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1ST SESSION

S. 1209

To provide for a delay in the applicability of certain regulations to certain municipal solid waste landfills under the Solid Waste Disposal Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 1 (legislative day, JUNE 30), 1993

Mr. KEMPTHORNE (for himself, Mr. HATCH, and Mr. CRAIG) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To provide for a delay in the applicability of certain regulations to certain municipal solid waste landfills under the Solid Waste Disposal Act, 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; PURPOSE.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Local Government Landfill Compliance Deadline Act”.

6 (b) **PURPOSE.**—The purpose of this Act is to
7 strengthen the ability of county and city officials to fulfill
8 the goals established for municipal solid waste landfills by
9 allowing adequate time for wise, environmentally sound,

1 and fiscally responsible decisionmaking by the officials in
2 a manner consistent with the obligations of the officials
3 to the citizens they serve.

4 **SEC. 2. TEMPORARY EXEMPTION OF CERTAIN LANDFILLS**
5 **FROM MEETING REVISED CRITERIA.**

6 (a) TEMPORARY EXEMPTION.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), during the 1-year period beginning on Oc-
9 tober 9, 1993, each municipal solid waste landfill
10 that—

11 (A) is in existence on October 8, 1993; and

12 (B) meets the requirements of the criteria
13 contained in regulations issued pursuant to sec-
14 tions 4004(a) and 4010(c) of the Solid Waste
15 Disposal Act (42 U.S.C. 6944(a) and 6949a(c),
16 respectively) as in effect on January 1, 1993,
17 shall not be required to meet any revised criteria
18 that take effect after the date specified in subpara-
19 graph (B).

20 (2) EXCEPTIONS.—

21 (A) IN GENERAL.—If the Administrator of
22 the Environmental Protection Agency (referred
23 to in this section as the ‘Administrator’), or the
24 appropriate official of a State with a plan ap-
25 proved by the Administrator pursuant to title

1 IV of the Solid Waste Disposal Act (42 U.S.C.
2 6941 et seq.) (referred to in this section as an
3 “appropriate State official”), determines that
4 the owner or operator of a municipal solid
5 waste landfill did not make a good faith effort
6 before October 9, 1993, to comply with any re-
7 vised criteria that took effect after the date
8 specified in paragraph (1)(B), the exemption
9 described in paragraph (1) shall not apply to
10 the landfill.

11 (B) TEMPORARY EXTENSION OF EXEMP-
12 TION.—The owner or operator of a municipal
13 solid waste landfill that is the subject of an ex-
14 emption under paragraph (1) may submit an
15 application to the Administrator or an appro-
16 priate State official (in the case of a State re-
17 ferred to in subparagraph (A)) for a 180-day
18 extension of the exemption. The Administrator
19 (or the appropriate State official) shall grant
20 the extension if the Administrator (or the ap-
21 propriate State official) determines that the
22 owner or operator cannot achieve compliance
23 with the revised criteria referred to in such
24 paragraph by the end of the 1-year period spec-
25 ified in such paragraph because of 1 or more

1 factors beyond the control of the owner or oper-
2 ator, including—

3 (i) litigation;

4 (ii) adverse weather conditions that
5 slow or bring to a temporary halt the con-
6 struction of a landfill;

7 (iii) a breakdown in negotiations for
8 the construction or use of a regional land-
9 fill that requires any local government par-
10 ticipating in the negotiations to pursue
11 other arrangements for waste disposal; or

12 (iv) any delay in siting, permitting, or
13 patenting a landfill or transfer station, in-
14 cluding any delay attributable to—

15 (I) the unavailability of, or inac-
16 cessibility to, technical assistance; or

17 (II) procedures for purchasing,
18 leasing, permitting, or patenting a site
19 on Federal land, including carrying
20 out any necessary environmental as-
21 sessments or preparing environmental
22 impact statements pursuant to the
23 National Environmental Policy Act of
24 1969 (42 U.S.C. 4321 et seq.).

