

Public Law 103-399
103d Congress

An Act

Oct. 22, 1994

[S. 720]

Indian Lands
Open Dump
Cleanup Act of
1994.
25 USC 3901
note.

25 USC 3901.

To clean up open dumps on Indian lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Lands Open Dump Cleanup Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—The Congress finds that—

(1) there are at least 600 open dumps on Indian and Alaska Native lands;

(2) these dumps threaten the health and safety of residents of Indian and Alaska Native lands and contiguous areas;

(3) many of these dumps were established or are used by Federal agencies such as the Bureau of Indian Affairs and the Indian Health Service;

(4) these dumps threaten the environment;

(5) the United States holds most Indian lands in trust for the benefit of Indian tribes and Indian individuals; and

(6) most Indian tribal governments and Alaska Native entities lack the financial and technical resources necessary to close and maintain these dumps in compliance with applicable Federal laws.

(b) **PURPOSES.**—The purposes of this Act are to—

(1) identify the location of open dumps on Indian lands and Alaska Native lands;

(2) assess the relative health and environmental hazards posed by such dumps; and

(3) provide financial and technical assistance to Indian tribal governments and Alaska Native entities, either directly or by contract, to close such dumps in compliance with applicable Federal standards and regulations, or standards promulgated by an Indian tribal government or Alaska Native entity, if such standards are more stringent than the Federal standards.

25 USC 3902.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) **CLOSURE OR CLOSE.**—The term "closure or close" means the termination of operations at open dumps on Indian land or Alaska Native land and bringing such dumps into compliance

with applicable Federal standards and regulations, or standards promulgated by an Indian tribal government or Alaska Native entity, if such standards are more stringent than the Federal standards and regulations.

(2) **DIRECTOR.**—The term “Director” means the Director of the Indian Health Service.

(3) **INDIAN LAND.**—The term “Indian land” means—

(A) land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(B) dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and

(C) Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

(4) **ALASKA NATIVE LAND.**—The term “Alaska Native land” means (A) land conveyed or to be conveyed pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1600 et seq.), including any land reconveyed under section 14(c)(3) of that Act (43 U.S.C. 1613(c)(3)), and (B) land conveyed pursuant to the Act of November 2, 1966 (16 U.S.C. 1151 et seq.; commonly known as the “Fur Seal Act of 1966”).

(5) **INDIAN TRIBAL GOVERNMENT.**—The term “Indian tribal government” means the governing body of any Indian tribe, band, nation, pueblo, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(6) **ALASKA NATIVE ENTITY.**—The term “Alaska Native entity” includes native corporations established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1600 et seq.) and any Alaska Native village or municipal entity which owns Alaska Native land.

(7) **OPEN DUMP.**—The term “open dump” means any facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria promulgated under section 6944 of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) and which is not a facility for disposal of hazardous waste.

(8) **POSTCLOSURE MAINTENANCE.**—The term “postclosure maintenance” means any activity undertaken at a closed solid waste management facility on Indian land or on Alaska Native land to maintain the integrity of containment features, monitor compliance with applicable performance standards, or remedy any situation or occurrence that violates regulations promulgated pursuant to subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.).

(9) **SERVICE.**—The term “Service” means the Indian Health Service.

(10) **SOLID WASTE.**—The term “solid waste” has the meaning provided that term by section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903) and any regulations promulgated thereunder.

25 USC 3903.

SEC. 4. INVENTORY OF OPEN DUMPS.

(a) **STUDY AND INVENTORY.**—Not later than 12 months after the date of enactment of this Act, the Director shall conduct a study and inventory of open dumps on Indian lands and Alaska Native lands. The inventory shall list the geographic location of all open dumps, an evaluation of the contents of each dump, and an assessment of the relative severity of the threat to public health and the environment posed by each dump. Such assessment shall be carried out cooperatively with the Administrator of the Environmental Protection Agency. The Director shall obtain the concurrence of the Administrator in the determination of relative severity made by any such assessment.

(b) **ANNUAL REPORTS.**—Upon completion of the study and inventory under subsection (a), the Director shall report to the Congress, and update such report annually—

(1) the current priority of Indian and Alaska Native solid waste deficiencies,

(2) the methodology of determining the priority listing,

(3) the level of funding needed to effectively close or bring into compliance all open dumps on Indian lands or Alaska Native lands, and

(4) the progress made in addressing Indian and Alaska Native solid waste deficiencies.

(c) **10-YEAR PLAN.**—The Director shall develop and begin implementation of a 10-year plan to address solid waste disposal needs on Indian lands and Alaska Native lands. This 10-year plan shall identify—

(1) the level of funding needed to effectively close or bring into compliance with applicable Federal standards any open dumps located on Indian lands and Alaska Native lands; and

(2) the level of funding needed to develop comprehensive solid waste management plans for every Indian tribal government and Alaska Native entity.

25 USC 3904.

SEC. 5. AUTHORITY OF THE DIRECTOR OF THE INDIAN HEALTH SERVICE.

