

**TITLE 33 - NAVIGATION AND NAVIGABLE WATERS**  
**CHAPTER 26 - WATER POLLUTION PREVENTION AND CONTROL**  
**SUBCHAPTER V - GENERAL PROVISIONS**

**§ 1377. Indian tribes**

**(a) Policy**

Nothing in this section shall be construed to affect the application of section 1251 (g) of this title, and all of the provisions of this section shall be carried out in accordance with the provisions of such section 1251 (g) of this title. Indian tribes shall be treated as States for purposes of such section 1251 (g) of this title.

**(b) Assessment of sewage treatment needs; report**

The Administrator, in cooperation with the Director of the Indian Health Service, shall assess the need for sewage treatment works to serve Indian tribes, the degree to which such needs will be met through funds allotted to States under section 1285 of this title and priority lists under section 1296 of this title, and any obstacles which prevent such needs from being met. Not later than one year after February 4, 1987, the Administrator shall submit a report to Congress on the assessment under this subsection, along with recommendations specifying

- (1) how the Administrator intends to provide assistance to Indian tribes to develop waste treatment management plans and to construct treatment works under this chapter, and
- (2) methods by which the participation in and administration of programs under this chapter by Indian tribes can be maximized.

**(c) Reservation of funds**

The Administrator shall reserve each fiscal year beginning after September 30, 1986, before allotments to the States under section 1285 (e) of this title, one-half of one percent of the sums appropriated under section 1287 of this title. Sums reserved under this subsection shall be available only for grants for the development of waste treatment management plans and for the construction of sewage treatment works to serve Indian tribes, as defined in subsection (h) of this section and former Indian reservations in Oklahoma (as determined by the Secretary of the Interior) and Alaska Native Villages as defined in Public Law 92–203 [43 U.S.C. 1601 et seq.].

**(d) Cooperative agreements**

In order to ensure the consistent implementation of the requirements of this chapter, an Indian tribe and the State or States in which the lands of such tribe are located may enter into a cooperative agreement, subject to the review and approval of the Administrator, to jointly plan and administer the requirements of this chapter.

**(e) Treatment as States**

The Administrator is authorized to treat an Indian tribe as a State for purposes of subchapter II of this chapter and sections 1254, 1256, 1313, 1315, 1318, 1319, 1324, 1329, 1341, 1342, 1344, and 1346 of this title to the degree necessary to carry out the objectives of this section, but only if—

- (1) the Indian tribe has a governing body carrying out substantial governmental duties and powers;
- (2) the functions to be exercised by the Indian tribe pertain to the management and protection of water resources which are held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation; and
- (3) the Indian tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this chapter and of all applicable regulations.

*NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).*

Such treatment as a State may include the direct provision of funds reserved under subsection (c) of this section to the governing bodies of Indian tribes, and the determination of priorities by Indian tribes, where not determined by the Administrator in cooperation with the Director of the Indian Health Service. The Administrator, in cooperation with the Director of the Indian Health Service, is authorized to make grants under subchapter II of this chapter in an amount not to exceed 100 percent of the cost of a project. Not later than 18 months after February 4, 1987, the Administrator shall, in consultation with Indian tribes, promulgate final regulations which specify how Indian tribes shall be treated as States for purposes of this chapter. The Administrator shall, in promulgating such regulations, consult affected States sharing common water bodies and provide a mechanism for the resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes located on common bodies of water. Such mechanism shall provide for explicit consideration of relevant factors including, but not limited to, the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards. Such mechanism should provide for the avoidance of such unreasonable consequences in a manner consistent with the objective of this chapter.

**(f) Grants for nonpoint source programs**

The Administrator shall make grants to an Indian tribe under section 1329 of this title as though such tribe was a State. Not more than one-third of one percent of the amount appropriated for any fiscal year under section 1329 of this title may be used to make grants under this subsection. In addition to the requirements of section 1329 of this title, an Indian tribe shall be required to meet the requirements of paragraphs (1), (2), and (3) of subsection (d)<sup>1</sup> of this section in order to receive such a grant.

