

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1085

To amend the Solid Waste Disposal Act to provide congressional authorization for State and local flow control authority over solid waste, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 1995

Mr. SMITH of New Jersey (for himself, Mr. OXLEY, Mr. PALLONE, Mr. MINGE, Mrs. ROUKEMA, and Mr. SAXTON) introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To amend the Solid Waste Disposal Act to provide congressional authorization for State and local flow control authority over solid waste, 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. SHORT TITLE.**

4 This Act may be cited as the “Local Governments  
5 Flow Control Act of 1995”.

1 **SEC. 2. CONGRESSIONAL AUTHORIZATION OF STATE AND**  
2 **LOCAL FLOW CONTROL AUTHORITY OVER**  
3 **SOLID WASTE.**

4 Subtitle D of the Solid Waste Disposal Act (42  
5 U.S.C. 6941 et seq.) is amended by adding after section  
6 4010 the following new section:

7 **“SEC. 4011. CONGRESSIONAL AUTHORIZATION OF STATE**  
8 **AND LOCAL FLOW CONTROL AUTHORITY**  
9 **OVER SOLID WASTE.**

10 “(a) AUTHORITY.—

11 “(1) IN GENERAL.—Each State and each quali-  
12 fied political subdivision may exercise flow control  
13 authority if, before May 15, 1994, the State or  
14 qualified political subdivision—

15 “(A) adopted a flow control measure or  
16 measures, individually or collectively, that re-  
17 quired the delivery of flow controllable solid  
18 waste to a proposed or an existing waste man-  
19 agement facility; or

20 “(B) adopted a flow control measure that  
21 identified the use of one or more waste manage-  
22 ment methods that will be necessary for the  
23 transportation, management, or disposal of flow  
24 controllable solid waste, and committed to des-  
25 ignate one or more waste management facilities  
26 for such method or methods.

1           “(2) RECYCLABLES.—Each State and each  
2 qualified political subdivision may exercise flow con-  
3 trol authority over voluntarily relinquished recyclable  
4 materials generated within the boundaries of the  
5 State or qualified political subdivision.

6           “(3) REASONABLE REGULATION OF COM-  
7 MERCE.—

8           “(A) A flow control measure of a State or  
9 qualified political subdivision that implements  
10 or exercises flow control authority in compliance  
11 with this section shall be considered to be a rea-  
12 sonable regulation of commerce and shall not be  
13 considered to be an undue burden on or other-  
14 wise as impairing, restraining, or discriminating  
15 against interstate commerce.

16           “(B) A contract or franchise agreement of  
17 a State or qualified political subdivision that  
18 provides the exclusive or nonexclusive authority  
19 for the collection, transportation, or disposal of  
20 flow controllable solid waste, and that does not  
21 involve the exercise of flow control authority,  
22 shall be considered to be a reasonable regula-  
23 tion of commerce and shall not be considered to  
24 be an undue burden on or otherwise as impair-

1 ing, restraining, or discriminating against inter-  
2 state commerce.

3 “(b) LIMITATIONS.—

4 “(1) LIMITATION OF AUTHORITY REGARDING  
5 RECYCLABLE MATERIALS.—A State or qualified po-  
6 litical subdivision may exercise flow control authority  
7 over recyclable materials only if—

8 “(A) the generator or owner of the mate-  
9 rials voluntarily made the materials available to  
10 the State or qualified political subdivision, or  
11 the designee of the State or qualified political  
12 subdivision, and relinquished any rights to, or  
13 ownership of, such materials;

14 “(B) the State or qualified political sub-  
15 division, or the designee of the State or quali-  
16 fied political subdivision, assumes such rights  
17 to, or ownership of, such materials; and

18 “(C) the State or qualified political sub-  
19 division complies with any Federal or State law  
20 or solid waste planning requirement to sepa-  
21 rate, or divert at the point of generation, recy-  
22 clable materials from solid waste for purposes  
23 of recycling, reclamation, or reuse.

