

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. 1601 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 4004 of the Solid Waste Disposal Act (42 U.S.C. 6944) 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.

(Pub. L. 103-399, §3, Oct. 22, 1994, 108 Stat. 4164; Pub. L. 104-109, §5, Feb. 12, 1996, 110 Stat. 764.)

**Editorial Notes**

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in pars. (4) and (6), 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.

The Fur Seal Act of 1966, referred to in par. (4), is Pub. L. 89-702, Nov. 2, 1966, 80 Stat. 1091, as amended, which is classified principally to chapter 24 (§1151 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1151 of Title 16 and Tables.

The Solid Waste Disposal Act, referred to in par. (8), is title II of Pub. L. 89-272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2795. Subtitle D of the Act is classified generally to subchapter IV (§6941 et seq.) of chapter 82 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

AMENDMENTS

1996—Par. (7). Pub. L. 104-109 substituted “section 4004 of the Solid Waste Disposal Act (42 U.S.C. 6944)” for “section 6944 of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.)”.

**§ 3903. Inventory of open dumps**

**(a) Study and inventory**

Not later than 12 months after October 22, 1994, 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.

(Pub. L. 103-399, §4, Oct. 22, 1994, 108 Stat. 4166.)

**§ 3904. Authority of Director of 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 coop-

eratively 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.

(Pub. L. 103-399, §5, Oct. 22, 1994, 108 Stat. 4166.)

**§ 3905. Contract authority**

**(a) Authority of Director**

To the maximum extent feasible, the Director shall carry out duties under this chapter 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.),<sup>1</sup> section 2004a of title 42, or section 1632 of this title.

**(b) Cooperative agreements**

The Director is authorized, for purposes of carrying out the duties of the Director under this chapter, 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.

(Pub. L. 103-399, §6, Oct. 22, 1994, 108 Stat. 4167.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (a), 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.

**§ 3906. Tribal demonstration project**

**(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 project**

No demonstration project shall be funded for more than three fiscal years.

(Pub. L. 103-399, §7, Oct. 22, 1994, 108 Stat. 4167.)

**§ 3907. Authorization of appropriations**

**(a) General authorization**

There are authorized to be appropriated such sums as may be necessary to carry out this chapter.

**(b) Coordination**

The activities required to be performed by the Director under this chapter shall be coordinated with activities related to solid waste and sanitation facilities funded pursuant to other authorizations.

(Pub. L. 103-399, §8, Oct. 22, 1994, 108 Stat. 4168.)

**§ 3908. Disclaimers**

**(a) Authority of Director**

Nothing in this chapter shall be construed to alter, diminish, repeal, or supersede any authority conferred on the Director pursuant to section 1632 of this title, and section 2004a of title 42.

**(b) Exempted lands and facilities**

This chapter 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 chapter shall be construed to amend or modify the authority or responsi-

<sup>1</sup> See References in Text note below.