

Public Law 100-648
100th Congress

An Act

To amend section 3 of the Act of June 14, 1926, as amended (43 U.S.C. 869-2), to authorize the issuance of patents with a limited reverter provision of lands devoted to solid waste disposal, and for other purposes.

Nov. 10, 1988

[H.R. 4362]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as the “Recreation and Public Purposes Amendment Act of 1988”.

SEC. 2 AMENDMENT.—Section 3 of the Act of June 14, 1926, as amended (43 U.S.C. 869-2) is redesignated as subsection 3(a) and the following new subsections are added at the end thereof:

“(b) NEW DISPOSAL SITES.—(1) Notwithstanding the provisions of subsection (a) of this section, if the Secretary receives an application for conveyance of land under this Act for the express purpose of solid waste disposal or for another purpose which the Secretary finds may include the disposal, placement, or release of any hazardous substance, the Secretary may convey such land subject only to the provisions of this subsection.

“(2) Prior to issuance of any conveyance of land under this subsection the Secretary shall investigate the land covered by an application for such conveyance to determine whether or not any hazardous substance is present on such land. Such investigation shall include a review of any available records as to the use of such land and all appropriate analysis of the soil, water and air associated with such land. No land shall be conveyed under this subsection if such investigation indicates that any hazardous substance is present on such land.

“(3) No application for conveyance under this subsection shall be acted on by the Secretary until the applicant has furnished evidence, satisfactory to the Secretary, that a copy of the application and information concerning the proposed use of the land covered by the application has been provided to the Environmental Protection Agency and to all other State and Federal agencies with responsibility for enforcement of State and Federal laws applicable to lands used for the disposal, placement, or release of solid waste or any hazardous substance.

“(4) No application for conveyance under this subsection shall be acted on by the Secretary until the applicant has given a warranty that use of the land covered by the application will be consistent with all applicable State and Federal laws, including laws dealing with the disposal, placement, or release of hazardous substances, and that the applicant will hold the United States harmless from any liability that may arise out of any violation of any such law.

“(5) A conveyance under this subsection shall be made to the extent that the applicant has demonstrated to the Secretary that the land covered by an application meets all applicable State and local requirements and is appropriate in character and reasonable in acreage in order to meet an existing or reasonably anticipated

Recreation and
Public Purposes
Amendment Act
of 1988.
Hazardous
materials.
43 USC 869 note.

need for solid waste disposal or for another proposed use that the Secretary finds may include the disposal, placement, or release of any hazardous substance.

“(6) A conveyance under this subsection shall be subject to the following conditions:

“(A) Except as otherwise provided in subparagraphs (B) and (D) of this paragraph, the document of conveyance shall provide that the lands conveyed under this subsection shall revert to the United States, unless substantially all of the lands have been used, on or before the date five years after the date of conveyance, for the purpose or purposes specified in the application, or for other use or uses authorized under section 3(a) with the consent of the Secretary.

“(B) In the event that at any time after such conveyance any portion of such lands has not been used for the purpose or purposes specified in the application, and the party to whom such lands were conveyed by the Secretary shall transfer ownership of such unused portion to any other party, the party to whom such lands were conveyed by the Secretary shall be liable to pay the Secretary, on behalf of the United States, the fair market value of such transferred portion as of the date of such transfer, including the value of any improvements thereon. Subject to appropriations, all amounts received by the Secretary under this subparagraph shall be retained by the Secretary and used for the management of public lands and shall remain available until expended.

“(C) Pricing for conveyances of land under this subsection shall be in accordance with the provisions of section 2 of this Act, except that no compensation shall be required for the inclusion of only the limited reverter specified in this paragraph.

“(D) Each patent issued under this subsection shall specify that no portion of the lands covered by such patent shall under any circumstances revert to the United States if such portion has been used for solid waste disposal or for any other purpose that the Secretary finds may result in the disposal, placement, or release of any hazardous substance.

“(7) For purposes of this section the term ‘hazardous substance’ has the same meaning as such term has when used in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.).

“(c) EXISTING DISPOSAL SITES.—(1) Upon the application or with the concurrence of any party to whom the Secretary, prior to the date of enactment of this subsection, conveyed land under this Act, the Secretary may renounce the reversionary interests of the United States in such land, or portion thereof, if the Secretary finds that such land, or portion thereof, has been used for solid waste disposal or for any other purpose which the Secretary finds may result in the disposal, placement, or release of any hazardous substance, and the Secretary may rescind any portion of any patent or other instrument of conveyance inconsistent with such renunciation. After such renunciation, affected lands shall not under any circumstances revert to the United States by the operation of law, and shall cease to be subject to the provisions of subsection (a) of this section.

“(2) Upon the application or with the concurrence of a party to whom the Secretary, prior to the date of enactment of this subsection, leased lands pursuant to this Act, the Secretary may convey in

fee the lands covered by such lease or any portion thereof which have been used for solid waste disposal or for any other purpose that the Secretary finds may result in the disposal, placement, or release of any hazardous substance. Notwithstanding any other provision of this Act, a patent issued pursuant to this paragraph shall not contain a reverter provision and the lands covered by such patent shall not under any circumstances revert to the United States by operation of law after the issuance of such patent and shall not be subject to the provisions of subsection (a) of this section."

SEC. 3. SAVINGS CLAUSE.—Nothing in this Act or the amendments made thereby shall be construed to affect the applicability and operation of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) as amended, and the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), as amended.

43 USC 869-2
note.

SEC. 4. CONGRESSIONAL REVIEW.—(a) The Secretary shall not make any conveyance of land or renunciation of reversionary interests under this Act until he has published in the Federal Register regulations implementing this Act and until sixty days (not counting days on which the House of Representatives or the Senate has adjourned for more than three days) after these regulations have been submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

43 USC 869-2
note.
Federal
Register,
publication.
Regulations.

(b) During the first three years after enactment of this Act the Secretary shall not make any conveyance of land or renunciation of reversionary interests under this Act until thirty days (not counting days on which the House of Representatives or the Senate has adjourned for more than three days) after notice of intention to do so has been submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

Approved November 10, 1988.

LEGISLATIVE HISTORY—H.R. 4362:

HOUSE REPORTS: No. 100-934 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Sept. 20, considered and passed House.

Oct. 21, considered and passed Senate, amended. House concurred in Senate amendment.