

110TH CONGRESS  
2D SESSION

# H. R. 7186

To amend title 49, United States Code, with respect to the regulation of solid waste by the Environmental Protection Agency.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2008

Mr. GENE GREEN of Texas introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title 49, United States Code, with respect to the regulation of solid waste by the Environmental Protection Agency.

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. SHORT TITLE.**

4 This Act may be cited as the “Solid Waste Rail  
5 Transfer Facilities Regulation Act of 2008”.

1 **SEC. 2. REGULATION OF SOLID WASTE RAIL TRANSFER FA-**  
2 **CILITIES.**

3 (a) IN GENERAL.—Chapter 109 of title 49, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6 **“§ 10908. Regulation of solid waste rail transfer facili-**  
7 **ties**

8 “(a) IN GENERAL.—Each solid waste rail transfer fa-  
9 cility shall be subject to and shall comply with all applica-  
10 ble Federal and State requirements, both substantive and  
11 procedural, including judicial and administrative orders  
12 and fines, respecting the prevention and abatement of pol-  
13 lution, the protection and restoration of the environment,  
14 and the protection of public health and safety, including  
15 laws governing solid waste, to the same extent as required  
16 for any similar solid waste management facility, as defined  
17 in section 1004(29) of the Solid Waste Disposal Act (42  
18 U.S.C. 6903(29)) that is not owned or operated by or on  
19 behalf of a rail carrier, except as provided for in section  
20 10909 of this chapter.

21 “(b) EXISTING FACILITIES.—

22 “(1) STATE LAWS AND STANDARDS.—Not later  
23 than 90 days after the date of enactment of the  
24 Clean Railroads Act of 2008, a solid waste rail  
25 transfer facility operating as of such date of enact-  
26 ment shall comply with all Federal and State re-

1        requirements pursuant to subsection (a) other than  
2        those provisions requiring permits.

3            “(2) PERMIT REQUIREMENTS.—

4            “(A) STATE NON-SITING PERMITS.—Any  
5        solid waste rail transfer facility operating as of  
6        the date of enactment of the Clean Railroads  
7        Act of 2008 that does not possess a permit re-  
8        quired pursuant to subsection (a), other than a  
9        siting permit for the facility, as of the date of  
10       enactment of the Clean Railroads Act of 2008  
11       shall not be required to possess any such per-  
12       mits in order to operate the facility—

13            “(i) if, within 180 days after such  
14        date of enactment, the solid waste rail  
15        transfer facility has submitted, in good  
16        faith, a complete application for all per-  
17        mits, except siting permits, required pursu-  
18        ant to subsection (a) to the appropriate  
19        permitting agency authorized to grant such  
20        permits; and

21            “(ii) until the permitting agency has  
22        either approved or denied the solid waste  
23        rail transfer facility’s application for each  
24        permit.

1           “(B) SITING PERMITS AND REQUIRE-  
2           MENTS.—A solid waste rail transfer facility op-  
3           erating as of the date of enactment of the Clean  
4           Railroads Act of 2008 that does not possess a  
5           State siting permit required pursuant to sub-  
6           section (a) as of such date of enactment shall  
7           not be required to possess any siting permit to  
8           continue to operate or comply with any State  
9           land use requirements. The Governor of a State  
10          in which the facility is located, or his or her  
11          designee, may petition the Board to require the  
12          facility to apply for a land-use exemption pursu-  
13          ant to section 10909 of this chapter. The Board  
14          shall accept the petition, and the facility shall  
15          be required to have a Board-issued land-use ex-  
16          emption in order to continue to operate, pursu-  
17          ant to section 10909 of this chapter.

18          “(c) DEFINITIONS.—

19                 “(1) IN GENERAL.—In this section:

20                         “(A) COMMERCIAL AND RETAIL WASTE.—

21                         The term ‘commercial and retail waste’ means  
22                         material discarded by stores, offices, res-  
23                         taurants, warehouses, nonmanufacturing activi-  
24                         ties at industrial facilities, and other similar es-  
25                         tablishments or facilities.

1           “(B) CONSTRUCTION AND DEMOLITION  
2           DEBRIS.—The term ‘construction and demoli-  
3           tion debris’ means waste building materials,  
4           packaging, and rubble resulting from construc-  
5           tion, remodeling, repair, and demolition oper-  
6           ations on pavements, houses, commercial build-  
7           ings, and other structures.

