or tribal  
21 energy development organization” after “Indian  
22 tribe”.

23 **SEC. 4. TRIBAL ENERGY RESOURCE AGREEMENTS.**

24 (a) AMENDMENT.—Section 2604 of the Energy Pol-  
25 icy Act of 1992 (25 U.S.C. 3504) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (1)—

3 (I) in subparagraph (A), by striking  
4 “or” after the semicolon at the end;

5 (ii) in subparagraph (B)—

6 (I) by striking clause (I) and in-  
7 serting the following:

8 “(I) an electric production, genera-  
9 tion, transmission, or distribution facility  
10 (including a facility that produces elec-  
11 tricity from renewable energy resources) lo-  
12 cated on tribal land; or”; and

13 (II) in clause (ii)—

14 (aa) by inserting “, at least  
15 a portion of which have been”  
16 after “energy resources”;

17 (bb) by inserting “or pro-  
18 duced from” after “developed  
19 on”; and

20 (cc) by striking “and” after  
21 the semicolon at the end and in-  
22 serting “or”; and

23 (iii) by adding at the end the fol-  
24 lowing:

1           “(C) pooling, unitization, or  
2           communitization of the energy mineral re-  
3           sources of the Indian tribe located on tribal  
4           land with any other energy mineral resource  
5           (including energy mineral resources owned by  
6           the Indian tribe or an individual Indian in fee,  
7           trust, or restricted status or by any other per-  
8           sons or entities) if the owner of the resources  
9           has consented or consents to the pooling, unit-  
10          ization, or communitization of the other re-  
11          sources under any lease or agreement; and”;  
12          and

13           (B) by striking paragraph (2) and insert-  
14          ing the following:

15           “(2) a lease or business agreement described in  
16          paragraph (1) shall not require review by, or the ap-  
17          proval of, the Secretary under section 2103 of the  
18          Revised Statutes (25 U.S.C. 81), or any other provi-  
19          sion of law, if the lease or business agreement—

20           “(A) was executed—

21           “(I) in accordance with the require-  
22          ments of a tribal energy resource agree-  
23          ment in effect under subsection (e) (includ-  
24          ing the periodic review and evaluation of  
25          the activities of the Indian tribe under the

1 agreement, to be conducted pursuant to  
2 subparagraphs (D) and (E) of subsection  
3 (e)(2)); or

4 “(ii) by the Indian tribe and a tribal  
5 energy development organization—

6 “(I) for which the Indian tribe  
7 has obtained certification pursuant to  
8 subsection (h); and

9 “(II) the majority of the interest  
10 in which is, and continues to be  
11 throughout the full term or renewal  
12 term (if any) of the lease or business  
13 agreement, owned and controlled by  
14 the Indian tribe (or the Indian tribe  
15 and 1 or more other Indian tribes);  
16 and

17 “(B) has a term that does not exceed—

18 “(I) 30 years; or

19 “(ii) in the case of a lease for the pro-  
20 duction of oil resources, gas resources, or  
21 both, 10 years and as long thereafter as oil  
22 or gas is produced in paying quantities.”;

23 (2) by striking subsection (b) and inserting the  
24 following:

1           “(b) RIGHTS-OF-WAY.—An Indian tribe may grant a  
2 right-of-way over tribal land without review or approval  
3 by the Secretary if the right-of-way—

4           “(1) serves—

5                   “(A) an electric production, generation,  
6 transmission, or distribution facility (including  
7 a facility that produces electricity from renew-  
8 able energy resources) located on tribal land;

9                   “(B) a facility located on tribal land that  
10 extracts, produces, processes, or refines energy  
11 resources; or

12                   “(C) the purposes, or facilitates in car-  
13 rying out the purposes, of any lease or agree-  
14 ment entered into for energy resource develop-  
15 ment on tribal land; and

16           “(2) was executed—

17                   “(A) in accordance with the requirements  
18 of a tribal energy resource agreement in effect  
19 under subsection (e) (including the periodic re-  
20 view and evaluation of the activities of the In-  
21 dian tribe under the agreement, to be conducted  
22 pursuant to subparagraphs (D) and (E) of sub-  
23 section (e)(2)); or

