

104TH CONGRESS
1ST SESSION

S. 534

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 1995

Referred to the Committee on Commerce

AN ACT

To amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal 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 “Interstate Transpor-
5 tation of Municipal Solid Waste Act of 1995”.

1 **TITLE I—INTERSTATE WASTE**

2 **SEC. 101. INTERSTATE TRANSPORTATION OF MUNICIPAL**
3 **SOLID WASTE.**

4 (a) AMENDMENT.—Subtitle D of the Solid Waste
5 Disposal Act (42 U.S.C. 6941 et seq.) is amended by add-
6 ing at the end the following new section:

7 **“SEC. 4011. INTERSTATE TRANSPORTATION OF MUNICIPAL**
8 **SOLID WASTE.**

9 “(a) AUTHORITY TO RESTRICT OUT-OF-STATE MU-
10 NICIPAL SOLID WASTE.—(1) Except as provided in para-
11 graph (4), immediately upon the date of enactment of this
12 section if requested in writing by an affected local govern-
13 ment, a Governor may prohibit the disposal of out-of-State
14 municipal solid waste in any landfill or incinerator that
15 is not covered by the exceptions provided in subsection (b)
16 and that is subject to the jurisdiction of the Governor and
17 the affected local government.

18 “(2) Except as provided in paragraph (4), imme-
19 diately upon the date of publication of the list required
20 in paragraph (6)(C) and notwithstanding the absence of
21 a request in writing by the affected local government, a
22 Governor, in accordance with paragraph (5), may limit the
23 quantity of out-of-State municipal solid waste received for
24 disposal at each landfill or incinerator covered by the ex-
25 ceptions provided in subsection (b) that is subject to the

1 jurisdiction of the Governor, to an annual amount equal
2 to or greater than the quantity of out-of-State municipal
3 solid waste received for disposal at such landfill or inciner-
4 ator during calendar year 1993.

5 “(3)(A) Except as provided in paragraph (4), any
6 State that imported more than 750,000 tons of out-of-
7 State municipal solid waste in 1993 may establish a limit
8 under this paragraph on the amount of out-of-State mu-
9 nicipal solid waste received for disposal at landfills and
10 incinerators in the importing State as follows:

11 “(i) In calendar year 1996, 95 percent of the
12 amount exported to the State in calendar year 1993.

13 “(ii) In calendar years 1997 through 2002, 95
14 percent of the amount exported to the State in the
15 previous year.

16 “(iii) In calendar year 2003, and each succeed-
17 ing year, the limit shall be 65 percent of the amount
18 exported in 1993.

19 “(iv) No exporting State shall be required
20 under this subparagraph to reduce its exports to any
21 importing State below the proportionate amount es-
22 tablished herein.

23 “(B)(i) No State may export to landfills or inciner-
24 ators in any 1 State that are not covered by host commu-
25 nity agreements or permits authorizing receipt of out-of-

1 State municipal solid waste more than the following
2 amounts of municipal solid waste:

3 “(I) In calendar year 1996, the greater of
4 1,400,000 tons or 90 percent of the amount ex-
5 ported to the State in calendar year 1993.

6 “(II) In calendar year 1997, the greater of
7 1,300,000 tons or 90 percent of the amount ex-
8 ported to the State in calendar year 1996.

9 “(III) In calendar year 1998, the greater of
10 1,200,000 tons or 90 percent of the amount ex-
11 ported to the State in calendar year 1997.

12 “(IV) In calendar year 1999, the greater of
13 1,100,000 tons or 90 percent of the amount ex-
14 ported to the State in calendar year 1998.

15 “(V) In calendar year 2000, 1,000,000 tons.

16 “(VI) In calendar year 2001, 750,000 tons.

17 “(VII) In calendar year 2002 or any calendar
18 year thereafter, 550,000 tons.

19 “(ii) The Governor of an importing State may take
20 action to restrict levels of imports to reflect the appro-
21 priate level of out-of-State municipal solid waste imports
22 if—

23 “(I) the Governor of the importing State has
24 notified the Governor of the exporting State and the
25 Administrator, 12 months prior to taking any such

1 action, of the importing State's intention to impose
2 the requirements of this section;

3 "(II) the Governor of the importing State has
4 notified the Governor of the exporting State and the
5 Administrator of the violation by the exporting State
6 of this section at least 90 days prior to taking any
7 such action; and

8 "(III) the restrictions imposed by the Governor
9 of the importing State are uniform at all facilities
10 and the Governor of the importing State may only
11 apply subparagraph (A) or (B) but not both.