24 “(2) LIMITATION OF AUTHORITY REGARDING  
25 NEED.—

1           “(A) A State or qualified political subdivi-  
2 sion may designate a waste management facility  
3 after the effective date of this section and exer-  
4 cise flow control authority to that facility only  
5 if, after conducting one or more public hear-  
6 ings, the State or qualified political subdivi-  
7 sion—

8           “(i) finds, on the basis of the record  
9 developed at the hearing or hearings, that  
10 it is necessary to exercise such flow control  
11 authority to meet the current solid waste  
12 management needs (as of the date of the  
13 record) or the anticipated solid waste man-  
14 agement needs of the State or qualified po-  
15 litical subdivision;

16           “(ii) finds, on the basis of the record  
17 developed at the hearing or hearings, that  
18 such flow control authority is necessary to  
19 provide short and long term integrated  
20 solid waste management services in an eco-  
21 nomically efficient and environmentally  
22 sound manner, considering, among other  
23 things, an analysis of the ability of the pri-  
24 vate sector and public bodies to provide

1           such services with and without flow control  
2           authority; and

3           “(iii) provides a written explanation of  
4           the reasons for the findings described in  
5           clauses (i) and (ii), which may include a  
6           finding of a preferred waste management  
7           method or methods for providing such inte-  
8           grated solid waste management services.

9           “(B) The flow control authority of this sec-  
10          tion shall remain in effect with respect to any  
11          waste management facility until completion of  
12          the schedule for payment of the capital costs of  
13          the facility concerned (as in effect on May 15,  
14          1994), or for the remaining useful life of the fa-  
15          cility, or 10 years from the effective date of this  
16          section, whichever is longer. At the end of such  
17          period, the flow control authority shall continue  
18          in effect for the waste management facility,  
19          provided the State or qualified political subdivi-  
20          sion complies with subparagraph (A) and sub-  
21          section (c). For purposes of this paragraph, the  
22          useful life of a waste management facility or  
23          the schedule for payment of the capital cost of  
24          the facility shall include any useful life exten-

1           sion or any new debt payment schedule that re-  
2           sults when—

3                   “(i) the designated waste management  
4                   facility is required to retrofit or otherwise  
5                   make significant modifications to meet ap-  
6                   plicable environmental requirements or  
7                   safety requirements;

8                   “(ii) routine repair or scheduled re-  
9                   placements of existing equipment or com-  
10                  ponents of a designated waste management  
11                  facility is undertaken that does not add to  
12                  the capacity of the waste management fa-  
13                  cility; or

14                  “(iii) a designated waste management  
15                  facility expands on land legally or equitably  
16                  owned, or under option to purchase or  
17                  lease, by the owner or operator of such fa-  
18                  cility and the applicable permit includes  
19                  such land.

20                  “(C) Each State and each qualified politi-  
21                  cal subdivision meeting the requirements of  
22                  subsection (a)(1)(A) may redesignate without  
23                  regard to the requirements of paragraphs  
24                  (2)(A) and subsection (c).

1           “(D) Notwithstanding anything to the con-  
2           trary in this section, paragraphs (2)(A) and  
3           (2)(B) shall not apply to any State (or any of  
4           its political subdivisions) that, on or before Jan-  
5           uary 1, 1984, enacted regulations pursuant to  
6           a State law that required or directed the trans-  
7           portation, management, or disposal of solid  
8           waste from residential, commercial, institutional  
9           and industrial sources as defined by State law  
10          to specific waste management facilities and ap-  
11          plied those regulations to every political subdivi-  
12          sion in the State.

13           “(3) LIMITATION ON SOLID WASTE CAT-  
14          EGORIES.—The flow control authority granted by  
15          this section shall apply only to the specific classes or  
16          categories of flow controllable solid waste to which  
17          the authority described in subsection (a)(1)(A) was  
18          applied by the State or qualified political subdivision  
19          before May 15, 1994, and to the specific classes or  
20          categories of solid waste for which the State or  
21          qualified political subdivision committed to designate  
22          one or more waste management facilities as de-  
23          scribed in subsection (a)(1)(B).