(a) **RESERVATION INVENTORY.**—(1) Upon request by an Indian tribal government or Alaska Native entity, the Director shall—

(A) conduct an inventory and evaluation of the contents of open dumps on the Indian lands or Alaska Native lands which are subject to the authority of the Indian tribal government or Alaska Native entity;

(B) determine the relative severity of the threat to public health and the environment posed by each dump based on information available to the Director and the Indian tribal government or Alaska Native entity unless the Director, in consultation with the Indian tribal government or Alaska Native entity, determines that additional actions such as soil testing or water monitoring would be appropriate in the circumstances; and

(C) develop cost estimates for the closure and postclosure maintenance of such dumps.

(2) The inventory and evaluation authorized under paragraph (1)(A) shall be carried out cooperatively with the Administrator of the Environmental Protection Agency. The Director shall obtain the concurrence of the Administrator in the determination of relative severity made under paragraph (1)(B).

(b) ASSISTANCE.—Upon completion of the activities required to be performed pursuant to subsection (a), the Director shall, subject to subsection (c), provide financial and technical assistance to the Indian tribal government or Alaska Native entity to carry out the activities necessary to—

(1) close such dumps; and

(2) provide for postclosure maintenance of such dumps.

(c) CONDITIONS.—All assistance provided pursuant to subsection (b) shall be made available on a site-specific basis in accordance with priorities developed by the Director. Priorities on specific Indian lands or Alaska Native lands shall be developed in consultation with the Indian tribal government or Alaska Native entity. The priorities shall take into account the relative severity of the threat to public health and the environment posed by each open dump and the availability of funds necessary for closure and postclosure maintenance.

SEC. 6. CONTRACT AUTHORITY.

25 USC 3905.

(a) AUTHORITY OF DIRECTOR.—To the maximum extent feasible, the Director shall carry out duties under this Act through contracts, compacts, or memoranda of agreement with Indian tribal governments or Alaska Native entities pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), or section 302 of the Indian Health Care Improvement Act (25 U.S.C. 1632).

(b) COOPERATIVE AGREEMENTS.—The Director is authorized, for purposes of carrying out the duties of the Director under this Act, to contract with or enter into such cooperative agreements with such other Federal agencies as is considered necessary to provide cost-sharing for closure and postclosure activities, to obtain necessary technical and financial assistance and expertise, and for such other purposes as the Director considers necessary.

SEC. 7. TRIBAL DEMONSTRATION PROJECT.

25 USC 3906.

(a) IN GENERAL.—The Director may establish and carry out a program providing for demonstration projects involving open dumps on Indian land or Alaska Native land. It shall be the purpose of such projects to determine if there are unique cost factors involved in the cleanup and maintenance of open dumps on such land, and the extent to which advanced closure planning is necessary. Under the program, the Director is authorized to select no less than three Indian tribal governments or Alaska Native entities to participate in such demonstration projects.

(b) CRITERIA.—Criteria established by the Director for the selection and participation of an Indian tribal government or Alaska Native entity in the demonstration project shall provide that in order to be eligible to participate, an Indian tribal government or Alaska Native entity must—

(1) have one or more existing open dumps on Indian lands or Alaska Native lands which are under its authority;

(2) have developed a comprehensive solid waste management plan for such lands; and

(3) have developed a closure and postclosure maintenance plan for each dump located on such lands.

(c) DURATION OF FUNDING FOR A PROJECT.—No demonstration project shall be funded for more than three fiscal years.

25 USC 3907. **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

(a) **GENERAL AUTHORIZATION.**—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) **COORDINATION.**—The activities required to be performed by the Director under this Act shall be coordinated with activities related to solid waste and sanitation facilities funded pursuant to other authorizations.

25 USC 3908. **SEC. 9. DISCLAIMERS.**

(a) **AUTHORITY OF DIRECTOR.**—Nothing in this Act shall be construed to alter, diminish, repeal, or supersede any authority conferred on the Director pursuant to section 302 of the Indian Health Care Improvement Act (25 U.S.C. 1632), and section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

(b) **EXEMPTED LANDS AND FACILITIES.**—This Act shall not apply to open dump sites on Indian lands or Alaska Native lands—

(1) that comprise an area of one-half acre or less and that are used by individual families on lands to which they hold legal or beneficial title;

(2) of any size that have been or are being operated for a profit; or

(3) where solid waste from an industrial process is being or has been routinely disposed of at a privately owned facility in compliance with applicable Federal laws.

(c) **RULES OF CONSTRUCTION.**—(1) Nothing in this Act shall be construed to amend or modify the authority or responsibility of the Administrator of the Environmental Protection Agency under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(2) Nothing in this Act is intended to amend, repeal, or supersede any provision of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

Approved October 22, 1994.

LEGISLATIVE HISTORY—S. 720:

HOUSE REPORTS: No. 103-783 (Comm. on Natural Resources).

SENATE REPORTS: No. 103-253 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 140 (1994):

May 12, considered and passed Senate.

Oct. 4, 5, considered and passed House, amended.

Oct. 8, Senate concurred in House amendment.