24                   “(B) by the Indian tribe and a tribal en-  
25 ergy development organization—

1                   “(I) for which the Indian tribe has ob-  
2                   tained certification pursuant to subsection  
3                   (h); and

4                   “(ii) the majority of the interest in  
5                   which is, and continues to be throughout  
6                   the full term or renewal term (if any) of  
7                   the right-of-way, owned and controlled by  
8                   the Indian tribe (or the Indian tribe and 1  
9                   or more other Indian tribes); and

10                  “(3) has a term that does not exceed 30  
11                  years.”;

12                  (3) by striking subsection (d) and inserting the  
13                  following:

14                  “(d) VALIDITY.—No lease or business agreement en-  
15                  tered into, or right-of-way granted, pursuant to this sec-  
16                  tion shall be valid unless the lease, business agreement,  
17                  or right-of-way is authorized by subsection (a) or (b).”;

18                  (4) in subsection (e)—

19                         (A) in paragraph (2)—

20                                 (I) by striking “(2)(A)” and all that  
21                                 follows through the end of subparagraph  
22                                 (A) and inserting the following:

23                                 “(2) PROCEDURE.—

24   “(A) EFFECTIVE DATE.—

1           “(I) IN GENERAL.—On the date that  
2           is 271 days after the date on which the  
3           Secretary receives a tribal energy resource  
4           agreement from an Indian tribe under  
5           paragraph (1), the tribal energy resource  
6           agreement shall take effect, unless the Sec-  
7           retary disapproves the tribal energy re-  
8           source agreement under subparagraph (B).

9           “(ii) REVISED TRIBAL ENERGY RE-  
10          SOURCE AGREEMENT.—On the date that is  
11          91 days after the date on which the Sec-  
12          retary receives a revised tribal energy re-  
13          source agreement from an Indian tribe  
14          under paragraph (4)(B), the revised tribal  
15          energy resource agreement shall take ef-  
16          fect, unless the Secretary disapproves the  
17          revised tribal energy resource agreement  
18          under subparagraph (B).”;

19                 (ii) in subparagraph (B)—

20                         (I) by striking “(B)” and all that  
21                         follows through “if—” and inserting  
22                         the following:

23                         “(B) DISAPPROVAL.—The Secretary shall  
24                         disapprove a tribal energy resource agreement

1 submitted pursuant to paragraph (1) or (4)(B)  
2 only if—”;

3 (II) by striking clause (I) and in-  
4 serting the following:

5 “(I) the Secretary determines that the  
6 Indian tribe has not demonstrated that the  
7 Indian tribe has sufficient capacity to reg-  
8 ulate the development of the specific 1 or  
9 more energy resources identified for devel-  
10 opment under the tribal energy resource  
11 agreement submitted by the Indian tribe;”;

12 (III) by redesignating clause (iii)  
13 as clause (iv) and indenting appro-  
14 priately;

15 (IV) by striking clause (ii) and  
16 inserting the following:

17 “(ii) a provision of the tribal energy  
18 resource agreement would violate applica-  
19 ble Federal law (including regulations) or  
20 a treaty applicable to the Indian tribe;

21 “(iii) the tribal energy resource agree-  
22 ment does not include 1 or more provisions  
23 required under subparagraph (D); or”;

24 (V) in clause (iv) (as redesign-  
25 ated by subclause (III))—

1 (aa) in the matter preceding  
2 subclause (I), by striking “in-  
3 cludes” and all that follows  
4 through “section—” and insert-  
5 ing “does not include provisions  
6 that, with respect to any lease,  
7 business agreement, or right-of-  
8 way to which the tribal energy  
9 resource agreement applies—”;  
10 and

11 (bb) in subclause (XVI)(bb),  
12 by striking “or tribal”;

13 (iii) in subparagraph (C)—

14 (I) in the matter preceding clause  
15 (I), by inserting “the approval of”  
16 after “with respect to”;

17 (II) by striking clause (ii) and in-  
18 serting the following:

19 “(ii) the identification of mitigation  
20 measures, if any, that, in the discretion of  
21 the Indian tribe, the Indian tribe might  
22 propose for incorporation into the lease,  
23 business agreement, or right-of-way;”;

24 (III) in clause (iii)(I), by striking  
25 “proposed action” and inserting “ap-

1                   proval of the lease, business agree-  
2                   ment, or right-of-way”;

3                   (IV) in clause (iv), by striking  
4                   “and” at the end;

5                   (V) in clause (v), by striking the  
6                   period at the end and inserting “;  
7                   and”; and

8                   (VI) by adding at the end the fol-  
9                   lowing:

10                  “(vi) the identification of specific  
11                  classes or categories of actions, if any, de-  
12                  termined by the Indian tribe not to have  
13                  significant environmental effects.”;

14                  (iv) in subparagraph (D)(ii), by strik-  
15                  ing “subparagraph (B)(iii)(XVI)” and in-  
16                  serting “subparagraph (B)(iv)(XV)”;

17                  (v) by adding at the end the following:

18                  “(F) A tribal energy resource agreement  
19                  that takes effect pursuant to this subsection  
20                  shall remain in effect to the extent any provi-  
21                  sion of the tribal energy resource agreement is  
22                  consistent with applicable Federal law (includ-  
23                  ing regulations), unless the tribal energy re-  
24                  source agreement is—

1                   “(I) rescinded by the Secretary pursu-  
2                   ant to paragraph (7)(D)(iii)(II); or

3                   “(ii) voluntarily rescinded by the In-  
4                   dian tribe pursuant to the regulations pro-  
5                   mulgated under paragraph (8)(B) (or suc-  
6                   cessor regulations).

7                   “(G)(I) The Secretary shall make a capaci-  
8                   ty determination under subparagraph (B)(I)  
9                   not later than 120 days after the date on which  
10                  the Indian tribe submits to the Secretary the  
11                  tribal energy resource agreement of the Indian  
12                  tribe pursuant to paragraph (1), unless the Sec-  
13                  retary and the Indian tribe mutually agree to  
14                  an extension of the time period for making the  
15                  determination.

16                  “(ii) Any determination that the Indian  
17                  tribe lacks the requisite capacity shall be treat-  
18                  ed as a disapproval under paragraph (4) and,  
19                  not later than 10 days after the date of the de-  
20                  termination, the Secretary shall provide to the  
21                  Indian tribe—

22                               “(I) a detailed, written explanation of  
23                               each reason for the determination; and

1           “(II) a description of the steps that  
2           the Indian tribe should take to dem-  
3           onstrate sufficient capacity.

4           “(H) Notwithstanding any other provision  
5           of this section, an Indian tribe shall be consid-  
6           ered to have demonstrated sufficient capacity  
7           under subparagraph (B)(I) to regulate the de-  
8           velopment of the specific 1 or more energy re-  
9           sources of the Indian tribe identified for devel-  
10          opment under the tribal energy resource agree-  
11          ment submitted by the Indian tribe pursuant to  
12          paragraph (1) if—

13                 “(I) the Secretary determines that—

14                         “(I) the Indian tribe has carried  
15                         out a contract or compact under title  
16                         I or IV of the Indian Self-Determina-  
17                         tion and Education Assistance Act  
18                         (25 U.S.C. 450 et seq.); and

19                         “(II) for a period of not less than  
20                         3 consecutive years ending on the date  
21                         on which the Indian tribe submits the  
22                         tribal energy resource agreement of  
23                         the Indian tribe pursuant to para-  
24                         graph (1) or (4)(B), the contract or  
25                         compact—

1                   “(aa) has been carried out  
2                   by the Indian tribe without mate-  
3                   rial audit exceptions (or without  
4                   any material audit exceptions  
5                   that were not corrected within  
6                   the 3-year period); and

7                   “(bb) has included programs  
8                   or activities relating to the man-  
9                   agement of tribal land; or

10                  “(ii) the Secretary fails to make the  
11                  determination within the time allowed  
12                  under subparagraph (G)(I) (including any  
13                  extension of time agreed to under that sub-  
14                  paragraph).”;

