

104TH CONGRESS
1ST SESSION

H. R. 2036

To amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 1995

Mr. OXLEY introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility, 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 “Land Disposal Pro-
5 gram Flexibility Act of 1995”.

6 **SEC. 2. LAND DISPOSAL BAN.**

7 Section 3004(g) of the Solid Waste Disposal Act (42
8 U.S.C. 6924(g)) is amended by adding the following after
9 paragraph (6):

1 “(7) Solid waste identified as hazardous based on
2 characteristic alone—

3 “(A) as part of a treatment or disposal system
4 prior to its discharge through a point source regu-
5 lated under the Clean Water Act (33 U.S.C. 1151
6 and following),

7 “(B) prior to and including injection into any
8 Class I deep well regulated under section 1422 of
9 title XIV of the Public Health Service Act (42
10 U.S.C. 300h–1), or

11 “(C) as part of management in a zero discharge
12 system that the Administrator determines to be en-
13 gaging in Clean Water Act-equivalent treatment
14 shall not be subject to the land disposal restrictions of this
15 subsection or any requirement of subsections (d), (e), (f),
16 or (m) if such solid waste no longer exhibits such char-
17 acteristic prior to land disposal.”.

18 **SEC. 3. GROUND WATER MONITORING.**

19 (a) AMENDMENT OF SOLID WASTE DISPOSAL ACT.—
20 Section 4010(c) of the Solid Waste Disposal Act (42
21 U.S.C. 6949a(c)) is amended as follows:

22 (1) By striking “CRITERIA.—Not later” and in-
23 serting the following: “CRITERIA.—

24 “(1) IN GENERAL.—Not later”.

1 (2) By adding at the end the following new
2 paragraph:

3 “(2) ADDITIONAL REVISIONS.—Subject to para-
4 graph (3), the requirements of the criteria described
5 in paragraph (1) relating to ground water monitor-
6 ing shall not apply to an owner or operator of a new
7 municipal solid waste landfill unit, an existing mu-
8 nicipal solid waste landfill unit, or a lateral expan-
9 sion of a municipal solid waste landfill unit, that dis-
10 poses of less than 20 tons of municipal solid waste
11 daily, based on an annual average, if—

12 “(A) there is no evidence of ground water
13 contamination from the municipal solid waste
14 landfill unit or expansion; and

15 “(B) the municipal solid waste landfill unit
16 or expansion serves—

17 “(i) a community that experiences an
18 annual interruption of at least 3 consecu-
19 tive months of surface transportation that
20 prevents access to a regional waste man-
21 agement facility; or

22 “(ii) a community that has no prac-
23 ticable waste management alternative and
24 the landfill unit is located in an area that

1 annually receives less than or equal to 25
2 inches of precipitation.

3 “(3) PROTECTION OF GROUND WATER RE-
4 SOURCES.—

5 “(A) MONITORING REQUIREMENT.—A
6 State may require ground water monitoring of
7 a solid waste landfill unit that would otherwise
8 be exempt under paragraph (2) if necessary to
9 protect ground water resources and ensure com-
10 pliance with a State ground water protection
11 plan, where applicable.

12 “(B) METHODS.—If a State requires
13 ground water monitoring of a solid waste land-
14 fill unit under subparagraph (A), the State may
15 allow the use of a method other than the use
16 of ground water monitoring wells to detect a re-
17 lease of contamination from the unit.

18 “(C) CORRECTIVE ACTION.—If a State
19 finds a release from a solid waste landfill unit,
20 the State shall require corrective action as ap-
21 propriate.

22 “(4) NO-MIGRATION EXEMPTION.—

23 “(A) IN GENERAL.—Ground water mon-
24 itoring requirements may be suspended by the
25 Director of an approved State for a landfill op-

erator if the operator demonstrates that there is no potential for migration of hazardous constituents from the unit to the uppermost aquifer during the active life of the unit and the post-closure care period.

“(B) CERTIFICATION.—A demonstration under subparagraph (A) shall—

“(i) be certified by a qualified groundwater scientist and approved by the Director of an approved State.

“(C) GUIDANCE.—Not later than 6 months after the date of enactment of this paragraph, the Administrator shall issue a guidance document to facilitate small community use of the no migration exemption under this paragraph.

(b) REINSTATEMENT OF REGULATORY EXEMPTION.—It is the intent of section 4010(c)(2) of the Solid Waste Disposal Act, as added by subsection (a), to immediately reinstate subpart E of part 258 of title 40, Code of Federal Regulations, as added by the final rule published at 56 Federal Register 50798 on October 9, 1991.

SEC. 4. FEDERAL FACILITIES.