24           “(4) EXPIRATION OF AUTHORITY.—The flow  
25          control authority granted in subsection (a)(1)(B)

1 shall expire if a State or qualified political subdivi-  
2 sion has not designated a waste management facility  
3 within 3 years after the date of enactment of this  
4 section.

5 “(5) LIMITATION ON REVENUE.—A State or  
6 qualified political subdivision may exercise the flow  
7 control authority granted in this section only if the  
8 State or qualified political subdivision limits the use  
9 of any of the revenues it derives from the exercise  
10 of such authority primarily to solid waste manage-  
11 ment services.

12 “(c) COMPETITIVE DESIGNATION PROCESS.—

13 “(1) IN GENERAL.—A State or qualified politi-  
14 cal subdivision may designate a waste management  
15 facility only if the State or qualified political subdivi-  
16 sion develops and implements a competitive designa-  
17 tion process. The process shall—

18 “(A) ensure that the designation process is  
19 based on, or is part of, a solid waste manage-  
20 ment plan that is adopted by the State or quali-  
21 fied political subdivision and that is designed to  
22 ensure long-term management capacity for flow  
23 controllable solid waste;

24 “(B) set forth the goals of the designation  
25 process, including at a minimum—

1 “(i) capacity assurance;

2 “(ii) the establishment of provisions to  
3 provide that protection of human health  
4 and the environment will be achieved,  
5 which may include a finding of a preferred  
6 method or methods for providing solid  
7 waste management services; and

8 “(iii) any other goals determined to be  
9 relevant by the State or qualified political  
10 subdivision;

11 “(C) ensure that the designation of each  
12 facility is accomplished through an open com-  
13 petitive process during which the State or quali-  
14 fied political subdivision—

15 “(i) identifies in writing the criteria to  
16 be utilized for selection of the facilities,  
17 which shall not discriminate unfairly  
18 against any particular waste management  
19 facility, and shall not establish qualifica-  
20 tions for selection that can only be met by  
21 public bodies;

22 “(ii) provides a fair and equal oppor-  
23 tunity for interested public persons and  
24 private persons to offer their facilities for  
25 designation;

1           “(iii) identifies and compares reason-  
2           able and available waste management facil-  
3           ity alternatives, options, and costs; and

4           “(iv) evaluates and selects the facili-  
5           ties for designation based on the merits of  
6           the facilities in meeting the criteria identi-  
7           fied; and

8           “(D) provide for public participation and  
9           comment; and

10          “(E) base the designation of each such fa-  
11          cility on reasons that shall be stated in a public  
12          record.

13          “(2) CERTIFICATION.—

14               “(A) IN GENERAL.—A Governor of any  
15               State may certify that the laws and regulations  
16               of the State in effect on May 15, 1994, satisfy  
17               the requirements for a competitive designation  
18               process under paragraph (1).

19               “(B) PROCESS.—In making a certification  
20               under subparagraph (A), a Governor shall—

21                       “(i) publish notice of the proposed  
22                       certification in a newspaper of general cir-  
23                       culation and provide such additional notice  
24                       of the proposed certification as may be re-  
25                       quired by State law;

1           “(ii) include in the notice of the pro-  
2           posed certification or otherwise make read-  
3           ily available a statement of the laws and  
4           regulations subject to the certification and  
5           an explanation of the basis for a conclusion  
6           that the laws and regulations satisfy the  
7           requirements of paragraph (1);

8           “(iii) provide interested persons an  
9           opportunity to comment on the proposed  
10          certification, for a period of time not less  
11          than 60 days, after publication of the no-  
12          tice; and

13          “(iv) publish notice of the final certifi-  
14          cation, together with an explanation of the  
15          basis for the final certification, in a news-  
16          paper of general circulation and provide  
17          such additional notice of the final certifi-  
18          cation as may be required by State law.

19          “(C) APPEAL.—Within 120 days after  
20          publication of the final certification under sub-  
21          paragraph (B), any interested person may file  
22          an appeal of the final certification in the United  
23          States court of appeals for the circuit in which  
24          the State is located for a judicial determination  
25          that the certified laws and regulations do not

1 satisfy the requirements of paragraph (1) or  
2 that the certification process did not satisfy the  
3 procedural requirements of subparagraph (B).  
4 The appeal shall set forth the specific reasons  
5 for the appeal of the final certification.