12 "(C) The authority provided by subparagraphs (A)
13 and (B) shall apply for as long as a State exceeds the
14 permissible levels as determined by the Administrator
15 under paragraph (6)(C).

16 "(4)(A) A Governor may not exercise the authority
17 granted under this section if such action would result in
18 the violation of, or would otherwise be inconsistent with,
19 the terms of a host community agreement or a permit is-
20 sued from the State to receive out-of-State municipal solid
21 waste.

22 "(B) Except as provided in paragraph (3), a Gov-
23 ernor may not exercise the authority granted under this
24 section in a manner that would require any owner or oper-
25 ator of a landfill or incinerator covered by the exceptions

1 provided in subsection (b) to reduce the amount of out-
2 of-State municipal solid waste received from any State for
3 disposal at such landfill or incinerator to an annual quan-
4 tity less than the amount received from such State for dis-
5 posal at such landfill or incinerator during calendar year
6 1993.

7 “(5) Any limitation imposed by a Governor under
8 paragraph (2) or (3)—

9 “(A) shall be applicable throughout the State;

10 “(B) shall not directly or indirectly discriminate
11 against any particular landfill or incinerator within
12 the State; and

13 “(C) shall not directly or indirectly discriminate
14 against any shipments of out-of-State municipal
15 solid waste on the basis of place of origin and all
16 such limitations shall be applied to all States in vio-
17 lation of paragraph (3).

18 “(6) ANNUAL STATE REPORT.—

19 “(A) IN GENERAL.—Within 90 days after en-
20 actment of this section and on April 1 of each year
21 thereafter the owner or operator of each landfill or
22 incinerator receiving out-of-State municipal solid
23 waste shall submit to the affected local government
24 and to the Governor of the State in which the land-
25 fill or incinerator is located, information specifying

1 the amount and State of origin of out-of-State mu-
2 nicipal solid waste received for disposal during the
3 preceding calendar year, and the amount of waste
4 that was received pursuant to host community
5 agreements or permits authorizing receipt of out-of-
6 State municipal solid waste. Within 120 days after
7 enactment of this section and on May 1 of each year
8 thereafter each State shall publish and make avail-
9 able to the Administrator, the Governor of the State
10 of origin and the public, a report containing infor-
11 mation on the amount of out-of-State municipal
12 solid waste received for disposal in the State during
13 the preceding calendar year.

14 “(B) CONTENTS.—Each submission referred to
15 in this section shall be such as would result in crimi-
16 nal penalties in case of false or misleading informa-
17 tion. Such information shall include the amount of
18 waste received, the State of origin, the identity of
19 the generator, the date of the shipment, and the
20 type of out-of-State municipal solid waste. States
21 making submissions referred to in this section to the
22 Administrator shall notice these submissions for
23 public review and comment at the State level before
24 submitting them to the Administrator.

1 “(C) LIST.—The Administrator shall publish a
2 list of importing States and the out-of-State municipi-
3 pal solid waste received from each State at landfills
4 or incinerators not covered by host community
5 agreements or permits authorizing receipt of out-of-
6 State municipal solid waste. The list for any cal-
7 endar year shall be published by June 1 of the fol-
8 lowing calendar year.

9 For purposes of developing the list required in this section,
10 the Administrator shall be responsible for collating and
11 publishing only that information provided to the Adminis-
12 trator by States pursuant to this section. The Adminis-
13 trator shall not be required to gather additional data over
14 and above that provided by the States pursuant to this
15 section, nor to verify data provided by the States pursuant
16 to this section, nor to arbitrate or otherwise entertain or
17 resolve disputes between States or other parties concern-
18 ing interstate movements of municipal solid waste. Any
19 actions by the Administrator under this section shall be
20 final and not subject to judicial review.

21 “(D) SAVINGS PROVISION.—Nothing in this
22 subsection shall be construed to preempt any State
23 requirement that requires more frequent reporting of
24 information.

