

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1267

To grant State status to Indian tribes for purposes of enforcement of the  
Solid Waste Disposal Act.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 1993

Mr. RICHARDSON introduced the following bill; which was referred to the  
Committee on Energy and Commerce

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## A BILL

To grant State status to Indian tribes for purposes of  
enforcement of the Solid Waste Disposal Act.

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.—(1) Section 1004 of the Solid  
7 Waste Disposal Act (42 U.S.C. 6903) is amended by add-  
8 ing at the end the following new paragraphs:

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

1           “(A) all land within the limits of any Indian  
2 reservation under the jurisdiction of the United  
3 States Government, notwithstanding the issuance of  
4 any patent, and including rights-of-way running  
5 through the reservation;

6           “(B) all dependent Indian communities within  
7 the borders of the United States whether within the  
8 original or subsequently acquired territory thereof,  
9 and whether within or without the limits of a State;  
10 and

11           “(C) all Indian allotments, the Indian titles to  
12 which have not been extinguished, including rights-  
13 of-way running through the same.

14           “(43) The term ‘Indian tribe’ means any Indian  
15 tribe, band, group, or community, including any Alaska  
16 Native village, organization, or regional corporation as de-  
17 fined in or established pursuant to the Alaska Native  
18 Claims Settlement Act, recognized by the Secretary of the  
19 Interior and exercising governmental authority within In-  
20 dian country.”.

21           (2) Paragraph (13) of such section is amended by  
22 striking out “or authorized tribal organization or Alaska  
23 Native village or organization,” and inserting in lieu there-  
24 of “not treated as a State under section 1009,”.

1       (3) Paragraph (15) of such section is amended by in-  
2       serting after “State,” the following: “Indian tribe,”.

3       (b) TREATMENT OF INDIAN TRIBES AS STATES.—  
4       Subtitle A of the Solid Waste Disposal Act is amended  
5       by adding at the end the following new section:

6       **“SEC. 1009. INDIAN TRIBES.**

7       “(a) IN GENERAL.—Subject to the provisions of sub-  
8       section (b), the Administrator—

9               “(1) is authorized to treat Indian tribes as  
10       States under this Act;

11              “(2) may delegate to such tribes primary en-  
12       forcement responsibility for programs and projects  
13       under this Act; and

14              “(3) may provide such tribes grant and contract  
15       assistance to carry out functions provided by this  
16       Act.

17       “(b) EPA REGULATIONS.—

18              “(1) The Administrator shall, not later than 18  
19       months after the date of the enactment of this sec-  
20       tion, promulgate final regulations that specify how  
21       Indian tribes shall be treated as States for the pur-  
22       poses of this Act. Such treatment shall be authorized  
23       only if—

1           “(A) the Indian tribe has a governing body  
2 carrying out substantial governmental duties  
3 and powers;

4           “(B) the functions to be exercised by the  
5 Indian tribe pertain to land and resources  
6 which are held by the Indian tribe, held by the  
7 United States in trust for the Indian tribe, held  
8 by a member of the Indian tribe if such prop-  
9 erty interest is subject to a trust restriction on  
10 alienation, or are otherwise within Indian coun-  
11 try; and

12           “(C) the Indian tribe is reasonably ex-  
13 pected to be capable, in the Administrator’s  
14 judgment, of carrying out the functions to be  
15 exercised in a manner consistent with the terms  
16 and purposes of this Act and of all applicable  
17 regulations.

18           “(2) For any provision of this Act where treat-  
19 ment of Indian tribes identically to States is inap-  
20 propriate, administratively infeasible, or otherwise  
21 inconsistent with the purposes of this Act, the Ad-  
22 ministrator may include in the regulations promul-  
23 gated under this section means for the direct imple-  
24 mentation of such provision by the Environmental  
25 Protection Agency in a manner that will achieve the

1 purpose of the provision. Nothing in this section  
2 shall be construed to allow Indian tribes to assume  
3 or maintain primary enforcement responsibility for  
4 programs under this Act in a manner less protective  
5 of human health and the environment than such re-  
6 sponsibility may be assumed or maintained by a  
7 State. An Indian tribe shall not be required to exer-  
8 cise criminal jurisdiction for purposes of complying  
9 with the preceding sentence.

10 “(c) COOPERATIVE AGREEMENTS.—In order to en-  
11 sure the consistent implementation of the requirements of  
12 this Act, an Indian tribe and the State or States in which  
13 the lands of such Indian tribe are located may enter into  
14 a cooperative agreement, subject to the review and ap-  
15 proval of the Administrator, to jointly plan and administer  
16 the requirements of this Act.

17 “(d) REPORT.—(1) The Administrator, in coopera-  
18 tion with the Secretary and the Director of the Indian  
19 Health Service, shall submit to Congress a report contain-  
20 ing the following:

21 “(A) Recommendations for addressing hazard-  
22 ous and solid wastes and underground storage tanks  
23 within Indian country.

1           “(B) Methods by which the participation in and  
2           administration of programs under this Act by Indian  
3           tribes can be maximized.

4           “(C) The amount of Federal assistance that  
5           will be required to carry out the purposes of this sec-  
6           tion.

7           “(D) A discussion of how the Administrator in-  
8           tends to provide assistance to Indian tribes for the  
9           administration of programs and projects under this  
10          Act.

11          “(2) The report required by paragraph (1) shall be  
12          submitted not later than 24 months after the date of the  
13          enactment of this section.

14          “(e) TRIBAL HAZARDOUS WASTE SITE AND OPEN  
15          DUMP INVENTORY.—(1) The Administrator shall under-  
16          take a continuing program to establish an inventory of  
17          sites within Indian country at which hazardous waste has  
18          at any time been stored or disposed of. Such inventory  
19          shall contain the information required by section 3012 and  
20          shall include sites at Federal facilities within Indian coun-  
21          try. The Administrator also shall establish an inventory  
22          of open dumps within Indian country at which solid waste  
23          has been disposed of at any time.

1       “(2) The requirements of paragraph (1) shall be car-  
2 ried out not later than 24 months after the date of the  
3 enactment of this section.

4       “(f) UPGRADING OF TRIBAL OPEN DUMPS.—The  
5 Administrator shall assist Indian tribes to upgrade open  
6 dumps to upgrade such facilities to comply with the re-  
7 quirements of this Act.”.

8       (c) TECHNICAL AMENDMENT.—The table of contents  
9 for subtitle A of the Solid Waste Disposal Act (contained  
10 in section 1001 of such Act) is amended by adding at the  
11 end the following new item:

“Sec. 1009. Indian tribes.”.

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