

103^D CONGRESS
2^D SESSION

H. R. 3865

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) to provide for the clean up of municipal waste landfill Superfund sites, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1994

Mrs. JOHNSON of Connecticut (for herself and Mr. FRANK of Massachusetts) introduced the following bill; which was referred jointly to the Committees on Energy and Commerce and Public Works and Transportation

A BILL

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) to provide for the clean up of municipal waste landfill Superfund sites, 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. STATE PROGRAMS FOR CLEAN UP OF MUNICI-**
4 **PAL WASTE LANDFILL SUPERFUND SITES.**

5 (a) STATE PROGRAMS.—(1) The Comprehensive En-
6 vironmental Response, Compensation, and Liability Act of
7 1980 (42 U.S.C. 9601 et seq.) is amended by adding at
8 the end of title I the following new section:

1 **“SEC. 127. MUNICIPAL WASTE LANDFILL SITES.**

2 “(a) STATE PROGRAMS.—

3 “(1) IN GENERAL.—Each State may develop
4 and submit to the Administrator of the Environ-
5 mental Protection Agency a State program under
6 which the State will remediate, in accordance with
7 this section, qualified municipal waste landfills.

8 “(2) SUBMISSION OF PROGRAM.—The Adminis-
9 trator shall require that State programs under this
10 section be submitted at such time, in such form, and
11 in such manner as the Administrator deems appro-
12 priate. Not later than 180 days after receipt of a
13 State program, the Administrator shall approve or
14 disapprove the program. The Administrator shall ap-
15 prove the program if the Administrator determines
16 that the program provides for the remediation of
17 qualified municipal waste landfills in accordance
18 with the provisions of subsection (b). Upon approval
19 of such program, the provisions of this title (other
20 than this section and section 101) shall not apply to
21 any release or threatened release at any qualified
22 municipal waste landfill which is covered by such
23 program. If the program is disapproved, the Admin-
24 istrator shall inform the State of the reasons for the
25 disapproval and permit the State to correct and re-
26 submit the program for approval.

1 “(b) REMEDIATION.—The President shall promul-
2 gate, after opportunity for notice and comment, regula-
3 tions governing response action under this section. Such
4 regulations shall provide for a presumptive remedy based
5 on streamlined site characterization using the Environ-
6 mental Protection Agency’s Model Municipal Landfill Re-
7 medial Investigation and Feasibility Study Guidance and
8 for closure of the site consistent with subtitle D of the
9 Solid Waste Disposal Act. Such presumptive remedy shall
10 include each of the following:

11 “(1) Waste consolidation where feasible if mul-
12 tiple discrete disposal sites can be more economically
13 contained in one unit.

14 “(2) Final cover, including a barrier layer with
15 a permeability equal to 1×10^{-5} cm per second or
16 a flexible membrane liner of at least 30mm thick-
17 ness, and properly maintained vegetative cover.
18 Upon demonstration, existing caps providing com-
19 parable control may be used or upgraded as needed.

20 “(3) Landfill gas control consistent with sub-
21 title D of the Solid Waste Disposal Act and where
22 necessary passive gas controls unless gas volumes
23 and composition require active collection.

24 “(4) Surface water controls.

1 “(5) Control of leachate where feasible and nec-
2 essary given the landfill’s design and as required by
3 its contact with ground water.

4 “(6) Ground water monitoring as required by
5 subtitle D of the Solid Waste Disposal Act.

6 “(7) Where ground water has been impacted by
7 the site, assurance of no migration of contamination
8 beyond the facility boundary or, if appropriate,
9 treatment at point of withdrawal.

10 “(8) Institutional controls to prevent future ex-
11 posure to waste, including, where appropriate and
12 consistent with local zoning authority, prohibitions
13 on the use of private wells on site or on adjacent
14 properties; creation of buffer zones; use of zoning to
15 prevent future land uses which would disturb the
16 site’s final cover. To the maximum extent feasible
17 and as authorized by the local land control author-
18 ity, beneficial uses consistent with maintenance of
19 proper closure should be employed (e.g., use as park-
20 land, conservation district, active waste management
21 facility, limited access industrial activity, roadway).
22 Residential use is not permitted at sites employing
23 presumptive remedies.

24 “(9) Site security to prevent access inconsistent
25 with closure requirements.

1 “(10) A post-closure care plan that ensures the
2 maintenance and stability of containment and insti-
3 tutional control measures for so long as each meas-
4 ure is necessary to assure the integrity of the
5 remedy.