1 “(7) Any affected local government that intends to
2 submit a request under paragraph (1) or take formal ac-
3 tion to enter into a host community agreement after the
4 date of enactment of this subsection shall, prior to taking
5 such action—

6 “(A) notify the Governor, contiguous local gov-
7 ernments, and any contiguous Indian tribes;

8 “(B) publish notice of the action in a news-
9 paper of general circulation at least 30 days before
10 taking such action;

11 “(C) provide an opportunity for public com-
12 ment; and

13 “(D) following notice and comment, take formal
14 action on any proposed request or action at a public
15 meeting.

16 “(8) Any owner or operator seeking a host commu-
17 nity agreement after the date of enactment of this sub-
18 section shall provide to the affected local government the
19 following information, which shall be made available to the
20 public from the affected local government:

21 “(A) A brief description of the planned facility,
22 including a description of the facility size, ultimate
23 waste capacity, and anticipated monthly and yearly
24 waste quantities to be handled.

1 “(B) A map of the facility site that indicates
2 the location of the facility in relation to the local
3 road system and topographical and hydrological fea-
4 tures and any buffer zones and facility units to be
5 acquired by the owner or operator of the facility.

6 “(C) A description of the existing environ-
7 mental conditions at the site, and any violations of
8 applicable laws or regulations.

9 “(D) A description of environmental controls to
10 be utilized at the facility.

11 “(E) A description of the site access controls to
12 be employed, and roadway improvements to be
13 made, by the owner or operator, and an estimate
14 of the timing and extent of increased local truck
15 traffic.

16 “(F) A list of all required Federal, State, and
17 local permits.

18 “(G) Any information that is required by State
19 or Federal law to be provided with respect to any
20 violations of environmental laws (including regula-
21 tions) by the owner and operator, the disposition of
22 enforcement proceedings taken with respect to the
23 violations, and corrective measures taken as a result
24 of the proceedings.

1 “(H) Any information that is required by State
2 or Federal law to be provided with respect to compli-
3 ance by the owner or operator with the State solid
4 waste management plan.

5 “(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT
6 OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) The au-
7 thority to prohibit the disposal of out-of-State municipal
8 solid waste provided under subsection (a)(1) shall not
9 apply to landfills and incinerators in operation on the date
10 of enactment of this section that—

11 “(A) received during calendar year 1993 docu-
12 mented shipments of out-of-State municipal solid
13 waste; and

14 “(B)(i) in the case of landfills, are in compli-
15 ance with all applicable Federal and State laws and
16 regulations relating to operation, design and location
17 standards, leachate collection, ground water monitor-
18 ing, and financial assurance for closure and post-clo-
19 sure and corrective action; or

20 “(ii) in the case of incinerators, are in compli-
21 ance with the applicable requirements of section 129
22 of the Clean Air Act (42 U.S.C. 7429) and applica-
23 ble State laws and regulations relating to facility de-
24 sign and operations.

1 “(2) A Governor may not prohibit the disposal of out-
2 of-State municipal solid waste pursuant to subsection
3 (a)(1) at facilities described in this subsection that are not
4 in compliance with applicable Federal and State laws and
5 regulations unless disposal of municipal solid waste gen-
6 erated within the State at such facilities is also prohibited.

7 “(c) ADDITIONAL AUTHORITY TO LIMIT OUT-OF-
8 STATE MUNICIPAL SOLID WASTE.—(1) In any case in
9 which an affected local government is considering entering
10 into, or has entered into, a host community agreement and
11 the disposal or incineration of out-of-State municipal solid
12 waste under such agreement would preclude the use of
13 municipal solid waste management capacity described in
14 paragraph (2), the Governor of the State in which the af-
15 fected local government is located may prohibit the execu-
16 tion of such host community agreement with respect to
17 that capacity.

18 “(2) The municipal solid waste management capacity
19 referred to in paragraph (1) is that capacity—

20 “(A) that is permitted under Federal or State
21 law;

22 “(B) that is identified under the State plan;
23 and

24 “(C) for which a legally binding commitment
25 between the owner or operator and another party

1 has been made for its use for disposal or inciner-
2 ation of municipal solid waste generated within the
3 region (identified under section 4006(a)) in which
4 the local government is located.

5 “(d) COST RECOVERY SURCHARGE.—

6 “(1) AUTHORITY.—A State described in para-
7 graph (2) may adopt a law and impose and collect
8 a cost recovery charge on the processing or disposal
9 of out-of-State municipal solid waste in the State in
10 accordance with this subsection.