6 “(D) LIMITATION TO RECORD.—Any judi-  
7 cial proceeding brought under subparagraph  
8 (C) shall be limited to the administrative record  
9 developed in connection with the procedures de-  
10 scribed in subparagraph (B).

11 “(E) COSTS OF LITIGATION.—In any judi-  
12 cial proceeding brought under subparagraph  
13 (C), the court shall award costs of litigation (in-  
14 cluding reasonable attorney fees) to any prevail-  
15 ing party whenever the court determines that  
16 such award is appropriate.

17 “(F) LIMITATION OF REVIEW OF CERTIFI-  
18 CATIONS.—If no appeal is taken under subpara-  
19 graph (C) within 120 days after the publication  
20 of the final certification, or if the final certifi-  
21 cation by the Governor of any State is upheld  
22 by the United States court of appeals and no  
23 party seeks review by the Supreme Court (with-  
24 in applicable time requirements), the final cer-

1           tification shall not otherwise be subject to judi-  
2           cial review.

3           “(G) LIMITATION ON REVIEW OF DESIGNA-  
4           TIONS.—Designations made after the final cer-  
5           tification and pursuant to the certified laws and  
6           regulations shall not be subject to judicial re-  
7           view for failure to satisfy the requirements of  
8           paragraph (1).

9           “(d) OWNERSHIP OF RECYCLABLE MATERIALS.—

10           “(1) PROHIBITION ON REQUIRED TRANS-  
11           FERS.—Nothing in this section shall authorize any  
12           State or qualified political subdivision, or any des-  
13           ignee of the State or qualified political subdivision,  
14           to require any generator or owner of recyclable ma-  
15           terials to transfer any recyclable materials to such  
16           State or qualified political subdivision unless the  
17           generator or owner of the recyclable materials volun-  
18           tarily made the materials available to the State or  
19           qualified political subdivision and relinquished any  
20           rights to, or ownership of, such materials.

21           “(2) OTHER TRANSACTIONS.—Nothing in this  
22           section shall prohibit any person from selling, pur-  
23           chasing, accepting, conveying, or transporting any  
24           recyclable materials for purposes of transformation

1 or remanufacture into usable or marketable mate-  
2 rials.

3 “(e) RETAINED AUTHORITY.—Upon the request of  
4 any generator of solid waste affected by this section, the  
5 State or qualified political subdivision may authorize the  
6 diversion of all or a portion of the solid wastes generated  
7 by the generator making such request to a waste manage-  
8 ment facility, other than the facility or facilities originally  
9 designated by the State or qualified political subdivision,  
10 where the purpose of such request is to provide a higher  
11 level of protection for human health and the environment  
12 and reduce potential future liability under Federal or  
13 State law of such generator for the management of such  
14 wastes. Requests shall include information on the environ-  
15 mental suitability of the proposed alternative waste man-  
16 agement facility, compared to that of the designated facil-  
17 ity. In making such a determination, the State or political  
18 subdivision may consider the ability and willingness of  
19 both the designated and alternative waste management fa-  
20 cility to indemnify the generator against any cause of ac-  
21 tion under State or Federal environmental statutes and  
22 against any cause of action for nuisance, personal injury,  
23 or property loss under any State law.

24 “(f) EXISTING LAWS AND CONTRACTS.—

1           “(1) IN GENERAL.—Except to the extent re-  
2           quired to comply with paragraph (4) of this sub-  
3           section, this section shall not supersede, abrogate, or  
4           otherwise modify any of the following:

5                   “(A) Any contract or other agreement (in-  
6                   cluding any contract containing an obligation to  
7                   repay the outstanding indebtedness on any pro-  
8                   posed or existing waste management facility)  
9                   entered into before May 15, 1994, by a State  
10                  or qualified political subdivision in which such  
11                  State or qualified political subdivision has des-  
12                  ignated a proposed or existing waste manage-  
13                  ment facility to receive flow controllable solid  
14                  waste.

