

103D CONGRESS  
2D SESSION

**S. 1808**

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

JANUARY 28 (legislative day, JANUARY 25), 1994

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 Subtitle D of the Solid Waste Disposal Act (42  
6 U.S.C. 6941 et seq.) is amended by adding at the end  
7 the following new section:

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

4        "(a) AUTHORITY TO REGULATE.—

9           “(2) AUTHORITIES.—A State law referred to in  
10          paragraph (1) may include provisions for—

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

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

18        "(b) LOCAL GOVERNMENT APPROVAL.—

19       “(1) IN GENERAL.—Except as provided in para-  
20       graph (2) or as otherwise provided under State law,  
21       the owner or operator of a landfill, incinerator, or  
22       other waste disposal facility in a State may not ac-  
23       cept for treatment, incineration, or disposal any mu-  
24       nicipal solid waste generated outside of the State un-  
25       less the owner or operator has obtained a written  
26       authorization to accept the waste from—

1               “(A) the affected local government; and  
2               “(B) any affected local solid waste plan-  
3               ning unit established pursuant to the law of the  
4               State.

5               “(2) EXCEPTIONS.—

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

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

15               “(ii) during 1992, accepted for treat-  
16               ment, incineration, or disposal municipal  
17               solid waste generated outside of the State.

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

23               “(i) the appropriate official of a politi-  
24               cal subdivision of the State (as determined  
25               by the State); and

1                             “(ii) any affected local solid waste  
2                             planning unit established pursuant to the  
3                             law of the State,

4                             to carry out the treatment, incineration, or dis-  
5                             posal of municipal solid waste generated outside  
6                             of the State shall, during the applicable period  
7                             of the authorization, be considered to be in  
8                             compliance with the requirements of paragraph  
9                             (1).

10                           “(C) FACILITIES UNDER CONSTRUC-  
11                             TION.—If, prior to the date of enactment of  
12                             this section, an appropriate political subdivision  
13                             of a State (as determined by the State) and any  
14                             affected local solid waste planning unit estab-  
15                             lished pursuant to the law of the State issued  
16                             a written authorization for a facility that is  
17                             under construction, or is to be constructed, to  
18                             accept for treatment, incineration, or disposal  
19                             municipal solid waste generated outside of the  
20                             State, at such time as the construction is com-  
21                             pleted, the owner or operator of the facility  
22                             shall be considered to be in compliance with the  
23                             requirements of paragraph (1) during the appli-  
24                             cable period of the authorization.

1           “(3) EXPANSION OF FACILITIES.—An owner or  
2       operator who expands a landfill, incinerator, or other  
3       waste disposal facility shall be required to obtain the  
4       applicable authorizations required under paragraph  
5       (1) prior to accepting for treatment, incineration, or  
6       disposal municipal solid waste that is generated out-  
7       side of 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 of the State, the affected local government and  
12       the affected local solid waste planning unit shall—

13           “(A) require and make readily available to  
14       the Governor, adjoining Indian tribes, and other  
15       interested persons for inspection and copying,  
16       from the owner or operator of the facility seek-  
17       ing the authorization—

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 in-  
24       dicates—

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 to be acquired by the owner  
7                             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 utilized on the site, in-  
18                             cluding run-on or run-off manage-  
19                             ment, air pollution control devices,  
20                             source separation procedures, meth-  
21                             ane monitoring and control, landfill  
22                             covers, liners, leachate collection sys-  
23                             tems, and monitoring and testing pro-  
24                             grams; and

1                         “(II) any waste residuals gen-  
2                         erated by the facility, including leach-  
3                         ate or ash, and the planned manage-  
4                         ment of the residuals;

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

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

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

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

1                     “(II) the disposition of enforcement  
2                     proceedings taken with respect to the violations; and  
3

4                     “(III) corrective action and rehabilitation  
5                     measures taken as a result of the proceedings;

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

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

18                    “(xi) information with respect to the  
19                    source and amount of capital required to  
20                    construct and operate the facility in accordance with the information provided  
21                    under clauses (i) through (vii); and  
22  
23  
24

1                     “(xii) information with respect to the  
2                     source and amount of insurance, collateral,  
3                     or bond secured by the applicant to meet  
4                     all Federal and State requirements;

5                     “(B) provide opportunity for public com-  
6                     ment, including at least 1 public hearing; and  
7                     “(C) not less than 30 days prior to formal  
8                     action—

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

11                     “(ii) notify the Governor, adjoining  
12                     local governments, and any adjoining In-  
13                     dian tribes.

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

1       “(d) DEFINITIONS.—As used in this section:

2           “(1) AFFECTED LOCAL GOVERNMENT.—The  
3       term ‘affected local government’ means the elected  
4       officials of the political subdivision of the State in  
5       which a facility for the treatment, incineration, or  
6       disposal of municipal solid waste is located (as des-  
7       ignated by the State pursuant to subsection (c)).

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

12           “(A) jurisdiction over the geographic area  
13       in which a facility referred to in paragraph (1)  
14       is located; and

15           “(B) authority relating to solid waste man-  
16       agement planning.

17           “(3) GOVERNOR.—The term ‘Governor’ means  
18       the Governor of a State or the equivalent official of  
19       the State if the State does not have a Governor.

20           “(4) MUNICIPAL SOLID WASTE.—

21           “(A) IN GENERAL.—The term ‘municipal  
22       solid waste’ means refuse, and any  
23       nonhazardous residue generated from the com-  
24       bustion of the refuse, generated by—

25           “(i) the general public; or

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

4                     “(B) COMPOSITION.—The term includes  
5                     refuse that consists of paper, wood, yard waste,  
6                     plastic, leather, rubber, or other combustible or  
7                     noncombustible material such as metal or glass  
8                     (or any combination of the materials).

9                     “(C) EXCLUSIONS.—The term does not in-  
10                   clude—

11                   “(i) hazardous waste identified pursu-  
12                   ant to section 3001;

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

18                   “(iii) any material collected for the  
19                   purpose of recycling or reclamation;

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

23                   “(v) industrial waste (including debris  
24                   from construction or demolition) that is  
25                   not identical to municipal solid waste in

1                   composition and physical and chemical  
2                   characteristics; and  
3                   “(vi) medical waste that is segregated  
4                   from municipal solid waste.”.

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