

104TH CONGRESS
1ST SESSION

S. 542

To amend the Solid Waste Disposal Act to allow States to regulate the disposal of municipal solid waste generated outside of the State, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 13 (legislative day, MARCH 6), 1995

Mr. CONRAD introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Solid Waste Disposal Act to allow States to regulate the disposal of municipal solid waste generated outside of the State, 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 REGULATE OUT-OF-STATE**
4 **WASTE.**

5 (a) AMENDMENT.—Subtitle D of the Solid Waste
6 Disposal Act (42 U.S.C. 6941 et seq.) is amended by add-
7 ing at the end the following new section:

1 **“SEC. 4011. AUTHORIZATION FOR STATES TO REGULATE**
2 **MUNICIPAL SOLID WASTE GENERATED IN AN-**
3 **OTHER STATE.**

4 “(a) DEFINITIONS.—In this section:

5 “(1) AFFECTED LOCAL GOVERNMENT.—The
6 term ‘affected local government’ means the elected
7 officials of a political subdivision of a State in which
8 a facility for the treatment, incineration, or disposal
9 of municipal solid waste is located (as designated by
10 the State pursuant to subsection (d)).

11 “(2) AFFECTED LOCAL SOLID WASTE PLAN-
12 NING UNIT.—The term ‘affected local solid waste
13 planning unit’ means a planning unit, established
14 pursuant to State law, that has—

15 “(A) jurisdiction over the geographic area
16 in which a facility for the treatment, inciner-
17 ation, or disposal of municipal waste is located;
18 and

19 “(B) authority relating to solid waste man-
20 agement planning.

21 “(3) MUNICIPAL SOLID WASTE.—The term
22 ‘municipal solid waste’—

23 “(A) means refuse, and any nonhazardous
24 residue generated from the combustion of the
25 refuse, generated by—

26 “(i) the general public;

1 “(ii) a residential, commercial, or in-
2 dustrial source (or any combination of the
3 sources); or

4 “(iii) a municipal solid waste inciner-
5 ator facility; and

6 “(B) includes refuse that consists of paper,
7 wood, yard waste, plastic, leather, rubber, or
8 other combustible or noncombustible material
9 such as metal or glass (or any combination of
10 the materials); but

11 “(C) does not include—

12 “(i) hazardous waste identified under
13 section 3001;

14 “(ii) waste resulting from an action
15 taken under section 104 or 106 of the
16 Comprehensive Environmental Response,
17 Compensation, and Liability Act of 1980
18 (42 U.S.C. 9604, 9606);

19 “(iii) material collected for the pur-
20 pose of recycling or reclamation;

21 “(iv) waste generated in the provision
22 of service in interstate, intrastate, foreign,
23 or overseas air transportation;

24 “(v) industrial waste (including debris
25 from construction or demolition) that is

1 not identical to municipal solid waste in
2 composition and physical and chemical
3 characteristics; or

4 “(vi) medical waste that is segregated
5 from municipal solid waste.

6 “(b) AUTHORITY TO REGULATE.—

7 “(1) IN GENERAL.—Each State is authorized to
8 enact and enforce a State law that regulates the
9 treatment, incineration, and disposal of municipal
10 solid waste generated in another State.

11 “(2) AUTHORITIES.—A State law described in
12 paragraph (1) may include provisions for—

13 “(A) the imposition of a ban or limit on
14 the importation of municipal solid waste gen-
15 erated outside of the State; and

16 “(B) the collection of differential fees or
17 other charges for the treatment, incineration, or
18 disposal of municipal solid waste generated in
19 another State.

20 “(c) LOCAL GOVERNMENT APPROVAL.—

21 “(1) IN GENERAL.—Except as provided in para-
22 graph (2) or as otherwise provided under State law,
23 the owner or operator of a landfill, incinerator, or
24 other waste disposal facility in a State may not ac-
25 cept for treatment, incineration, or disposal any mu-

1 municipal solid waste generated outside of the State un-
2 less the owner or operator has obtained a written
3 authorization to accept the waste from—

4 “(A) the affected local government; and

5 “(B) any affected local solid waste plan-
6 ning unit established under State law.

7 “(2) EXCEPTIONS.—

8 “(A) IN GENERAL.—Paragraph (1) shall
9 not apply with respect to an owner or operator
10 of a landfill, incinerator, or other waste disposal
11 facility that—

12 “(i) otherwise complies with all appli-
13 cable laws of the State in which the facility
14 is located relating to the treatment, incin-
15 eration, or disposal of municipal solid
16 waste; and

17 “(ii) prior to the date of enactment of
18 this section, accepted for treatment, incin-
19 eration, or disposal municipal solid waste
20 generated outside of the State.

21 “(B) EXISTING AUTHORIZATIONS.—An
22 owner or operator of a facility described in
23 paragraph (1) that, prior to the date of enact-
24 ment of this section, obtained a written author-
25 ization from—

1 “(i) the appropriate official of a politi-
2 cal subdivision of the State (as determined
3 by the State); and

4 “(ii) any affected local solid waste
5 planning unit established pursuant to the
6 law of the State,

7 to carry out the treatment, incineration, or dis-
8 posal of municipal solid waste generated outside
9 of the State shall, during the period of author-
10 ization, be considered to be in compliance with
11 the requirements of paragraph (1).