15                  (B) in paragraph (4), by striking “date of  
16                  disapproval” and all that follows through the  
17                  end of subparagraph (C) and inserting the fol-  
18                  lowing: “date of disapproval, provide the Indian  
19                  tribe with—

20                  “(A) a detailed, written explanation of—

21                  “(I) each reason for the disapproval;  
22                  and

23                  “(ii) the revisions or changes to the  
24                  tribal energy resource agreement necessary  
25                  to address each reason; and

1           “(B) an opportunity to revise and resubmit  
2 the tribal energy resource agreement.”;

3           (C) in paragraph (6)—

4           (I) in subparagraph (B)—

5           (I) by striking “(B) Subject to”  
6 and inserting the following:

7           “(B) Subject only to”; and

8           (II) by striking “subparagraph  
9 (D)” and inserting “subparagraphs  
10 (C) and (D)”;

11           (ii) in subparagraph (C), in the mat-  
12 ter preceding clause (I), by inserting “to  
13 perform the obligations of the Secretary  
14 under this section and” before “to ensure”;  
15 and

16           (iii) in subparagraph (D), by adding  
17 at the end the following:

18           “(iii) Nothing in this section absolves,  
19 limits, or otherwise affects the liability, if  
20 any, of the United States for any—

21           “(I) term of any lease, business  
22 agreement, or right-of-way under this  
23 section that is not a negotiated term;  
24 or

1                   “(II) losses that are not the re-  
2                   sult of a negotiated term, including  
3                   losses resulting from the failure of the  
4                   Secretary to perform an obligation of  
5                   the Secretary under this section.”;  
6                   and

7                   (D) in paragraph (7)—

8                   (I) in subparagraph (A), by striking  
9                   “has demonstrated” and inserting “the  
10                  Secretary determines has demonstrated  
11                  with substantial evidence”;

12                  (ii) in subparagraph (B), by striking  
13                  “any tribal remedy” and inserting “all  
14                  remedies (if any) provided under the laws  
15                  of the Indian tribe”;

16                  (iii) in subparagraph (D)—

17                   (I) in clause (I), by striking “de-  
18                   termine” and all that follows through  
19                   the end of the clause and inserting the  
20                   following: “determine—

21                   “(I) whether the petitioner  
22                   is an interested party; and

23                   “(II) if the petitioner is an  
24                   interested party, whether the In-  
25                   dian tribe is not in compliance

1 with the tribal energy resource  
2 agreement as alleged in the peti-  
3 tion.”;

4 (II) in clause (ii), by striking  
5 “determination” and inserting “deter-  
6 minations”; and

7 (III) in clause (iii), in the matter  
8 preceding subclause (I) by striking  
9 “agreement” the first place it appears  
10 and all that follows through “, includ-  
11 ing” and inserting “agreement pursu-  
12 ant to clause (I), the Secretary shall  
13 only take such action as the Secretary  
14 determines necessary to address the  
15 claims of noncompliance made in the  
16 petition, including”;

17 (iv) in subparagraph (E)(I), by strik-  
18 ing “the manner in which” and inserting  
19 “, with respect to each claim made in the  
20 petition, how”; and

21 (v) by adding at the end the following:

22 “(G) Notwithstanding any other provision  
23 of this paragraph, the Secretary shall dismiss  
24 any petition from an interested party that has  
25 agreed with the Indian tribe to a resolution of

1 the claims presented in the petition of that  
2 party.”;

3 (5) by redesignating subsection (g) as sub-  
4 section (j); and

5 (6) by inserting after subsection (f) the fol-  
6 lowing:

7 “(g) FINANCIAL ASSISTANCE IN LIEU OF ACTIVITIES  
8 BY THE SECRETARY.—

9 “(1) IN GENERAL.—Any amounts that the Sec-  
10 retary would otherwise expend to operate or carry  
11 out any program, function, service, or activity (or  
12 any portion of a program, function, service, or activ-  
13 ity) of the Department that, as a result of an Indian  
14 tribe carrying out activities under a tribal energy re-  
15 source agreement, the Secretary does not expend,  
16 the Secretary shall, at the request of the Indian  
17 tribe, make available to the Indian tribe in accord-  
18 ance with this subsection.