11 “(2) APPLICABILITY.—The authority to impose
12 a cost recovery surcharge under this subsection ap-
13 plies to any State that on or before April 3, 1994,
14 imposed and collected a special fee on the processing
15 or disposal of out-of-State municipal solid waste pur-
16 suant to a State law.

17 “(3) LIMITATION.—No such State may impose
18 or collect a cost recovery surcharge from a facility
19 on any out-of-State municipal solid waste that is
20 being received at the facility under 1 or more con-
21 tracts entered into after April 3, 1994, and before
22 the date of enactment of this section.

23 “(4) AMOUNT OF SURCHARGE.—The amount of
24 the cost recovery surcharge may be no greater than
25 the amount necessary to recover those costs deter-

1 mined in conformance with paragraph (6) and in no
2 event may exceed \$1.00 per ton of waste.

3 “(5) USE OF SURCHARGE COLLECTED.—All
4 cost recovery surcharges collected by a State covered
5 by this subsection shall be used to fund those solid
6 waste management programs administered by the
7 State or its political subdivision that incur costs for
8 which the surcharge is collected.

9 “(6) CONDITIONS.—(A) Subject to subpara-
10 graphs (B) and (C), a State covered by this sub-
11 section may impose and collect a cost recovery sur-
12 charge on the processing or disposal within the State
13 of out-of-State municipal solid waste if—

14 “(i) the State demonstrates a cost to the
15 State arising from the processing or disposal
16 within the State of a volume of municipal solid
17 waste from a source outside the State;

18 “(ii) the surcharge is based on those costs
19 to the State demonstrated under clause (i) that,
20 if not paid for through the surcharge, would
21 otherwise have to be paid or subsidized by the
22 State; and

23 “(iii) the surcharge is compensatory and is
24 not discriminatory.

1 “(B) In no event shall a cost recovery surcharge
2 be imposed by a State to the extent that the cost for
3 which recovery is sought is otherwise paid, recov-
4 ered, or offset by any other fee or tax paid to the
5 State or its political subdivision or to the extent that
6 the amount of the surcharge is offset by voluntarily
7 agreed payments to a State or its political subdivi-
8 sion in connection with the generation, transpor-
9 tation, treatment, processing, or disposal of solid
10 waste.

11 “(C) The grant of a subsidy by a State with re-
12 spect to entities disposing of waste generated within
13 the State does not constitute discrimination for pur-
14 poses of subparagraph (A)(iii).

15 “(7) DEFINITIONS.—As used in this subsection:

16 “(A) The term ‘costs’ means the costs in-
17 curred by the State for the implementation of
18 its laws governing the processing or disposal of
19 municipal solid waste, limited to the issuance of
20 new permits and renewal of or modification of
21 permits, inspection and compliance monitoring,
22 enforcement, and costs associated with technical
23 assistance, data management, and collection of
24 fees.

1 “(B) The term ‘processing’ means any ac-
2 tivity to reduce the volume of solid waste or
3 alter its chemical, biological or physical state,
4 through processes such as thermal treatment,
5 bailing, composting, crushing, shredding, sepa-
6 ration, or compaction.

7 “(e) SAVINGS CLAUSE.—Nothing in this section shall
8 be interpreted or construed—

9 “(1) to have any effect on State law relating to
10 contracts; or

11 “(2) to affect the authority of any State or local
12 government to protect public health and the environ-
13 ment through laws, regulations, and permits, includ-
14 ing the authority to limit the total amount of munic-
15 ipal solid waste that landfill or incinerator owners or
16 operators within the jurisdiction of a State may ac-
17 cept during a prescribed period: *Provided* That such
18 limitations do not discriminate between in-State and
19 out-of-State municipal solid waste, except to the ex-
20 tent authorized by this section.

21 “(f) DEFINITIONS.—As used in this section:

22 “(1)(A) The term ‘affected local government’,
23 used with respect to a landfill or incinerator,
24 means—

1 “(i) the public body created by State law
2 with responsibility to plan for municipal solid
3 waste management, a majority of the members
4 of which are elected officials, for the area in
5 which the facility is located or proposed to be
6 located; or

7 “(ii) the elected officials of the city, town,
8 township, borough, county, or parish exercising
9 primary responsibility over municipal solid
10 waste management or the use of land in the ju-
11 risdiction in which the facility is located or is
12 proposed to be located.

