

103^D CONGRESS
2^D SESSION

S. 1876

To amend the Solid Waste Disposal Act to grant State status to Indian tribes for purposes of the enforcement of such Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25 (legislative day, FEBRUARY 22), 1994

Mr. INOUE (for himself and Mr. McCAIN) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To amend the Solid Waste Disposal Act to grant State status to Indian tribes for purposes of the enforcement of such 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. AUTHORITY TO GRANT STATE STATUS TO IN-**
4 **DIAN TRIBES FOR ENFORCEMENT OF SOLID**
5 **WASTE DISPOSAL ACT.**

6 (a) DEFINITIONS.—Section 1004 of the Solid Waste
7 Disposal Act (42 U.S.C. 6903) is amended—

8 (1) in paragraph (13)(A), by striking “or au-
9 thorized tribal organization or Alaska Native village
10 or organization,”;

1 (2) in paragraph (15), by inserting after
2 “State,” the following: “Indian tribe,”; and

3 (3) by adding at the end the following new
4 paragraphs:

5 “(42) The term ‘Indian country’ means—

6 “(A) all land within the limits of any Indian
7 reservation under the jurisdiction of the Federal
8 Government (including any right-of-way running
9 through the reservation), notwithstanding the issu-
10 ance of any patent;

11 “(B) all dependent Indian communities within
12 the borders of the United States, including depend-
13 ent Indian communities—

14 “(i) within the original territory or terri-
15 tory that is subsequently acquired; and

16 “(ii) within or without the limits of a
17 State; and

18 “(C) all Indian allotments with respect to which
19 the Indian titles have not been extinguished, includ-
20 ing rights-of-way running through the allotments.

21 “(43) The term ‘Indian tribe’ means any Indian
22 tribe, band, group, or community, including any Alaska
23 Native village, organization, or regional corporation (as
24 defined in, or established pursuant to, the Alaska Native
25 Claims Settlement Act (43 U.S.C. 1601 et seq.)) that—

1 “(A) is recognized by the Secretary of the Inte-
2 rior; and

3 “(B) exercises governmental authority within
4 Indian country.”.

5 (b) TREATMENT OF INDIAN TRIBES AS STATES.—
6 Subtitle A of such Act (42 U.S.C. 6901 et seq.) is amend-
7 ed by adding at the end the following new section:

8 **“SEC. 1009. INDIAN TRIBES.**

9 “(a) IN GENERAL.—Subject to subsection (b), the
10 Administrator may—

11 “(1) treat an Indian tribe as a State for the
12 purposes of this Act;

13 “(2) delegate to an Indian tribe primary en-
14 forcement responsibility for programs and projects
15 established under this Act; and

16 “(3) provide Indian tribes grant and contract
17 assistance to carry out functions of a State pursuant
18 to this Act.

19 “(b) ENVIRONMENTAL PROTECTION AGENCY REGU-
20 LATIONS.—

21 “(1) IN GENERAL.—

22 “(A) TREATMENT.—Not later than 18
23 months after the date of the enactment of this
24 section, the Administrator shall issue final reg-
25 ulations that specify the manner in which In-

1 dian tribes shall be treated as States for the
2 purposes of this Act.

3 “(B) AUTHORIZATION.—Under the regula-
4 tions issued by the Administrator, the treat-
5 ment of an Indian tribe as a State shall be au-
6 thorized only if—

7 “(i) the Indian tribe has a governing
8 body carrying out substantial governmental
9 duties and powers;

10 “(ii) the functions that the Indian
11 tribe will exercise pertain to land and re-
12 sources that are—

13 “(I) held by the Indian tribe, the
14 United States in trust for the Indian
15 tribe, or a member of the Indian tribe
16 (if the property interest is subject to
17 a trust restriction on alienation); or

18 “(II) are otherwise within Indian
19 country; and

20 “(iii) in the judgment of the Adminis-
21 trator, the Indian tribe is reasonably ex-
22 pected to be capable of carrying out the
23 functions to be exercised in a manner con-
24 sistent with the requirements of this Act
25 (including all applicable regulations).