Section 9007 of the Solid Waste Disposal Act is amended to read as follows:

1 **“SEC. 9007. FEDERAL FACILITIES.**

2 “(a) IN GENERAL.—Each department, agency, and
3 instrumentality of the executive, legislative, and judicial
4 branches of the Federal Government having jurisdiction
5 over any underground storage tank shall be subject to, and
6 comply with, all Federal, State, interstate, and local re-
7 quirements, both substantive and procedural (including
8 any requirement for permits or reporting or any provisions
9 for injunctive relief and such sanctions as may be imposed
10 by a court to enforce such relief), respecting underground
11 storage tanks in the same manner, and to the same extent,
12 as any person is subject to such requirements, including
13 the payment of reasonable service charges. The Federal,
14 State, interstate, and local substantive and procedural re-
15 quirements referred to in this subsection include, but are
16 not limited to, all administrative orders and all civil and
17 administrative penalties and fines, regardless of whether
18 such penalties or fines are punitive or coercive in nature
19 or are imposed for isolated, intermittent, or continuing
20 violations. The United States hereby expressly waives any
21 immunity otherwise applicable to the United States with
22 respect to any such substantive or procedural requirement
23 (including, but not limited to, any injunctive relief, admin-
24 istrative order or civil or administrative penalty or fine
25 referred to in the preceding sentence, or reasonable service
26 charge). The reasonable service charges referred to in this

1 subsection include, but are not limited to, fees or charges
2 assessed in connection with the processing and issuance
3 of permits, renewal of permits, amendments to permits,
4 review of plans, studies, and other documents, and inspec-
5 tion and monitoring of facilities, as well as any other non-
6 discriminatory charges that are assessed in connection
7 with a Federal, State, interstate, or local regulatory pro-
8 gram. Neither the United States, nor any agent, employee,
9 or officer thereof, shall be immune or exempt from any
10 process or sanction of any State or Federal court with re-
11 spect to the enforcement of any such injunctive relief. No
12 agent, employee, or officer of the United States shall be
13 personally liable for any civil penalty under any Federal,
14 State, interstate, or local law relating to underground
15 storage tanks with respect to any act or omission within
16 the scope of the official duties of the agent, employee, or
17 officer. An agent, employee, or officer of the United States
18 shall be subject to any criminal sanction (including, but
19 not limited to, any fine or imprisonment) under any Fed-
20 eral or State law relating to underground storage tanks,
21 but no department, agency, or instrumentality of the exec-
22 utive, legislative, or judicial branch of the Federal Govern-
23 ment shall be subject to any such sanction. The President
24 may exempt any underground storage tank of any depart-
25 ment, agency, or instrumentality in the executive branch

1 from compliance with such a requirement if he determines
2 it to be in the paramount interest of the United States
3 to do so. No such exemption shall be granted due to lack
4 of appropriation unless the President shall have specifi-
5 cally requested such appropriation as a part of the budg-
6 etary process and the Congress shall have failed to make
7 available such requested appropriation. Any exemption
8 shall be for a period not in excess of one year, but addi-
9 tional exemptions may be granted for periods not to exceed
10 one year upon the President's making a new determina-
11 tion. The President shall report each January to the Con-
12 gress all exemptions from the requirements of this section
13 granted during the preceding calendar year, together with
14 his reason for granting each such exemption.

15 “(b) ADMINISTRATIVE ENFORCEMENT ACTIONS.—
16 (1) The Administrator may commence an administrative
17 enforcement action against any department, agency, or in-
18 strumentality of the executive, legislative, or judicial
19 branch of the Federal Government pursuant to the en-
20 forcement authorities contained in this subtitle. The Ad-
21 ministrator shall initiate an administrative enforcement
22 action against such a department, agency, or instrumen-
23 tality in the same manner and under the same cir-
24 cumstances as an action would be initiated against an-

1 other person. Any voluntary resolution or settlement of
 2 such an action shall be set forth in a consent order.

3 “(c) LIMITATION ON STATE USE OF FUNDS COL-
 4 LECTED FROM FEDERAL GOVERNMENT.—Unless a State
 5 law in effect on the date of the enactment of the [Correc-
 6 tions?] Act of 1995 or a State constitution requires the
 7 funds to be used in a different manner, all funds collected
 8 by a State from the Federal Government from penalties
 9 and fines imposed for violation of any substantive or pro-
 10 cedural requirement referred to in subsection (a) shall be
 11 used by the State only for projects designed to improve
 12 or protect the environment or to defray the costs of envi-
 13 ronmental protection or enforcement.”.

14 **SEC. 5. TECHNICAL CORRECTIONS TO SOLID WASTE DIS-**
 15 **POSAL ACT.**

16 The Solid Waste Disposal Act is amended as follows:

17 (1) In section 3001(e)(5) by striking “under
 18 section 3001” and insert “under this section”.

19 (2) By inserting a semicolon at the end of sec-
 20 tion 3004(q)(1)(C).

21 (3) In Section 3004(g)(5), by striking “sub-
 22 paragraph (A) through (C)” in paragraph (5) and
 23 inserting “subparagraphs (A) through (C)”.

1 (4) In section 3004(r)(2)(C), by striking
2 “petroleum-derived” and insert “petroleum-de-
3 rived”.

4 (5) In section 3004(r)(3) by inserting after
5 “Standard” the word “Industrial”.

6 (6) In section 3005(a), by striking strike
7 “polycholorinated” and insert “polychlorinated”.

8 (7) In section 3005(e)(1), by inserting a comma
9 at the end of subparagraph (C).

10 (8) In section 4007(a), by striking “4003” in
11 both places it appears and inserting “4003(a)”.

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