**(g) Alaska Native organizations**

No provision of this chapter shall be construed to—

- (1) grant, enlarge, or diminish, or in any way affect the scope of the governmental authority, if any, of any Alaska Native organization, including any federally-recognized tribe, traditional Alaska Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), over lands or persons in Alaska;
- (2) create or validate any assertion by such organization or any form of governmental authority over lands or persons in Alaska; or
- (3) in any way affect any assertion that Indian country, as defined in section 1151 of title 18, exists or does not exist in Alaska.

**(h) Definitions**

For purposes of this section, the term—

- (1) “Federal Indian reservation” means all 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; and
- (2) “Indian tribe” means any Indian tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.

**Footnotes**

<sup>1</sup> So in original. Probably should be subsection “(e)”.

(June 30, 1948, ch. 758, title V, § 518, as added Pub. L. 100–4, title V, § 506, Feb. 4, 1987, 101 Stat. 76; amended Pub. L. 100–581, title II, § 207, Nov. 1, 1988, 102 Stat. 2940; Pub. L. 106–284, § 6, Oct. 10, 2000, 114 Stat. 876.)

## References in Text

Public Law 92–203, referred to in subsec. (c), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, known as the Alaska Native Claims Settlement Act, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. The term “Alaska Native Villages” is defined in section 3 of Pub. L. 92–203 which is classified to section 1602 of Title 43. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

Act of June 18, 1934 (48 Stat. 987), referred to in subsec. (g)(1), is act June 18, 1934, ch. 576, 48 Stat. 984, as amended, popularly known as the Indian Reorganization Act, which enacted sections 461, 462, 463, 464, 465, 466 to 470, 471, 472, 473, 474, 475, 476 to 478, and 479 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 461 of Title 25 and Tables.

## Prior Provisions

A prior section 518 of act June 30, 1948, was renumbered section 519 and is set out as a note under section 1251 of this title.

## Amendments

2000—Subsec. (e). Pub. L. 106–284 substituted “1344, and 1346 of this title” for “and 1344 of this title” in introductory provisions.

1988—Subsec. (c). Pub. L. 100–581 inserted “, as defined in subsection (h) of this section and former Indian reservations in Oklahoma (as determined by the Secretary of the Interior) and Alaska Native Villages as defined in Public Law 92–203” before period at end.

## Grants for Construction of Water Facilities and for Water Quality Protection

Pub. L. 109–54, title II, Aug. 2, 2005, 119 Stat. 530, provided in part: “That, notwithstanding this or any other appropriations Act, heretofore and hereafter, after consultation with the House and Senate Committees on Appropriations and for the purpose of making technical corrections, the Administrator is authorized to award grants under this heading [State and Tribal Assistance Grants] to entities and for purposes other than those listed in the joint explanatory statements of the managers accompanying the Agency’s appropriations Acts for the construction of drinking water, wastewater and stormwater infrastructure and for water quality protection.”

## Grants to Indian Tribes

Provisions stating that for fiscal year 2006 and notwithstanding section 1377 (f) of this title, the Administrator was authorized to use the amounts appropriated for any fiscal year under section 1329 of this title to make grants to Indian tribes pursuant to sections 1329 (h) and 1377 (e) of this title, were contained in the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, Pub. L. 109–54, title II, Aug. 2, 2005, 119 Stat. 530, and were repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were contained in the following prior appropriations acts:

Pub. L. 108–447, div. I, title III, Dec. 8, 2004, 118 Stat. 3330.

Pub. L. 108–199, div. G, title III, Jan. 23, 2004, 118 Stat. 406.

Pub. L. 108–7, div. K, title III, Feb. 20, 2003, 117 Stat. 512.

Pub. L. 107–73, title III, Nov. 26, 2001, 115 Stat. 685.

Pub. L. 106–377, § 1(a)(1) [title III], Oct. 27, 2000, 114 Stat. 1441, 1441A–43.

Pub. L. 106–74, title III, Oct. 20, 1999, 113 Stat. 1083.