

103^D CONGRESS
2^D SESSION

S. 720

AN ACT

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

103^D CONGRESS
2^D SESSION

S. 720

AN ACT

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Indian Lands Open
5 Dump Cleanup Act of 1994”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

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

3 (1) there are at least 600 open dumps on In-
4 dian lands;

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

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

10 (4) these dumps threaten the environment;

11 (5) the United States holds most Indian lands
12 in trust for the benefit of Indian tribes and individ-
13 uals; and

14 (6) most Indian tribal governments lack the fi-
15 nancial and technical resources necessary to close
16 and maintain these dumps in compliance with appli-
17 cable Federal laws.

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

19 (1) identify the location of open dumps on In-
20 dian lands;

21 (2) assess the relative health and environmental
22 hazards of such dumps; and

23 (3) provide financial and technical assistance to
24 Indian tribal governments, either directly or by con-
25 tract, to close such dumps in compliance with appli-
26 cable Federal standards and regulations, or stand-

1 ards promulgated by an Indian tribal government, if
2 such standards are more stringent than the Federal
3 standards.

4 **SEC. 3. DEFINITIONS.**

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

7 (1) CLOSURE OR CLOSE.—The term “closure or
8 close” means the termination of operations at open
9 dumps on Indian land and bringing such dumps into
10 compliance with applicable Federal standards and
11 regulations, or standards promulgated by an Indian
12 tribal government, if such standards are more strin-
13 gent than the Federal standards and regulations.

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

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

18 (A) land within the limits of any Indian
19 reservation under the jurisdiction of the United
20 States Government, notwithstanding the issu-
21 ance of any patent, and including rights-of-way
22 running through the reservation;

23 (B) dependent Indian communities within
24 the borders of the United States whether within
25 the original or subsequently acquired territory

1 thereof, and whether within or without the lim-
2 its of a State; and

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

6 (4) INDIAN TRIBAL GOVERNMENT.—The term
7 “Indian tribal government” means the governing
8 body of any Indian tribe, band, nation, pueblo, or
9 other organized group or community which is recog-
10 nized as eligible for the special programs and serv-
11 ices provided by the United States to Indians be-
12 cause of their status as Indians.

13 (5) INVENTORY.—The term “inventory” means
14 a listing of the geographic location of all open
15 dumps, an evaluation of the contents of each dump,
16 and an assessment of the relative impact of each
17 dump on the environment and public health.

18 (6) OPEN DUMP.—The term “open dump”
19 means any facility or site where solid waste is being
20 or has been routinely and regularly disposed of that
21 has not been closed or covered or that does not meet
22 the criteria for a new municipal solid waste landfill
23 unit promulgated pursuant to the Solid Waste Dis-
24 posal Act (42 U.S.C. 6901 et seq.).

1 (7) POSTCLOSURE MAINTENANCE.—The term
2 “postclosure maintenance” means any activity un-
3 dertaken at a closed solid waste facility on Indian
4 land to maintain the integrity of containment fea-
5 tures, monitor compliance with applicable perform-
6 ance standards, or remedy any situation or occur-
7 rence that violates regulations promulgated pursuant
8 to the Solid Waste Disposal Act (42 U.S.C. 6901 et
9 seq.).

10 (8) SOLID WASTE.—The term “solid waste”
11 means any garbage, refuse, sludge from a
12 wastewater treatment plant, water supply treatment
13 plant, or air pollution control facility, and other dis-
14 carded material, including solid, liquid, semisolid, or
15 contained gaseous material resulting from industrial,
16 commercial, mining, and agricultural operations, and
17 from community activities, but does not include solid
18 or dissolved materials in domestic sewage, or solid or
19 dissolved materials in irrigation return flows or in-
20 dustrial discharges that are point sources subject to
21 permit under section 402 of the Federal Water Pol-
22 lution Control Act (33 U.S.C. 1342), or source ma-
23 terial, special nuclear material, or by-product mate-
24 rial as defined in section 11 of the Atomic Energy
25 Act of 1954 (42 U.S.C. 2014).

