

Indian Tribal Energy Development and Self-Determination Act Amendments of 2017
(P.L. 115-325 Section 202, amending the Tribal Forest Protection Act of 2004 [25 U.S.C. 3114(a) et seq.]

Frequently Asked Questions

1. What is the Purpose of the Section 202 amendments to the Indian Tribal Energy Act?

The purpose is to promote biomass energy production by establishing Tribal Biomass Demonstration Projects with federally recognized Indian tribes [Section 202(b)], and Alaska Native Biomass Demonstration Projects with federally recognized Indian tribes, Alaska Native villages or regional or village corporations, and tribal organizations [Section 202(c)].

2. What is considered a biomass demonstration project?

The Act directs demonstration projects to promote biomass energy production, including biofuel, heat, and electricity generation, but does not define these terms. These projects occur within the larger scope of developing Indian energy programs. The Forest Service's role under this authority is to provide woody biomass supply, not to develop the energy production.

3. What types of contracts or agreements may be used?

For Tribal Biomass Demonstration Projects under Section 202(b), the Act allows use of stewardship contracts or similar agreements (excluding direct service contracts) with an Indian tribe. The Act does not require the development of any new contract/agreement instruments or templates. Section 202(c) authorizes agreement(s) or contract(s) with Indian tribes, Alaska Native villages or regional or village corporations, and tribal organizations for Alaska Native Biomass Demonstration Projects.

4. Does the Act change any Tribal Forest Protection Act of 2004 (TFPA, 25 U.S.C. 3115a et seq.) fundamentals, implementation, or funding?

No, the Act does not make any changes to the specific requirements of the TFPA, which authorize the Secretaries of Agriculture and Interior to give special consideration to tribally-proposed projects meeting the criteria on Forest Service- or Bureau of Land Management-managed lands to protect certain Indian trust lands and resources from threats such as fire, insects and disease.

5. Do the TFPA amendments in the Act pertain to Alaska projects?

Section 202(c) of the Act separately authorizes Alaska Native Biomass Demonstration Projects independent of the TFPA (which requires that Indian forest or range land be held in trust by, or with a restriction against alienation by, the United States for an Indian tribe or a member of an Indian tribe).

6. How can Tribes be involved in the planning process?

For Tribal Biomass Demonstration Projects (e.g., not Alaska Native Biomass Demonstration projects), Section 202(b) amends the TFPA to require that, at the request of a Tribe, the Secretary "shall incorporate into the

contract or agreement, to the maximum extent practicable, management plans (including forest management and integrated resource management plans) in effect on the Indian forest land or rangeland of the respective Indian tribe.

7. Are there any limitations to the number of projects that Tribes or tribal organizations may enter into?The act specifies a minimum number of projects per fiscal year through FY 2021. Specifically, the Forest Service has interpreted the statute to require Forest Service implementation of four Tribal Biomass Demonstration projects plus one Alaska Native Biomass Demonstration Project per year.

8. Will there be any government-to-government consultation opportunities?

The Forest Service plans to institute a year of “adaptive learning” wherein input will be collected from tribes and tribal organizations for one year prior to any revisions to the Act’s evaluation and selection criteria. At such time that criteria changes and/or revision to Forest Service directives (i.e. policy) are proposed, formal consultation with Tribes will be initiated. Tribes may, of course, request formal consultation at any time.

9. Is any funding provided with the mandate?

The Act did not provide the agency with any additional funding for implementation. Coordination with the agency’s existing budget is required.

10. Where can I get information on Woody Biomass grants, such as Wood Innovations and Wood to Energy Program?

Information including how to apply for grant monies may be found at the Forest Service’s Wood Innovations webpage at <https://www.FS.usda.gov/naspf/programs/wood-education-and-resource-center/wood-innovations-home>, which also contains links to the Wood to Energy Grant Program.