19 “(2) ANNUAL FUNDING AGREEMENTS.—The  
20 Secretary shall make the amounts described in para-  
21 graph (1) available to an Indian tribe through an  
22 annual written funding agreement that is negotiated  
23 and entered into with the Indian tribe that is sepa-  
24 rate from the tribal energy resource agreement.

1           “(3) EFFECT OF APPROPRIATIONS.—Notwith-  
2 standing paragraph (1)—

3           “(A) the provision of amounts to an Indian  
4 tribe under this subsection is subject to the  
5 availability of appropriations; and

6           “(B) the Secretary shall not be required to  
7 reduce amounts for programs, functions, serv-  
8 ices, or activities that serve any other Indian  
9 tribe to make amounts available to an Indian  
10 tribe under this subsection.

11          “(4) DETERMINATION.—

12          “(A) IN GENERAL.—The Secretary shall  
13 calculate the amounts under paragraph (1) in  
14 accordance with the regulations promulgated by  
15 the Secretary.

16          “(B) APPLICABILITY.—The effective date  
17 or implementation of a tribal energy resource  
18 agreement under this section shall not be de-  
19 layed or otherwise affected by—

20                 “(I) a delay in the promulgation of  
21 regulations by the Secretary;

22                 “(ii) the period of time needed by the  
23 Secretary to make the calculation required  
24 under paragraph (1); or

1                   “(iii) the adoption of a funding agree-  
2                   ment under paragraph (2).

3           “(h) CERTIFICATION OF TRIBAL ENERGY DEVELOP-  
4   MENT ORGANIZATION.—

5           “(1) IN GENERAL.—Not later than 90 days  
6   after the date on which an Indian tribe submits an  
7   application for certification of a tribal energy devel-  
8   opment organization in accordance with regulations  
9   promulgated by the Secretary, the Secretary shall  
10   approve or disapprove the application.

11           “(2) REQUIREMENTS.—The Secretary shall ap-  
12   prove an application for certification if—

13           “(A)(I) the Indian tribe has carried out a  
14   contract or compact under title I or IV of the  
15   Indian Self-Determination and Education As-  
16   sistance Act (25 U.S.C. 450 et seq.); and

17           “(ii) for a period of not less than 3 con-  
18   secutive years ending on the date on which the  
19   Indian tribe submits the application, the con-  
20   tract or compact—

21           “(I) has been carried out by the In-  
22   dian tribe without material audit excep-  
23   tions (or without any material audit excep-  
24   tions that were not corrected within the 3-  
25   year period); and

1                   “(II) has included programs or activi-  
2                   ties relating to the management of tribal  
3                   land; and

4                   “(B)(I) the tribal energy development or-  
5                   ganization is organized under the laws of the  
6                   Indian tribe and subject to the jurisdiction and  
7                   authority of the Indian tribe;

8                   “(ii) the majority of the interest in the  
9                   tribal energy development organization is owned  
10                  and controlled by the Indian tribe (or the In-  
11                  dian tribe and 1 or more other Indian tribes);  
12                  and

13                  “(iii) the organizing document of the tribal  
14                  energy development organization requires that  
15                  the Indian tribe (or the Indian tribe and 1 or  
16                  more other Indian tribes) own and control at all  
17                  times a majority of the interest in the tribal en-  
18                  ergy development organization.

19                  “(3) ACTION BY SECRETARY.—If the Secretary  
20                  approves an application for certification pursuant to  
21                  paragraph (2), the Secretary shall, not more than 10  
22                  days after making the determination—

23                         “(A) issue a certification stating that—

24                                 “(I) the tribal energy development or-  
25                                 ganization is organized under the laws of

1 the Indian tribe and subject to the juris-  
2 diction and authority of the Indian tribe;

3 “(ii) the majority of the interest in  
4 the tribal energy development organization  
5 is owned and controlled by the Indian tribe  
6 (or the Indian tribe and 1 or more other  
7 Indian tribes);

8 “(iii) the organizing document of the  
9 tribal energy development organization re-  
10 quires that the Indian tribe (or the Indian  
11 tribe and 1 or more other Indian tribes)  
12 own and control at all times a majority of  
13 the interest in the tribal energy develop-  
14 ment organization; and

15 “(iv) the certification is issued pursu-  
16 ant this subsection;

17 “(B) deliver a copy of the certification to  
18 the Indian tribe; and

19 “(C) publish the certification in the Fed-  
20 eral Register.