13 “(B)(i) Within 90 days after the date of enact-
14 ment of this section, a Governor may designate and
15 publish notice of which entity listed in clause (i) or
16 (ii) of subparagraph (A) shall serve as the affected
17 local government for actions taken under this section
18 and after publication of such notice.

19 “(ii) If a Governor fails to make and publish
20 notice of such a designation, the affected local gov-
21 ernment shall be the elected officials of the city,
22 town, township, borough, county, parish, or other
23 public body created pursuant to State law with pri-
24 mary jurisdiction over the land or the use of land on

1 which the facility is located or is proposed to be lo-
2 cated.

3 “(C) For purposes of host community agree-
4 ments entered into before the date of publication of
5 the notice, the term means either a public body de-
6 scribed in subparagraph (A)(i) or the elected offi-
7 cials of any of the public bodies described in sub-
8 paragraph (A)(ii).

9 “(2) HOST COMMUNITY AGREEMENT.—The
10 term ‘host community agreement’ means a written,
11 legally binding document or documents executed by
12 duly authorized officials of the affected local govern-
13 ment that specifically authorizes a landfill or inciner-
14 ator to receive municipal solid waste generated out
15 of State, but does not include any agreement to pay
16 host community fees for receipt of waste unless ad-
17 ditional express authorization to receive out-of-State
18 waste is also included.

19 “(3) The term ‘out-of-State municipal solid
20 waste’ means, with respect to any State, municipal
21 solid waste generated outside of the State. Unless
22 the President determines it is inconsistent with the
23 North American Free Trade Agreement and the
24 General Agreement on Tariffs and Trade, the term
25 shall include municipal solid waste generated outside

1 of the United States. Notwithstanding any other
2 provision of law, generators of municipal solid waste
3 outside the United States shall possess no greater
4 right of access to disposal facilities in a State than
5 United States generators of municipal solid waste
6 outside of that State.

7 “(4) The term ‘municipal solid waste’ means
8 refuse (and refuse-derived fuel) generated by the
9 general public or from a residential, commercial, in-
10 stitutional, or industrial source (or any combination
11 thereof), consisting of paper, wood, yard wastes,
12 plastics, leather, rubber, or other combustible or
13 noncombustible materials such as metal or glass (or
14 any combination thereof). The term ‘municipal solid
15 waste’ does not include—

16 “(A) any solid waste identified or listed as
17 a hazardous waste under section 3001;

18 “(B) any solid waste, including contami-
19 nated soil and debris, resulting from a response
20 action taken under section 104 or 106 of the
21 Comprehensive Environmental Response, Com-
22 pensation, and Liability Act of 1980 (42 U.S.C.
23 9604 or 9606) or a corrective action taken
24 under this Act;

1 “(C) any metal, pipe, glass, plastic, paper,
2 textile, or other material that has been sepa-
3 rated or diverted from municipal solid waste (as
4 otherwise defined in this paragraph) and has
5 been transported into a State for the purpose of
6 recycling or reclamation;

7 “(D) any solid waste that is—

8 “(i) generated by an industrial facil-
9 ity; and

10 “(ii) transported for the purpose of
11 treatment, storage, or disposal to a facility
12 that is owned or operated by the generator
13 of the waste, or is located on property
14 owned by the generator of the waste, or is
15 located on property owned by a company in
16 which the generator of the waste has an
17 ownership interest;

18 “(E) any solid waste generated incident to
19 the provision of service in interstate, intrastate,
20 foreign, or overseas air transportation;

21 “(F) any industrial waste that is not iden-
22 tical to municipal solid waste (as otherwise de-
23 fined in this paragraph) with respect to the
24 physical and chemical state of the industrial

1 waste, and composition, including construction
2 and demolition debris;

3 “(G) any medical waste that is segregated
4 from or not mixed with municipal solid waste
5 (as otherwise defined in this paragraph); or

6 “(H) any material or product returned
7 from a dispenser or distributor to the manufac-
8 turer for credit, evaluation, or possible reuse.

9 “(5) The term ‘compliance’ means a pattern or
10 practice of adhering to and satisfying standards and
11 requirements promulgated by the Federal or a State
12 government for the purpose of preventing significant
13 harm to human health and the environment. Actions
14 undertaken in accordance with compliance schedules
15 for remediation established by Federal or State en-
16 forcement authorities shall be considered compliance
17 for purposes of this section.