12 “(C) FACILITIES UNDER CONSTRU-
13 TION.—If, prior to the date of enactment of
14 this section, an appropriate political subdivision
15 of a State (as determined by the State) and any
16 affected local solid waste planning unit estab-
17 lished under the law of the State issued a writ-
18 ten authorization for a facility that is under
19 construction, or is to be constructed, to accept
20 for treatment, incineration, or disposal municip-
21 al solid waste generated outside the State, the
22 owner or operator of the facility, when con-
23 struction is completed, shall be considered to be
24 in compliance with paragraph (1) during the
25 period of authorization.

1 “(3) EXPANSION OF FACILITIES.—An owner or
2 operator that expands a landfill, incinerator, or
3 other waste disposal facility shall be required to ob-
4 tain the authorizations required under paragraph (1)
5 prior to accepting for treatment, incineration, or dis-
6 posal municipal solid waste that is generated outside
7 the State.

8 “(4) PRIOR DISCLOSURE.—Prior to formal ac-
9 tion with respect to an authorization to receive mu-
10 nicipal solid waste or incinerator ash generated out-
11 side the State, the affected local government and the
12 affected local solid waste planning unit shall—

13 “(A) require from the owner or operator of
14 the facility seeking the authorization and make
15 readily available to the Governor, adjoining In-
16 dian tribes, and other interested persons for in-
17 spection and copying—

18 “(i) a brief description of the planned
19 facility, including a description of the facil-
20 ity size, ultimate waste capacity, and an-
21 ticipated monthly and yearly waste quan-
22 tity to be handled;

23 “(ii) a map of the facility site that
24 discloses—

1 “(I) the location of the facility in
2 relation to the local road system and
3 topographical and hydrological fea-
4 tures; and

5 “(II) any buffer zones and facil-
6 ity units that are to be acquired by
7 the owner or operator of the facility;

8 “(iii) a description of the then current
9 environmental characteristics of the site,
10 including information regarding—

11 “(I) ground water resources; and

12 “(II) alterations that may be ne-
13 cessitated by or occur as a result of
14 the facility;

15 “(iv) a description of—

16 “(I) appropriate environmental
17 controls to be used at the site, includ-
18 ing run-on or run-off management, air
19 pollution control devices, source sepa-
20 ration procedures, methane monitor-
21 ing and control, landfill covers, liners,
22 leachate collection systems, and mon-
23 itoring and testing programs; and

24 “(II) any waste residuals gen-
25 erated by the facility, including leach-

1 ate or ash, and the planned manage-
2 ment of the residuals;

3 “(v) a description of the site access
4 controls to be employed and roadway im-
5 provements to be made by the owner or op-
6 erator and an estimate of the timing and
7 extent of increased local truck traffic;

8 “(vi) a list of all required Federal,
9 State, and local permits required to oper-
10 ate the landfill and receive waste generated
11 outside of the State;

12 “(vii) estimates of the personnel re-
13 quirements of the facility, including infor-
14 mation regarding the probable skill and
15 education levels required for jobs at the fa-
16 cility that distinguishes between employ-
17 ment statistics for pre-operational levels
18 and those for post-operational levels;

19 “(viii)(I) information with respect to
20 any violations of regulations by the owner
21 or operator, or subsidiaries;

22 “(II) the disposition of enforcement
23 proceedings taken with respect to the viola-
24 tions; and

1 “(III) corrective action and rehabilita-
2 tion measures taken as a result of the pro-
3 ceedings;

4 “(ix) information required by State
5 law to be provided with respect to gifts,
6 contributions, and contracts by the owner
7 or operator to any elected or appointed
8 public official, agency, institution, busi-
9 ness, or charity located within the affected
10 local area to be served by the facility;

11 “(x) information required by State
12 law to be provided by the owner or opera-
13 tor with respect to compliance by the
14 owner or operator with the State solid
15 waste management plan in effect pursuant
16 to section 4007;

17 “(xi) information with respect to the
18 source and amount of capital required to
19 construct and operate the facility in ac-
20 cordance with the information provided
21 under clauses (i) through (vii); and

22 “(xii) information with respect to the
23 source and amount of insurance, collateral,
24 or bond secured by the applicant to meet
25 all Federal and State requirements;

1 “(B) provide opportunity for public com-
2 ment, including at least 1 public hearing; and

3 “(C) not less than 30 days prior to formal
4 action—

5 “(i) publish notice of the action in a
6 newspaper of general circulation; and

7 “(ii) notify the Governor, adjoining
8 local governments, and adjoining Indian
9 tribes.

10 “(d) DESIGNATION OF AFFECTED LOCAL GOVERN-
11 MENT.—Not later than 90 days after the date of enact-
12 ment of this section, the Governor of each State shall, for
13 the purpose of this section, designate the type of political
14 subdivision of the State that shall serve as the affected
15 local government with respect to authorizing a facility to
16 accept for treatment, incineration, or disposal of municipal
17 solid waste generated outside of the State. If the Governor
18 of a State fails to make a designation by the date specified
19 in this subsection, the affected local government shall be
20 the public body with primary jurisdiction over the land or
21 use of the land on which the facility is located.”.

22 (b) TABLE OF CONTENTS.—The table of contents for
23 subtitle D of the Solid Waste Disposal Act is amended
24 by adding after the item relating to section 4010 the fol-
25 lowing new item:

“Sec. 4011. Authorization for States to regulate municipal solid waste generated in another State.”