1 **SEC. 4. AUTHORITY OF THE DIRECTOR OF THE INDIAN**
2 **HEALTH SERVICE.**

3 (a) INVENTORY.—Upon request by an Indian tribal
4 government, the Director shall—

5 (1) conduct an inventory of open dumps on the
6 Indian lands which are subject to the authority of
7 the Indian tribal government;

8 (2) determine the relative severity of the threat
9 to public health and the environment posed by each
10 dump based on information available to the Director
11 and the Indian tribal government, unless the Direc-
12 tor, in consultation with the Indian tribal govern-
13 ment, determines that actions such as soil testing or
14 water monitoring would be appropriate in the cir-
15 cumstances; and

16 (3) develop cost estimates for the closure and
17 postclosure maintenance of such dumps.

18 (b) ASSISTANCE.—Upon completion of the activities
19 required to be performed pursuant to subsection (a), the
20 Director shall, subject to subsection (c), provide financial
21 and technical assistance to the Indian tribal government
22 to carry out the activities necessary to—

23 (1) close such dumps; and

24 (2) provide for postclosure maintenance of such
25 dumps.

1 (c) CONDITIONS.—All assistance provided pursuant
2 to subsection (b) shall be made available on a site-specific
3 basis in accordance with priorities developed by the Direc-
4 tor. Priorities on a specific reservation shall be developed
5 in consultation with the Indian tribal government. The
6 priorities shall take into account the relative severity of
7 the threat to public health and the environment posed by
8 each open dump and the availability of funds necessary
9 for closure and postclosure maintenance.

10 **SEC. 5. CONTRACT AUTHORITY.**

11 (a) AUTHORITY OF DIRECTOR.—To the maximum
12 extent feasible, the Director shall carry out duties under
13 this Act through contracts, compacts, or memoranda of
14 agreement with Indian tribal governments pursuant to the
15 Indian Self-Determination and Education Assistance Act
16 (25 U.S.C. 450 et seq.), section 7 of the Act of August
17 5, 1954 (42 U.S.C. 2004a), or section 302 of the Indian
18 Health Care Improvement Act (25 U.S.C. 1632).

19 (b) DEMONSTRATION PROJECTS.—(1) The Director
20 may establish and carry out a program providing for dem-
21 onstration projects involving open dumps on Indian land.
22 It shall be the purpose of such projects to determine if
23 there are unique cost factors involved in the cleanup and
24 maintenance of open dumps on such land, and the extent
25 to which advance closure planning is necessary. Under the

1 program, the Director is authorized to select three Indian
2 tribal governments to participate in such demonstration
3 projects.

4 (2) Criteria established by the Director for the selec-
5 tion and participation of an Indian tribal government in
6 the demonstration project shall provide that—

7 (A) in order to be eligible to participate, an In-
8 dian tribal government must have one or more exist-
9 ing open dumps on the Indian lands that are under
10 its authority, and have a plan for the closure of each
11 such dump;

12 (B) at least one of the Indian tribal govern-
13 ments selected by the Director shall proceed under
14 a contract entered into pursuant to the Indian Self-
15 Determination and Education Assistance Act; and

16 (C) at least one of the Indian tribal govern-
17 ments selected by the Director shall permit the In-
18 dian Health Service to directly provide for the clean-
19 up and maintenance.

20 (3) No demonstration project shall be funded for
21 more than 3 fiscal years.

22 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) GENERAL AUTHORIZATION.—There are author-
24 ized to be appropriated such sums as may be necessary
25 to carry out this Act.

1 (b) FUNDING SOURCE.—The activities required to be
2 performed by the Director under this Act shall only be
3 funded from appropriations made pursuant to this Act
4 and such activities shall be coordinated with activities re-
5 lated to solid waste and sanitation facilities funded pursu-
6 ant to other authorizations.

7 **SEC. 7. DISCLAIMERS.**

8 (a) AUTHORITY OF DIRECTOR.—Nothing in this Act
9 shall be construed to alter, diminish, repeal, or supersede
10 any authority conferred on the Director pursuant to sec-
11 tion 302 of the Indian Health Care Improvement Act (25
12 U.S.C. 1632), and section 7 of the Act of August 5, 1954
13 (42 U.S.C. 2004a).

14 (b) EXEMPTED LANDS AND FACILITIES.—This Act
15 shall not apply to open dump sites on Indian lands—

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

19 (2) of any size, that have been or are being op-
20 erated for a profit; or

21 (3) where solid waste from an industrial process
22 is being or has been routinely disposed of at a pri-

1 vately owned facility in compliance with applicable
2 Federal laws.

Passed the Senate May 12 (legislative day, May 2),
1994.

Attest:

Secretary.

S 720 ES—2

S 720 ES—3

S 720 ES—4

S 720 ES—5