18 “(6) The terms ‘specifically authorized’ and
19 ‘specifically authorizes’ refer to an explicit authoriza-
20 tion, contained in a host community agreement or
21 permit, to import waste from outside the State.
22 Such authorization may include a reference to a
23 fixed radius surrounding the landfill or incinerator
24 that includes an area outside the State or a ref-
25 erence to any place of origin, reference to specific

1 places outside the State, or use of such phrases as
 2 ‘regardless of origin’ or ‘outside the State’. The lan-
 3 guage for such authorization may vary as long as it
 4 clearly and affirmatively states the approval or con-
 5 sent of the affected local government or State for re-
 6 ceipt of municipal solid waste from sources outside
 7 the State.

8 “(g) IMPLEMENTATION AND ENFORCEMENT.—Any
 9 State may adopt such laws and regulations, not inconsis-
 10 tent with this section, as are necessary to implement and
 11 enforce this section, including provisions for penalties.”.

12 (b) TABLE OF CONTENTS AMENDMENT.—The table
 13 of contents in section 1001 of the Solid Waste Disposal
 14 Act (42 U.S.C. prec. 6901) is amended by adding at the
 15 end of the items relating to subtitle D the following new
 16 item:

“Sec. 4011. Interstate transportation of municipal solid waste.”.

17 **SEC. 102. NEEDS DETERMINATION.**

18 The Governor of a State may accept, deny or modify
 19 an application for a municipal solid waste management fa-
 20 cility permit if—

21 (1) it is done in a manner that is not inconsis-
 22 tent with the provisions of this section;

23 (2) a State law enacted in 1990 and a regula-
 24 tion adopted by the governor in 1991 specifically re-
 25 quires the permit applicant to demonstrate that

1 there is a local or regional need within the State for
2 the facility; and

3 (3) the permit applicant fails to demonstrate
4 that there is a local or regional need within the
5 State for the facility.

6 **TITLE II—FLOW CONTROL**

7 **SEC. 201. SHORT TITLE.**

8 This title may be cited as the “Municipal Solid Waste
9 Flow Control Act of 1995”.

10 **SEC. 202. STATE AND LOCAL GOVERNMENT CONTROL OF**
11 **MOVEMENT OF MUNICIPAL SOLID WASTE**
12 **AND RECYCLABLE MATERIAL.**

13 Subtitle D of the Solid Waste Disposal Act (42
14 U.S.C. 6941 et seq.), as amended by section 101, is
15 amended by adding after section 4011 the following new
16 section:

17 **“SEC. 4012. STATE AND LOCAL GOVERNMENT CONTROL OF**
18 **MOVEMENT OF MUNICIPAL SOLID WASTE**
19 **AND RECYCLABLE MATERIAL.**

20 “(a) DEFINITIONS.—In this section:

21 “(1) DESIGNATE; DESIGNATION.—The terms
22 ‘designate’ and ‘designation’ refer to an authoriza-
23 tion by a State, political subdivision, or public serv-
24 ice authority, and the act of a State, political sub-
25 division, or public service authority in requiring or

1 contractually committing, that all or any portion of
2 the municipal solid waste or recyclable material that
3 is generated within the boundaries of the State, po-
4 litical subdivision, or public service authority be de-
5 livered to waste management facilities or facilities
6 for recyclable material or a public service authority
7 identified by the State, political subdivision, or pub-
8 lic service authority.

9 “(2) FLOW CONTROL AUTHORITY.—The term
10 ‘flow control authority’ means the authority to con-
11 trol the movement of municipal solid waste or volun-
12 tarily relinquished recyclable material and direct
13 such solid waste or voluntarily relinquished recycla-
14 ble material to a designated waste management fa-
15 cility or facility for recyclable material.