15                  “(B) Any other contract or agreement en-  
16                  tered into before May 15, 1994, for the trans-  
17                  portation, management or disposal of municipal  
18                  solid waste, incinerator ash from a solid waste  
19                  incineration unit, or construction debris or dem-  
20                  olition debris.

21                  “(C) Any flow control measure of a State  
22                  or qualified political subdivision, adopted before  
23                  May 15, 1994, that designated a proposed or  
24                  existing waste management facility to receive  
25                  flow controllable solid waste.

1           “(2) CONTRACT INFORMATION.—A party to a  
2 contract or other agreement that is described in  
3 paragraph (A) or (B) of paragraph (1) shall provide  
4 a copy of the contract or agreement to the State or  
5 qualified political subdivision on request. Any propri-  
6 etary information contained in the contract or agree-  
7 ment may be omitted in the copy, but the informa-  
8 tion that appears in the copy shall include at least  
9 the date that the contract or agreement was signed,  
10 the volume of flow controllable solid waste covered  
11 by the contract or agreement with respect to which  
12 the State or qualified political subdivision could oth-  
13 erwise exercise authority under subsection (a) or  
14 paragraph (1), the source of the waste or materials,  
15 the destination of the waste or materials, the dura-  
16 tion of the contract or agreement, and the parties to  
17 the contract or agreement.

18           “(3) EFFECT ON INTERSTATE COMMERCE.—  
19 Any contract or agreement described in subpara-  
20 graph (A) or (B) of paragraph (1), and any flow  
21 control measure described in subparagraph (C) of  
22 paragraph (1), shall be considered to be a reasonable  
23 regulation of commerce by a State or qualified politi-  
24 cal subdivision, retroactive to the effective date of  
25 the contract or agreement, or to the date of adoption

1 of any such flow control measure, and shall not be  
2 considered to be an undue burden on or otherwise as  
3 impairing, restraining, or discriminating against  
4 interstate commerce.

5 “(4) LIMITATION.—Any designation by a State  
6 or qualified political subdivision of any waste man-  
7 agement facility after the date of enactment of this  
8 section shall be made in compliance with subsections  
9 (b) and (c). Nothing in this paragraph shall affect  
10 any designation made before May 15, 1994, and any  
11 such designation shall be deemed to satisfy the re-  
12 quirements of subsections (b) and (c).

13 “(g) SAVINGS CLAUSE.—

14 “(1) FEDERAL OR STATE ENVIRONMENTAL  
15 LAWS.—Nothing in this section is intended to super-  
16 sede, amend, or otherwise modify Federal or State  
17 environmental laws (including regulations) that  
18 apply to the disposal or management of flow control-  
19 lable solid waste at waste management facilities.

20 “(2) STATE LAW.—Nothing in this section shall  
21 be interpreted to authorize a qualified political sub-  
22 division to exercise the authority granted by this sec-  
23 tion in a manner inconsistent with State law.

24 “(h) DEFINITIONS.—For purposes of this section  
25 only, the following definitions apply:

1           “(1) COMMITTED TO DESIGNATE ONE OR MORE  
2 WASTE MANAGEMENT FACILITIES.—The term ‘com-  
3 mitted to designate one or more waste management  
4 facilities’ means that a State or qualified political  
5 subdivision was legally bound to designate one or  
6 more waste management facilities or performed or  
7 caused to be performed one or more of the following  
8 actions for the purpose of designating one or more  
9 such facilities:

10                   “(A) Obtained all required permits for the  
11 construction of such waste management facility  
12 prior to May 15, 1994.

13                   “(B) Executed contracts for the construc-  
14 tion of such waste management facility prior to  
15 May 15, 1994.

16                   “(C) Presented revenue bonds for sale to  
17 specifically provide revenue for the construction  
18 of such waste management facility prior to May  
19 15, 1994.

20                   “(D) Submitted to the appropriate regu-  
21 latory agency or agencies, on or before May 15,  
22 1994, administratively complete permit applica-  
23 tions for the construction and operation of such  
24 waste management facility.

