

Union Calendar No. 430

103^D CONGRESS
2^D SESSION

S. 720

[Report No. 103-783]

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

OCTOBER 3, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MAY 17, 1994

Referred to the Committee on Natural Resources

OCTOBER 3, 1994

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[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on May 17, 1994]

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 Indian*
4 *and Alaska Native lands;*

5 (2) *these dumps threaten the health and safety of*
6 *residents of Indian and Alaska Native lands and con-*
7 *tiguous areas;*

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

11 (4) *these dumps threaten the environment;*

12 (5) *the United States holds most Indian lands in*
13 *trust for the benefit of Indian tribes and Indian indi-*
14 *viduals; and*

15 (6) *most Indian tribal governments and Alaska*
16 *Native entities lack the financial and technical re-*
17 *sources necessary to close and maintain these dumps*
18 *in compliance with applicable Federal laws.*

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

20 (1) *identify the location of open dumps on In-*
21 *dian lands and Alaska Native lands;*

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

24 (3) *provide financial and technical assistance to*
25 *Indian tribal governments and Alaska Native entities,*
26 *either directly or by contract, to close such dumps in*

1 compliance with applicable Federal standards and
2 regulations, or standards promulgated by an Indian
3 tribal government or Alaska Native entity, if such
4 standards are more stringent than the Federal stand-
5 ards.

6 **SEC. 3. DEFINITIONS.**

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

9 (1) *CLOSURE OR CLOSE*.—The term “closure or
10 close” means the termination of operations at open
11 dumps on Indian land or Alaska Native land and
12 bringing such dumps into compliance with applicable
13 Federal standards and regulations, or standards pro-
14 mulgated by an Indian tribal government or Alaska
15 Native entity, if such standards are more stringent
16 than the Federal standards and regulations.

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

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

21 (A) land within the limits of any Indian
22 reservation under the jurisdiction of the United
23 States Government, notwithstanding the issuance
24 of any patent, and including rights-of-way run-
25 ning through the reservation;

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

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

9 (4) ALASKA NATIVE LAND.—The term “Alaska
10 Native land” means (A) land conveyed or to be con-
11 veyed pursuant to the Alaska Native Claims Settle-
12 ment Act (43 U.S.C. 1600 et seq.), including any
13 land reconveyed under section 14(c)(3) of that Act (43
14 U.S.C. 1613(c)(3)), and (B) land conveyed pursuant
15 to the Act of November 2, 1966 (16 U.S.C. 1151 et
16 seq.; commonly known as the “Fur Seal Act of
17 1966”).

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

1 (6) *ALASKA NATIVE ENTITY*.—The term “Alaska
2 *Native entity*” includes native corporations estab-
3 lished pursuant to the Alaska Native Claims Settle-
4 ment Act (43 U.S.C. 1600 et seq.) and any Alaska
5 Native village or municipal entity which owns Alaska
6 Native land.

7 (7) *OPEN DUMP*.—The term “open dump” means
8 any facility or site where solid waste is being or has
9 been routinely and regularly disposed of that has not
10 been closed or covered or that does not meet the cri-
11 teria for a new municipal solid waste landfill unit
12 promulgated pursuant to subtitle D of the Solid
13 Waste Disposal Act (42 U.S.C. 6941 et seq.).

14 (8) *POSTCLOSURE MAINTENANCE*.—The term
15 “postclosure maintenance” means any activity under-
16 taken at a closed solid waste management facility on
17 Indian land or on Alaska Native land to maintain
18 the integrity of containment features, monitor compli-
19 ance with applicable performance standards, or rem-
20 edy any situation or occurrence that violates regula-
21 tions promulgated pursuant to subtitle D of the Solid
22 Waste Disposal Act (42 U.S.C. 6941 et seq.).

23 (9) *SERVICE*.—The term “Service” means the In-
24 dian Health Service.

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

5 **SEC. 4. INVENTORY OF OPEN DUMPS.**

6 (a) *STUDY AND INVENTORY*.—Not later than 12
 7 months after the date of enactment of this Act, the Director
 8 shall conduct a study and inventory of open dumps on In-
 9 dian lands and Alaska Native lands. The inventory shall
 10 list the geographic location of all open dumps, an evalua-
 11 tion of the contents of each dump, and an assessment of
 12 the relative severity of the threat to public health and the
 13 environment posed by each dump.