1 (C) MANDATORY EXTENSION.—The Ad-
2 ministrator (or the appropriate State official)
3 may not disapprove any application referred to
4 in subparagraph (B) in any case in which the
5 Administrator (or appropriate State official) de-
6 termines that the failure of a Federal agency or
7 a department or agency of a State to issue a
8 permit, patent, or other necessary approval for
9 a landfill that is the subject of the application,
10 or a transfer station associated with the land-
11 fill, has been a factor in the inability of the
12 owner or operator of the landfill to achieve com-
13 pliance with the revised criteria referred to in
14 paragraph (1).

15 (b) PRIOR CRITERIA APPLICABLE DURING EXEMP-
16 TION PERIOD.—During the period specified in subsection
17 (a)(1), and during any applicable additional period speci-
18 fied in subsection (a)(2)(B), a landfill subject to an ex-
19 emption pursuant to this section shall be subject to the
20 criteria referred to in subsection (a)(1)(B).

21 (c) EFFECTIVE DATE OF REVISED CRITERIA.—Ex-
22 cept as otherwise specifically provided in this Act, begin-
23 ning on October 9, 1994, each municipal solid waste land-
24 fill shall be subject to the revised criteria applicable to the
25 landfill issued pursuant to sections 4004(a) and 4010(c)

1 of the Solid Waste Disposal Act (42 U.S.C. 6944(a) and
2 6949a(c), respectively), and any subsequent revision to the
3 criteria.

4 (d) CITIZEN SUITS.—No person may commence a
5 civil action pursuant to section 7002 of the Solid Waste
6 Disposal Act (42 U.S.C. 6972) on the basis of the failure
7 of a municipal solid waste landfill subject to the exemption
8 described in subsection (a)(1) to meet any requirement
9 with respect to which the exemption applies.

10 **SEC. 3. EXTENSION OF EFFECTIVE DATE OF FINANCIAL AS-**
11 **SURANCE REQUIREMENTS.**

12 (a) IN GENERAL.—Notwithstanding any other provi-
13 sion of law, the Administrator shall issue regulations that
14 revise the financial assurance requirements under subpart
15 G of title 40, Code of Federal Regulations, to broaden the
16 mechanisms available to an owner or operator of a munici-
17 pal solid waste landfill for demonstrating financial respon-
18 sibility. The revised regulations shall include revised cri-
19 teria for determining whether mechanisms in addition to
20 the mechanisms specified in the regulations may be ap-
21 proved by the Administrator. The revised criteria shall
22 take into account the financial circumstances of small mu-
23 nicipalities and counties (as defined and determined by the
24 Administrator).

1 (b) EFFECTIVE DATE.—The revised regulations pro-
2 mulgated pursuant to subsection (a) shall take effect on
3 the date that is 2 years after the promulgation of the regu-
4 lations.

5 (c) APPLICABILITY.—During the period beginning on
6 the effective date specified in section 258.70 of title 40,
7 Code of Federal Regulations, and ending on the date spec-
8 ified in subsection (b), the financial assurance require-
9 ments under subpart G of part 258 of title 40, Code of
10 Federal Regulations, shall not apply.

11 **SEC. 4. GROUND WATER MONITORING.**

12 (a) IN GENERAL.—As soon as practicable after the
13 date of enactment of this Act, the Administrator shall
14 issue regulations that exempt from the ground water mon-
15 itoring requirements under sections 258.51 through
16 258.55 of title 40, Code of Federal Regulations, any mu-
17 nicipal solid waste landfill unit described in the matter
18 preceding clause (i) in section 258.1(f)(1), as added by
19 the final rule published at 56 Fed. Reg. 50798 on October
20 9, 1991, (referred to in this section as a “small land-
21 fill”)—

22 (1) in a community that experiences an annual
23 interruption of at least 3 consecutive months of sur-
24 face transportation that prevents access to a re-
25 gional waste management facility; or

1 (2) in a community that has no practicable
2 waste management alternative and that has a small
3 landfill unit located in an area that annually receives
4 less than or equal to 25 inches of precipitation.

5 (b) EFFECTIVE DATE.—The regulations promulgated
6 pursuant to subsection (a) shall take effect on the date
7 that is 2 years after the date of enactment of this Act.

8 (c) EXEMPTION.—Notwithstanding any other provi-
9 sion of law, before the effective date of the regulations re-
10 ferred to in subsection (b), a landfill referred to in sub-
11 section (a) shall not be required to carry out any ground
12 water monitoring activities required under Federal law.

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