6 If the President has reason to believe, based on site-spe-
7 cific risk factors such as records of disposal of significant
8 quantities of hazardous waste, that the presumptive rem-
9 edy will not protect human health and the environment,
10 he may require additional protections, including but not
11 limited to, removal of drums or other discrete, accessible
12 areas of high concentration waste where practicable.

13 “(c) REMEDIATION COSTS.—

14 “(1) REIMBURSEMENT FROM SUPERFUND.—

15 The President shall reimburse each State with an
16 approved municipal waste landfill remediation pro-
17 gram for all costs incurred by the State for the re-
18 mediation, in accordance with subsection (b), of haz-
19 ardous substances, pollutants and contaminants at
20 facilities listed on the National Priorities List which
21 are qualified municipal waste landfills located in that
22 State. The President shall use funds in the Hazard-
23 ous Substance Superfund, up to an amount not ex-
24 ceeding \$5,000,000,000, for purposes of providing
25 such reimbursement. Reimbursement shall be pro-

1 vided for costs incurred with respect to facilities
2 which have a higher ranking on the Hazard Ranking
3 System before reimbursement is provided for costs
4 incurred for facilities having a lower ranking on such
5 system. No reimbursement shall be provided under
6 this section for any transaction costs or other relat-
7 ed costs.

8 “(2) EFFECTIVE DATE.—Reimbursement under
9 paragraph (1) shall be provided for any remediation
10 costs incurred after the date of approval of a State
11 program under this section if the remediation is in
12 accordance with such program.

13 “(3) TRANSITION PROVISIONS.—(A) If remedi-
14 ation commenced before approval of a program
15 under this section and was not completed before
16 January 1, 1994, the President shall reimburse each
17 person who incurred costs for such remediation for
18 such costs if the President determines that the re-
19 medi- ation is consistent with, or provides at least
20 equivalent protection for public health and the envi-
21 ronment as, the remediation specified in subsection
22 (b).

23 “(B) The Administrator may not reimburse any
24 State or other person for costs incurred for remedi-
25 ation which was completed before January 1, 1994.

1 “(d) LIABILITY EXEMPTION.—

2 “(1) IN GENERAL.—If a State has an approved
3 remediation program which covers qualified municipi-
4 pal waste landfills, no person who is otherwise liable
5 under this Act or under any other Federal law with
6 respect to any release or threatened release of a haz-
7 ardous substance or pollutant or contaminant from
8 any qualified such landfill shall be subject to liability
9 to any other person under this Act or any such other
10 law for injuries, costs, damages, expenses, or other
11 liability (including claims for indemnification or con-
12 tribution and claims by third parties for death, per-
13 sonal injury, illness or loss of or damage to property
14 or economic loss) that results from such release or
15 threatened release.

16 “(2) EXCEPTIONS.—(A) The exemption under
17 this subsection shall not apply in the case of any
18 landfill at which the remediation was completed be-
19 fore January 1, 1994.

20 “(B) The exemption under this subsection shall
21 not apply to any person who violated any Federal,
22 State, or local law relating to the generation,
23 transportation, or disposal of any solid waste which
24 is present at the facility concerned. Any such person
25 shall be liable, in the same manner as provided in

1 section 107, to the State for any costs incurred by
2 the State pursuant to the State program under this
3 section; and such person shall be liable to the Ad-
4 ministrator in the same manner for any such costs
5 for which the Administrator has reimbursed the
6 State under this section.

7 “(e) DEFINITION OF MUNICIPAL WASTE LAND-
8 FILLS.—For purposes of this section, the term ‘qualified
9 municipal waste landfill’ means a landfill listed on the Na-
10 tional Priorities List as of the date of enactment of this
11 section which is designated by the Administrator as—

12 “(1) a site owned by a municipality or county,
13 or

14 “(2) a privately-owned site which has a record
15 of receiving municipal waste.

16 The Administrator shall publish a list of such sites
17 within 30 days after the enactment of this section.”.

18 (2) The table of contents for title I of such Act is
19 amended by adding at the end the following new item:

“Sec. 127. Municipal waste landfills.”.

20 (b) USES OF SUPERFUND.—Section 111(a) of the
21 Comprehensive Environmental Response, Compensation,
22 and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended
23 by inserting after paragraph (6) the following new para-
24 graph:

1 “(7) REIMBURSEMENT OF COSTS FOR REMEDI-
2 ATION OF MUNICIPAL WASTE LANDFILLS.—Payment
3 of not to exceed \$5,000,000,000 for the costs of re-
4 mediation of municipal waste landfills in accordance
5 with section 127.”.

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