1           “(E) Formed a public authority or a joint  
2 agreement among qualified political subdivi-  
3 sions, pursuant to a law authorizing such for-  
4 mation or agreement for the purposes of des-  
5 ignating such facilities.

6           “(F) Executed a contract or agreement  
7 that obligates or otherwise requires a State or  
8 qualified political subdivision to deliver a mini-  
9 mum quantity of flow controllable solid waste to  
10 a waste management facility and that obligates  
11 or otherwise requires the State or qualified po-  
12 litical subdivision to pay for that minimum  
13 quantity of flow controllable solid waste even if  
14 the stated minimum quantity of such waste is  
15 not delivered within a required timeframe, oth-  
16 erwise commonly known as a ‘put or pay agree-  
17 ment’.

18           “(G) Adopted prior to May 15, 1994, pur-  
19 suant to a State statute that specifically de-  
20 scribed the method for designating by solid  
21 waste management districts, a resolution of pre-  
22 liminary designation that specifies criteria and  
23 procedures for soliciting proposals to designate  
24 such facilities after having completed a public  
25 notice and comment period.

1           “(H) Adopted prior to May 15, 1994, pur-  
2           suant to a State statute that specifically de-  
3           scribed the method for designating by solid  
4           waste management districts, a resolution of in-  
5           tent to establish designation with a list of facili-  
6           ties for which designation is intended.

7           “(2) DESIGNATION; DESIGNATE.—The terms  
8           ‘designate’, ‘designated’, ‘designation’, or ‘designat-  
9           ing’ mean to identify a specific waste management  
10          facility to which flow controllable solid waste must  
11          be delivered. Such terms include put or pay agree-  
12          ments of the type described in paragraph (1)(F).

13          “(3) EXISTING WASTE MANAGEMENT FACIL-  
14          ITY.—The term ‘existing waste management facility’  
15          means a waste management facility that has been  
16          designated and was under construction or in oper-  
17          ation as of May 15, 1994.

18          “(4) FLOW CONTROL AUTHORITY.—The term  
19          ‘flow control authority’ means the authority to des-  
20          ignate one or more waste management facilities and  
21          require the delivery of flow controllable solid waste  
22          to such facilities.

23          “(5) FLOW CONTROL MEASURE.—The term  
24          ‘flow control measure’ shall mean a law, ordinance,

1 regulation, solid waste management plan, or legally  
2 binding provision.

3 “(6) FLOW CONTROLLABLE SOLID WASTE.—  
4 The term ‘flow controllable solid waste’ shall mean  
5 any or all of the following materials generated within  
6 the boundaries of the State or qualified political sub-  
7 division exercising authority under this section: mu-  
8 nicipal solid waste; incinerator ash from a solid  
9 waste incineration unit; construction debris and  
10 demolition debris; and, voluntarily relinquished recy-  
11 clable materials.

12 “(7) INDUSTRIAL SOLID WASTE.—The term ‘in-  
13 dustrial solid waste’ means solid waste generated by  
14 manufacturing or industrial processes, including  
15 waste generated during scrap processing and scrap  
16 recycling, that is not hazardous waste regulated  
17 under subtitle C. The term does not include municipi-  
18 pal solid waste specified in paragraph (8)(A)(iii).

19 “(8) MUNICIPAL SOLID WASTE.—

20 “(A) IN GENERAL.—The term ‘municipal  
21 solid waste’ means—

22 “(i) any solid waste discarded by a  
23 household, including a single or multifam-  
24 ily residence;

1           “(ii) any solid waste that is discarded  
2           by a commercial, institutional, or industrial  
3           source;

4           “(iii) residue remaining after recyclable  
5           materials have been separated or diverted  
6           from municipal solid waste described in clause (i) or (ii);

7           “(iv) any waste material or waste substance  
8           removed from a septic tank, septic  
9           pit, or cesspool, other than from portable  
10          toilets; and

11          “(v) conditionally exempt small quantity  
12          generator waste under section 3001(d),  
13          if it is collected, processed or disposed with  
14          other municipal solid waste as part of municipal  
15          solid waste services.

