

104TH CONGRESS
2D SESSION

H. R. 2036

IN THE SENATE OF THE UNITED STATES

FEBRUARY 1, 1996

Received; read twice and referred to the Committee on Environment and
Public Works

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Land Disposal Pro-
3 gram Flexibility Act of 1995”.

4 **SEC. 2. LAND DISPOSAL BAN.**

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

8 “(7) Solid waste identified as hazardous based on one
9 or more characteristics alone shall not be subject to this
10 subsection, any prohibitions under subsection (d), (e), or
11 (f), or any requirement (other than any applicable specific
12 method of treatment) promulgated under subsection (m)
13 if such waste—

14 “(A)(i) is managed in a treatment system which
15 subsequently discharges to waters of the United
16 States pursuant to a permit issued under section
17 402 of the Clean Water Act (33 U.S.C. 1342); (ii)
18 treated for the purposes of the pretreatment require-
19 ments of section 307 of the Clean Water Act (33
20 U.S.C. 1317); (iii) or managed in a zero discharge
21 system that, prior to any permanent land disposal,
22 engages in Clean Water Act-equivalent treatment as
23 determined by the Administrator;

24 “(B) no longer exhibits a hazardous char-
25 acteristic prior to management in any land-based
26 solid waste management unit;

1 “(C) has met any applicable specific method of
2 treatment promulgated by the Administrator under
3 section 3004(m) (42 U.S.C. 6924(m)); and

4 “(D) would not generate toxic gases, vapors, or
5 fumes due to the presence of cyanide at the point of
6 generation when exposed to pH conditions between
7 2 and 12.5.

8 “(8) Not later than 5 years after the date of enact-
9 ment of this paragraph, the Administrator shall complete
10 a study of hazardous wastes managed pursuant to para-
11 graph (7) to characterize the risks to human health or
12 the environment associated with such management. In
13 conducting the study, the Administrator shall evaluate the
14 extent to which the risks are adequately addressed under
15 existing State or Federal programs and whether
16 unaddressed risks could be better addressed under such
17 Federal laws or programs. Upon completion of such study
18 or upon receipt of additional information, and as necessary
19 to protect human health and the environment, the Admin-
20 istrator may, after notice and opportunity for comment,
21 impose additional requirements, including requirements
22 under section 3004(m)(1) or defer management of such
23 wastes to other State or Federal programs or authorities.
24 Compliance with any treatment standards promulgated
25 pursuant to section 3004(m)(1) may be determined either

1 prior to management in, or after discharge from, a land-
 2 based unit as part of a treatment system specified in sub-
 3 paragraph (A) of paragraph (7). Nothing in this para-
 4 graph shall be construed to modify, supplement, or other-
 5 wise affect the application or authority of any other Fed-
 6 eral law or the standards applicable under any other Fed-
 7 eral law.

8 “(9) Solid waste identified as hazardous based on one
 9 or more characteristics alone shall not be subject to this
 10 subsection, any prohibition under subsection (d), (e), or
 11 (f), or any requirement promulgated under subsection (m)
 12 of this section if the waste no longer exhibits a hazardous
 13 characteristic at the point of injection in any Class I in-
 14 junction well regulated under section 1422 of title XIV
 15 of the Public Health Service Act (42 U.S.C. 300h–1).”.

16 **SEC. 3. GROUND WATER MONITORING.**

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

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

22 “(1) IN GENERAL.—Not later”.

23 (2) By adding at the end the following new
 24 paragraphs:

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

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

13 “(B) the municipal solid waste landfill unit
14 or expansion serves—

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

20 “(ii) a community that has no prac-
21 ticable waste management alternative and
22 the landfill unit is located in an area that
23 annually receives less than or equal to 25
24 inches of precipitation.

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

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

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

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

20 “(4) NO-MIGRATION EXEMPTION.—

21 “(A) IN GENERAL.—Ground water mon-
22 itoring requirements may be suspended by the
23 Director of an approved State for a landfill op-
24 erator if the operator demonstrates that there is
25 no potential for migration of hazardous con-

stituents 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 be certified by a qualified ground-water 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. TECHNICAL CORRECTIONS TO SOLID WASTE DISPOSAL ACT.

The Solid Waste Disposal Act is amended as follows:

(1) In section 3001(d)(5) by striking “under section 3001” and inserting “under this section”.

(2) By inserting a semicolon at the end of section 3004(q)(1)(C).

1 (3) In section 3004(g), by striking “subpara-
2 graph (A) through (C)” in paragraph (5) and insert-
3 ing “subparagraphs (A) through (C)”.

4 (4) In section 3004(r)(2)(C), by striking
5 “petroleum-derived” and inserting “petroleum-de-
6 rived”.

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

9 (6) In section 3005(a), by striking
10 “polycholorinated” and inserting “polychlorinated”.

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

13 (8) In section 4007(a), by striking “4003” in
14 paragraphs (1) and (2)(A) and inserting “4003(a)”.

Passed the House of Representatives January 31,
1996.

Attest:

ROBIN H. CARLE,

Clerk.