21 “(I) SOVEREIGN IMMUNITY.—Nothing in this section  
22 waives the sovereign immunity of an Indian tribe.”.

23 (b) REGULATIONS.—Not later than 1 year after the  
24 date of enactment of this Act, the Secretary shall promul-

1 gate or update any regulations that are necessary to im-  
2 plement this section, including provisions to implement—

3 (1) section 2604(g) of the Energy Policy Act of  
4 1992 (25 U.S.C. 3504(g)) including the manner in  
5 which the Secretary, at the request of an Indian  
6 tribe, shall—

7 (A) identify the programs, functions, serv-  
8 ices, and activities (or any portions of pro-  
9 grams, functions, services, or activities) that the  
10 Secretary will not have to operate or carry out  
11 as a result of the Indian tribe carrying out ac-  
12 tivities under a tribal energy resource agree-  
13 ment;

14 (B) identify the amounts that the Sec-  
15 retary would have otherwise expended to oper-  
16 ate or carry out each program, function, serv-  
17 ice, and activity (or any portion of a program,  
18 function, service, or activity) identified pursu-  
19 ant to subparagraph (A); and

20 (C) provide to the Indian tribe a list of the  
21 programs, functions, services, and activities (or  
22 any portions of programs, functions, services, or  
23 activities) identified pursuant subparagraph (A)  
24 and the amounts associated with each program,  
25 function, service, and activity (or any portion of

1 a program, function, service, or activity) identi-  
2 fied pursuant to subparagraph (B); and

3 (2) section 2604(h) of the Energy Policy Act of  
4 1992 (25 U.S.C. 3504(h)), including the process to  
5 be followed by, and any applicable criteria and docu-  
6 mentation required for, an Indian tribe to request  
7 and obtain the certification described in that section.

8 **SEC. 5. CONFORMING AMENDMENTS.**

9 (a) DEFINITION OF TRIBAL ENERGY DEVELOPMENT  
10 ORGANIZATION.—Section 2601 of the Energy Policy Act  
11 of 1992 (25 U.S.C. 3501) is amended by striking para-  
12 graph (11) and inserting the following:

13 “(11) TRIBAL ENERGY DEVELOPMENT ORGANI-  
14 ZATION.—The term ‘tribal energy development orga-  
15 nization’ means—

16 “(A) any enterprise, partnership, consor-  
17 tium, corporation, or other type of business or-  
18 ganization that is engaged in the development  
19 of energy resources and is wholly owned by an  
20 Indian tribe (including an organization incor-  
21 porated pursuant to section 17 of the Indian  
22 Reorganization Act of 1934 (25 U.S.C. 477) or  
23 section 3 of the Act of June 26, 1936 (25  
24 U.S.C. 503) (commonly known as the ‘Okla-  
25 homa Indian Welfare Act’)); or

1           “(B) any organization of 2 or more enti-  
2           ties, at least 1 of which is an Indian tribe, that  
3           has the written consent of the governing bodies  
4           of all Indian tribes participating in the organi-  
5           zation to apply for a grant, loan, or other as-  
6           sistance under section 2602 or to enter into a  
7           lease or business agreement with, or acquire a  
8           right-of-way from, an Indian tribe pursuant to  
9           subsection (a)(2)(A)(ii) or (b)(2)(B) of section  
10          2604.”.

