(e) Identification of dams

(1) Development of list

The Secretary shall develop a comprehensive list of dams located on Indian lands that describes the dam safety condition classification of each dam, as specified in paragraph (2), the risk hazard classification of each dam, as specified in paragraph (3), and the conditions resulting from maintenance deficiencies.

(2) Dam safety condition classifications

The dam safety condition classification referred to in paragraph (1) is one of the following classifications:

(A) Satisfactory

No existing or potential dam safety deficiencies are recognized. Safe performance is expected under all anticipated conditions.

(B) Fair

No existing dam safety deficiencies are recognized for normal loading conditions. Infrequent hydrologic or seismic events would probably result in a dam safety deficiency.

(C) Conditionally poor

A potential dam safety deficiency is recognized for unusual loading conditions that may realistically occur during the expected life of the structure.

(D) Poor

A potential dam safety deficiency is clearly recognized for normal loading conditions. Immediate actions to resolve the deficiency are recommended; reservoir restrictions may be necessary until resolution of the problem.

(E) Unsatisfactory

A dam safety deficiency exists for normal loading conditions. Immediate remedial action is required for resolution of the problem.

(3) Risk hazard classification

The risk hazard classification referred to in paragraph (1) is one of the following classifications:

(A) High

Six or more lives would be at risk or extensive property damage could occur if the dam failed.

(B) Significant

Between one and six lives would be at risk or significant property damage could occur if the dam failed.

(C) Low

No lives would be at risk and limited property damage would occur if the dam failed.

(f) Limitation on program authorization

Work authorized by this chapter shall be for the purpose of dam safety maintenance and structural repair. The Secretary may authorize, upon request of an Indian tribe, up to 20 percent of the cost of repairs to be used to provide additional conservation storage capacity or developing benefits beyond those provided by the original dams and reservoirs. This chapter is not intended to preclude development of increased storage or benefits under any other authority or to preclude measures to protect fish and wildlife.

(g) Technical assistance

To carry out the purposes of this chapter, the Secretary may obtain technical assistance on a nonreimbursable basis from other departments and agencies. Notwithstanding any such technical assistance, the Dam Safety Maintenance and Repair Program established under subsection (a) of this section shall be under the direction and control of the Bureau.

(h) Contract authority

In addition to any other authority established by law, the Secretary is authorized to contract with Indian tribes under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to carry out the Dam Safety Maintenance and Repair Program established under this chapter.

(i) Annual report

The Secretary shall submit an annual report on the implementation of this chapter. The report shall include—

(1) the list of dams and their status on the maintenance action plan developed under this section; and

(2) the projected total cost and a schedule of the projected annual cost of rehabilitation or repair for each dam under this section.

The report shall be submitted at the time the budget is required to be submitted under section 1105 of title 31 to the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate.

(Pub. L. 103–302, § 4, Aug. 23, 1994, 108 Stat. 1561; Pub. L. 104–109, § 3, Feb. 12, 1996, 110 Stat. 764.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (h), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1996—Subsec. (h). Pub. L. 104–109 substituted ''under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)'' for ''(under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))), as amended,''.

CHANGE OF NAME

Subcommittee on Native American Affairs changed to Subcommittee on Native American and Insular Affairs.

§ 3804. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out this chapter. Funds provided under this chapter are to be considered nonreimbursable.

(Pub. L. 103–302, § 5, Aug. 23, 1994, 108 Stat. 1563.)

CHAPTER 41—INDIAN LANDS OPEN DUMP CLEANUP

Sec.
3901. Findings and purposes.

Sec.
3902. Definitions.
3903. Inventory of open dumps.
3904. Authority of Director of Indian Health Service.
3905. Contract authority.
3906. Tribal demonstration project.
3907. Authorization of appropriations.
3908. Disclaimers.

§ 3901. 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 chapter 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.

(Pub. L. 103–399, § 2, Oct. 22, 1994, 108 Stat. 4164.)

SHORT TITLE

Section 1 of Pub. L. 103–399 provided that: ''This Act [enacting this chapter] may be cited as the 'Indian Lands Open Dump Cleanup Act of 1994'.''

§ 3902. Definitions

For the purposes of this chapter, 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. 1601 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. 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.)

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) of this section, 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 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) of this section, the Director shall, subject to subsection (c) of this section, 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) of this section 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.), 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.)

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, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 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 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 chapter is intended to amend, repeal, or supersede any provision of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(Pub. L. 103–399, § 9, Oct. 22, 1994, 108 Stat. 4168.)

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsec. (c), 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, which is classified generally to chapter 82 (§ 6901 et seq.) 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.

CHAPTER 42—AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM

Sec.
4001. Definitions.

SUBCHAPTER I—RECOGNITION OF TRUST RESPONSIBILITY

4011 Responsibility of Secretary to account for daily and annual balances of Indian trust funds.
4012. Authority for payment of claims for interest owed.

SUBCHAPTER II—INDIAN TRUST FUND MANAGEMENT PROGRAM

4021. Purpose.
4022. Voluntary withdrawal from trust funds program.
4023. Judgment funds.
4024. Technical assistance.
4025. Grant program.
4026. Return of withdrawn funds.
4027. Savings provision.
4028. Report to Congress.
4029. Regulations.