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

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

19 (2) the methodology of determining the priority
 20 listing,

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

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

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

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

9 (2) *the level of funding needed to develop com-*
10 *prehensive solid waste management plans for every*
11 *Indian tribal government and Alaska Native entity.*

12 **SEC. 5. AUTHORITY OF THE DIRECTOR OF THE INDIAN**
13 **HEALTH SERVICE.**

14 (a) *RESERVATION INVENTORY.*—*Upon request by an*
15 *Indian tribal government or Alaska Native entity, the Di-*
16 *rector shall—*

17 (1) *conduct an inventory and evaluation of the*
18 *contents of open dumps on the Indian lands or Alaska*
19 *Native lands which are subject to the authority of the*
20 *Indian tribal government or Alaska Native entity;*

21 (2) *determine the relative severity of the threat*
22 *to public health and the environment posed by each*
23 *dump based on information available to the Director*
24 *and the Indian tribal government or Alaska Native*
25 *entity unless the Director, in consultation with the*

1 *Indian tribal government or Alaska Native entity, de-*
2 *termines that additional actions such as soil testing*
3 *or water monitoring would be appropriate in the cir-*
4 *cumstances; and*

5 *(3) develop cost estimates for the closure and*
6 *postclosure maintenance of such dumps.*

7 *(b) ASSISTANCE.—Upon completion of the activities*
8 *required to be performed pursuant to subsection (a), the Di-*
9 *rector shall, subject to subsection (c), provide financial and*
10 *technical assistance to the Indian tribal government or*
11 *Alaska Native entity to carry out the activities necessary*
12 *to—*

13 *(1) close such dumps; and*

14 *(2) provide for postclosure maintenance of such*
15 *dumps.*

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

1 **SEC. 6. CONTRACT AUTHORITY.**

2 (a) *AUTHORITY OF DIRECTOR.*—To the maximum ex-
3 tent feasible, the Director shall carry out duties under this
4 Act through contracts, compacts, or memoranda of agree-
5 ment with Indian tribal governments or Alaska Native enti-
6 ties pursuant to the Indian Self-Determination and Edu-
7 cation Assistance Act (25 U.S.C. 450 et seq.), section 7 of
8 the Act of August 5, 1954 (42 U.S.C. 2004a), or section
9 302 of the Indian Health Care Improvement Act (25 U.S.C.
10 1632).

11 (b) *COOPERATIVE AGREEMENTS.*—The Director is au-
12 thorized, for purposes of carrying out the duties of the Di-
13 rector under this Act, to contract with or enter into such
14 cooperative agreements with such other Federal agencies as
15 is considered necessary to provide cost-sharing for closure
16 and postclosure activities, to obtain necessary technical and
17 financial assistance and expertise, and for such other pur-
18 poses as the Director considers necessary.

19 **SEC. 7. TRIBAL DEMONSTRATION PROJECT.**

20 (a) *IN GENERAL.*—The Director may establish and
21 carry out a program providing for demonstration projects
22 involving open dumps on Indian land or Alaska Native
23 land. It shall be the purpose of such projects to determine
24 if there are unique cost factors involved in the cleanup and
25 maintenance of open dumps on such land, and the extent
26 to which advanced closure planning is necessary. Under the

1 program, the Director is authorized to select no less than
2 three Indian tribal governments or Alaska Native entities
3 to participate in such demonstration projects.

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

9 (1) have one or more existing open dumps on In-
10 dian lands or Alaska Native lands which are under
11 its authority;

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

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

17 (c) *DURATION OF FUNDING FOR A PROJECT.*—No dem-
18 onstration project shall be funded for more than three fiscal
19 years.

20 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

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

24 (b) *COORDINATION.*—The activities required to be per-
25 formed by the Director under this Act shall be coordinated

1 *with activities related to solid waste and sanitation facili-*
 2 *ties funded pursuant to other authorizations.*

3 **SEC. 9. DISCLAIMERS.**

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

10 (b) *EXEMPTED LANDS AND FACILITIES.*—This Act
 11 shall not apply to open dump sites on Indian lands or Alas-
 12 ka Native lands—

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

16 (2) *of any size that have been or are being oper-*
 17 *ated for a profit; or*

18 (3) *where solid waste from an industrial process*
 19 *is being or has been routinely disposed of at a pri-*
 20 *vately owned facility in compliance with applicable*
 21 *Federal laws.*

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

Attest:

MARTHA S. POPE,
 Secretary.