11          (b) INDIAN TRIBAL ENERGY RESOURCE DEVELOP-  
12          MENT.—Section 2602 of the Energy Policy Act of 1992  
13          (25 U.S.C. 3502) is amended—

14                 (1) in subsection (a)—

15                         (A) in paragraph (1), by striking “tribal  
16                         energy resource development organizations”  
17                         and inserting “tribal energy development orga-  
18                         nizations”; and

19                         (B) in paragraph (2), by striking “tribal  
20                         energy resource development organizations”  
21                         each place it appears and inserting “tribal en-  
22                         ergy development organizations”; and

23                 (2) in subsection (b)(2), by striking “tribal en-  
24                 ergy resource development organization” and insert-  
25                 ing “tribal energy development organization”.

1 (c) WIND AND HYDROPOWER FEASIBILITY STUDY.—  
2 Section 2606(c)(3) of the Energy Policy Act of 1992 (25  
3 U.S.C. 3506(c)(3)) is amended by striking “energy re-  
4 source development” and inserting “energy development”.

5 (d) CONFORMING AMENDMENTS.—Section 2604(e)  
6 of the Energy Policy Act of 1992 (25 U.S.C. 3504(e)) is  
7 amended—

8 (1) in paragraph (1)—

9 (A) by striking “(1) On the date” and in-  
10 sserting the following:

11 “(1) IN GENERAL.—On the date”; and

12 (B) by striking “for approval”;

13 (2) in paragraph (2)(B)(iv) (as redesignated by  
14 section 5(a)(4)(A)(ii)(III))—

15 (A) in subclause (XIV), by inserting “and”  
16 after the semicolon at the end;

17 (B) by striking subclause (XV); and

18 (C) by redesignating subclause (XVI) as  
19 subclause (XV);

20 (3) in paragraph (3)—

21 (A) by striking “(3) The Secretary” and  
22 inserting the following:

23 “(3) NOTICE AND COMMENT; SECRETARIAL RE-  
24 VIEW.—The Secretary”; and

25 (B) by striking “for approval”;

1 (4) in paragraph (4), by striking “(4) If the  
2 Secretary” and inserting the following:

3 “(4) ACTION IN CASE OF DISAPPROVAL.—If the  
4 Secretary”;

5 (5) in paragraph (5)—

6 (A) by striking “(5) If an Indian tribe”  
7 and inserting the following:

8 “(5) PROVISION OF DOCUMENTS TO SEC-  
9 RETARY.—If an Indian tribe”; and

10 (B) in the matter preceding subparagraph  
11 (A), by striking “approved” and inserting “in  
12 effect”;

13 (6) in paragraph (6)—

14 (A) by striking “(6)(A) In carrying out”  
15 and inserting the following:

16 “(6) SECRETARIAL OBLIGATIONS AND EFFECT  
17 OF SECTION.—

18 “(A) In carrying out”;

19 (B) in subparagraph (A), by indenting  
20 clauses (i) and (ii) appropriately;

21 (C) in subparagraph (B), by striking “ap-  
22 proved” and inserting “in effect”; and

23 (D) in subparagraph (D)—

24 (I) in clause (I), by striking “an ap-  
25 proved tribal energy resource agreement”

1 and inserting “a tribal energy resource  
2 agreement in effect under this section”;  
3 and

4 (ii) in clause (ii), by striking “ap-  
5 proved by the Secretary” and inserting “in  
6 effect”; and

7 (7) in paragraph (7)—

8 (A) by striking “(7)(A) In this paragraph”  
9 and inserting the following:

10 “(7) PETITIONS BY INTERESTED PARTIES.—

11 “(A) In this paragraph”;

12 (B) in subparagraph (A), by striking “ap-  
13 proved by the Secretary” and inserting “in ef-  
14 fect”;

15 (C) in subparagraph (B), by striking “ap-  
16 proved by the Secretary” and inserting “in ef-  
17 fect”; and

18 (D) in subparagraph (D)(iii)—

19 (I) in subclause (I), by striking “ap-  
20 proved”; and

21 (ii) in subclause (II)—

22 (I) by striking “approval of” in  
23 the first place it appears; and

1 (II) by striking “subsection (a)  
2 or (b)” and inserting “subsection  
3 (a)(2)(A)(I) or (b)(2)(A)”.