8           “(C) HOUSEHOLD WASTE.—The term  
9           ‘household waste’ means material discarded by  
10          residential dwellings, hotels, motels, and other  
11          similar permanent or temporary housing estab-  
12          lishments or facilities.

13          “(D) INDUSTRIAL WASTE.—The term ‘in-  
14          dustrial waste’ means the solid waste generated  
15          by manufacturing and industrial and research  
16          and development processes and operations, in-  
17          cluding contaminated soil, nonhazardous oil  
18          spill cleanup waste and dry nonhazardous pes-  
19          ticides and chemical waste, but does not include  
20          hazardous waste regulated under subtitle C of  
21          the Solid Waste Disposal Act (42 U.S.C. 6921  
22          et seq.), mining or oil and gas waste.

23          “(E) INSTITUTIONAL WASTE.—The term  
24          ‘institutional waste’ means material discarded  
25          by schools, nonmedical waste discarded by hos-

1 pits, material discarded by nonmanufacturing  
2 activities at prisons and government facilities,  
3 and material discarded by other similar estab-  
4 lishments or facilities.

5 “(F) MUNICIPAL SOLID WASTE.—The term  
6 ‘municipal solid waste’ means—

7 “(i) household waste;

8 “(ii) commercial and retail waste; and

9 “(iii) institutional waste.

10 “(G) SOLID WASTE.—With the exception  
11 of waste generated by a rail carrier during  
12 track, track structure, or right-of-way construc-  
13 tion, maintenance, or repair (including railroad  
14 ties and line-side poles) or waste generated as  
15 a result of a railroad accident, incident, or de-  
16 railment, the term ‘solid waste’ means—

17 “(i) construction and demolition de-  
18bris;

19 “(ii) municipal solid waste;

20 “(iii) household waste;

21 “(iv) commercial and retail waste;

22 “(v) institutional waste;

23 “(vi) sludge;

24 “(vii) industrial waste; and

1                   “(viii) other solid waste, as deter-  
2                   mined appropriate by the Board.

3                   “(H) SOLID WASTE RAIL TRANSFER FACIL-  
4                   ITY.—The term ‘solid waste rail transfer facil-  
5                   ity’—

6                   “(i) means the portion of a facility  
7                   owned or operated by or on behalf of a rail  
8                   carrier (as defined in section 10102 of this  
9                   title) where solid waste, as a commodity to  
10                  be transported for a charge, is collected,  
11                  stored, separated, processed, treated, man-  
12                  aged, disposed of, or transferred, when the  
13                  activity takes place outside of original ship-  
14                  ping containers; but

15                  “(ii) does not include—

16                  “(I) the portion of a facility to  
17                  the extent that activities taking place  
18                  at such portion are comprised solely  
19                  of the railroad transportation of solid  
20                  waste after the solid waste is loaded  
21                  for shipment on or in a rail car, in-  
22                  cluding railroad transportation for the  
23                  purpose of interchanging railroad cars  
24                  containing solid waste shipments; or

1                   “(II) a facility where solid waste  
2                   is solely transferred or transloaded  
3                   from a tank truck directly to a rail  
4                   tank car.

5                   “(I) SLUDGE.—The term ‘sludge’ means  
6                   any solid, semi-solid or liquid waste generated  
7                   from a municipal, commercial, or industrial  
8                   wastewater treatment plant, water supply treat-  
9                   ment plant, or air pollution control facility ex-  
10                  clusive of the treated effluent from a waste-  
11                  water treatment plant.

12                  “(2) EXCEPTIONS.—Notwithstanding para-  
13                  graph (1), the terms ‘household waste’, ‘commercial  
14                  and retail waste’, and ‘institutional waste’ do not in-  
15                  clude—

16                         “(A) yard waste and refuse-derived fuel;

17                         “(B) used oil;

18                         “(C) wood pallets;

19                         “(D) clean wood;

20                         “(E) medical or infectious waste; or

21                         “(F) motor vehicles (including motor vehi-  
22                         cle parts or vehicle fluff).

23                  “(3) STATE REQUIREMENTS.—In this section  
24                  the term ‘State requirements’ does not include the  
25                  laws, regulations, ordinances, orders, or other re-