16          “(B) EXCLUSIONS.—The term ‘municipal  
17          solid waste’ shall not include any of the following:  
18          ing:

19               “(i) Hazardous waste required to be  
20               managed in accordance with subtitle C  
21               (other than waste described in subparagraph (A)(v)),  
22               solid waste containing polychlorinated biphenyl  
23               regulated under the Toxic Substances Control Act  
24               (15 U.S.C.  
25

1 2601 et seq.), or medical waste listed in  
2 section 11002.

3 “(ii)(I) A recyclable material.

4 “(II) A material or a product re-  
5 turned from a dispenser or distributor to  
6 the manufacturer or the agent of the man-  
7 ufacturer for credit, evaluation, or reuse  
8 unless such material or product is dis-  
9 carded or abandoned for collection, dis-  
10 posal or combustion.

11 “(III) A material or product that is  
12 an out-of-date or unmarketable material or  
13 product, or is a material or product that  
14 does not conform to specifications, and  
15 that is returned to the manufacturer or the  
16 agent of the manufacturer for credit, eval-  
17 uation, or reuse unless such material or  
18 product is discarded or abandoned for col-  
19 lection, disposal or combustion.

20 “(iii) Any solid waste (including con-  
21 taminated soil and debris) resulting from a  
22 response action taken under section 104 or  
23 106 of the Comprehensive Environmental  
24 Response, Compensation, and Liability Act

1 of 1980 (42 U.S.C. 9604 or 9606) or a  
2 corrective action taken under this Act.

3 “(iv)(I) Industrial solid waste.

4 “(II) Any solid waste that is gen-  
5 erated by an industrial facility and trans-  
6 ported for the purpose of containment,  
7 storage, or disposal to a facility that is  
8 owned or operated by the generator of the  
9 waste, or a facility that is located on prop-  
10 erty owned by the generator.

11 “(9) PROPOSED WASTE MANAGEMENT FACIL-  
12 ITY.—The term ‘proposed waste management facil-  
13 ity’ means a waste management facility that has  
14 been designated, but that was not under construc-  
15 tion, as of May 15, 1994.

16 “(10) QUALIFIED POLITICAL SUBDIVISION.—  
17 The term ‘qualified political subdivision’ means a  
18 governmental entity or political subdivision of a  
19 State, as authorized by the State, to plan for, or de-  
20 termine the methods to be utilized for, the collection,  
21 transportation, disposal or other management of  
22 flow controllable solid waste generated within the  
23 boundaries of the area served by the governmental  
24 entity or political subdivision.

1           “(11) RECYCLABLE MATERIAL.—The term ‘re-  
2           cyclable material’ means any material (including any  
3           metal, glass, plastic, textile, wood, paper, rubber, or  
4           other material) that has been separated or diverted  
5           at the point of generation from solid waste for the  
6           purpose of recycling, reclamation, or reuse.

7           “(12) REDESIGNATE.—The term ‘redesignate’  
8           shall mean to designate from an existing or proposed  
9           waste management facility to any other existing or  
10          proposed waste management facility.

11          “(13) SOLID WASTE MANAGEMENT PLAN.—The  
12          term ‘solid waste management plan’ means a plan  
13          for the transportation, treatment, processing,  
14          composting, combustion, disposal or other manage-  
15          ment of flow controllable solid waste, adopted by a  
16          State or qualified political subdivision pursuant to  
17          and conforming with State law.

18          “(14) WASTE MANAGEMENT FACILITY.—The  
19          term ‘waste management facility’ means any facility  
20          or facilities in which flow controllable solid waste is  
21          separated, stored, transferred, treated, processed,  
22          combusted, deposited or disposed.”.

23 **SEC. 3. TABLE OF CONTENTS AMENDMENT.**

24          The table of contents in section 1001 of the Solid  
25          Waste Disposal Act (42 U.S.C. prec. 6901) is amended

1 by adding after the item relating to section 4010 the fol-

2 lowing new item:

“Sec. 4011. Congressional authorization of State and local flow control authority  
over solid waste.”.

○

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