1 “(2) EXCEPTIONS.—

2 “(A) IN GENERAL.—If, with respect to a
3 provision of this Act, the Administrator deter-
4 mines that the treatment of an Indian tribe in
5 the same manner as a State is inappropriate,
6 administratively infeasible, or otherwise incon-
7 sistent with the purposes of this Act, the Ad-
8 ministrator may include in the regulations is-
9 sued under this section a mechanism by which
10 the Administrator carries out the provision in
11 lieu of the Indian tribe in an appropriate man-
12 ner.

13 “(B) STATUTORY CONSTRUCTION.—Sub-
14 ject to subparagraph (C), nothing in this sec-
15 tion is intended to permit an Indian tribe to as-
16 sume or maintain primary enforcement respon-
17 sibility for programs established under this Act
18 in a manner that is less protective of human
19 health and the environment than the manner in
20 which a State may assume or maintain the re-
21 sponsibility.

22 “(C) CRIMINAL ENFORCEMENT.—An In-
23 dian tribe shall not be required to exercise ju-
24 risdiction over the enforcement of criminal pen-
25 alties.

1 “(c) COOPERATIVE AGREEMENTS.—In order to en-
2 sure the consistent implementation of the requirements of
3 this Act, an Indian tribe and each State in which the lands
4 of the Indian tribe are located may, subject to review and
5 approval by the Administrator, enter into a cooperative
6 agreement, to cooperatively plan and carry out the re-
7 quirements of this Act.

8 “(d) REPORT.—Not later than 2 years after the date
9 of enactment of this section, the Administrator, in co-
10 operation with the Secretary of the Interior, the Director
11 of the Indian Health Service, and Indian tribes, shall sub-
12 mit to Congress a report that includes—

13 “(1) recommendations for addressing hazardous
14 and solid wastes and underground storage tanks
15 within Indian country;

16 “(2) methods to maximize the participation in,
17 and administration of, programs established under
18 this Act by Indian tribes;

19 “(3) an estimate of the amount of Federal as-
20 sistance that will be required to carry out this sec-
21 tion; and

22 “(4) a discussion of proposals by the Adminis-
23 trator concerning the provision of assistance to In-
24 dian tribes for the administration of programs and
25 projects pursuant to this Act.

1 “(e) TRIBAL HAZARDOUS WASTE SITE INVEN-
2 TORY.—

3 “(1) INVENTORY.—Not later than 2 years after
4 the date of enactment of this section, the Adminis-
5 trator shall undertake a continuing program to es-
6 tablish an inventory of sites within Indian country at
7 which hazardous waste has been stored or disposed
8 of.

9 “(2) CONTENTS OF INVENTORY.—The inven-
10 tory shall include—

11 “(A) the information required to be col-
12 lected by States pursuant to section 3012; and

13 “(B) sites located at Federal facilities
14 within Indian country.”.

15 (c) TECHNICAL AMENDMENT.—The table of contents
16 for subtitle A of such Act (contained in section 1001 of
17 such Act (42 U.S.C. prec. 6901)) is amended by adding
18 at the end the following new item:

“Sec. 1009. Indian tribes.”.

19 **SEC. 2. LEAKING UNDERGROUND STORAGE TANK TRUST**
20 **FUND.**

21 Section 9508(c)(1) of the Internal Revenue Code of
22 1986 is amended—

23 (1) by striking “Except as provided” and in-
24 sserting the following:

1 “(A) PURPOSES.—Except as provided”;

2 and

3 (2) by adding at the end the following new sub-
4 paragraph:

5 “(B) SET ASIDE FOR INDIAN TRIBES.—

6 Notwithstanding any other provision of law, for
7 each of fiscal years 1995 through 1999, the
8 Secretary shall reserve an amount equal to not
9 less than 3 percent of the amounts made avail-
10 able to States pursuant to subparagraph (A).
11 Such amount shall be used only by Indian
12 tribes (as defined in section 1004(43) of the
13 Solid Waste Disposal Act) to carry out the pur-
14 poses referred to in subparagraph (A).”.

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