16 “(3) MUNICIPAL SOLID WASTE.—The term
17 ‘municipal solid waste’ means—

18 “(A) solid waste generated by the general
19 public or from a residential, commercial, insti-
20 tutional, or industrial source, consisting of
21 paper, wood, yard waste, plastics, leather, rub-
22 ber, and other combustible material and
23 noncombustible material such as metal and
24 glass, including residue remaining after recycla-
25 ble material has been separated from waste des-

1 tined for disposal, and including waste material
2 removed from a septic tank, septage pit, or
3 cesspool (other than from portable toilets); but

4 “(B) does not include—

5 “(i) waste identified or listed as a
6 hazardous waste under section 3001 of this
7 Act or waste regulated under the Toxic
8 Substances Control Act (15 U.S.C. 2601
9 et seq.);

10 “(ii) waste, including contaminated
11 soil and debris, resulting from a response
12 action taken under section 104 or 106 of
13 the Comprehensive Environmental Re-
14 sponse, Compensation, and Liability Act of
15 1980 (42 U.S.C. 9604, 9606) or any cor-
16 rective action taken under this Act;

17 “(iii) medical waste listed in section
18 11002;

19 “(iv) industrial waste generated by
20 manufacturing or industrial processes, in-
21 cluding waste generated during scrap proc-
22 essing and scrap recycling;

23 “(v) recyclable material; or

24 “(vi) sludge.

1 “(4) PUBLIC SERVICE AUTHORITY.—The term
2 ‘public service authority’ means—

3 “(A) an authority or authorities created
4 pursuant to State legislation to provide individ-
5 ually or in combination solid waste management
6 services to political subdivisions;

7 “(B) other body created pursuant to State
8 law; or

9 “(C) an authority that was issued a certifi-
10 cate of incorporation by a State corporation
11 commission established by a State constitution.

12 “(5) PUT OR PAY AGREEMENT.—(A) The term
13 ‘put or pay agreement’ means an agreement that ob-
14 ligates or otherwise requires a State or political sub-
15 division to—

16 “(i) deliver a minimum quantity of municipi-
17 pal solid waste to a waste management facility;
18 and

19 “(ii) pay for that minimum quantity of
20 municipal solid waste even if the stated mini-
21 mum quantity of municipal solid waste is not
22 delivered within a required period of time.

23 “(B) For purposes of the authority conferred
24 by subsections (b) and (c), the term ‘legally binding
25 provision of the State or political subdivision’ in-

1 includes a put or pay agreement that designates waste
2 to a waste management facility that was in oper-
3 ation on or before December 31, 1988 and that re-
4 quires an aggregate tonnage to be delivered to the
5 facility during each operating year by the political
6 subdivisions which have entered put or pay agree-
7 ments designating that waste management facility.

8 “(C) The entering into of a put or pay agree-
9 ment shall be considered to be a designation (as de-
10 fined in subsection (a)(1)) for all purposes of this
11 title.

12 “(6) RECYCLABLE MATERIAL.—The term ‘recy-
13 clable material’ means material that has been sepa-
14 rated from waste otherwise destined for disposal (at
15 the source of the waste or at a processing facility)
16 or has been managed separately from waste destined
17 for disposal, for the purpose of recycling, reclama-
18 tion, composting of organic material such as food
19 and yard waste, or reuse (other than for the purpose
20 of incineration).

21 “(7) WASTE MANAGEMENT FACILITY.—The
22 term ‘waste management facility’ means a facility
23 that collects, separates, stores, transports, transfers,
24 treats, processes, combusts, or disposes of municipal
25 solid waste.

1 “(b) AUTHORITY.—

2 “(1) IN GENERAL.—Each State, political sub-
3 division of a State, and public service authority may
4 exercise flow control authority for municipal solid
5 waste and for recyclable material voluntarily relin-
6 quished by the owner or generator of the material
7 that is generated within its jurisdiction by directing
8 the municipal solid waste or recyclable material to a
9 waste management facility or facility for recyclable
10 material, if such flow control authority—

11 “(A)(i) had been exercised prior to May
12 15, 1994, and was being implemented on May
13 15, 1994, pursuant to a law, ordinance, regula-
14 tion, or other legally binding provision of the
15 State or political subdivision; or

16 “(ii) had been exercised prior to May 15,
17 1994, but implementation of such law, ordi-
18 nance, regulation, or other legally binding provi-
19 sion of the State or political subdivision was
20 prevented by an injunction, temporary restrain-
21 ing order, or other court action, or was sus-
22 pended by the voluntary decision of the State or
23 political subdivision because of the existence of
24 such court action;

1 “(B) has been implemented by designating
2 before May 15, 1994, the particular waste man-
3 agement facilities or public service authority to
4 which the municipal solid waste or recyclable
5 material is to be delivered, which facilities were
6 in operation as of May 15, 1994, or were in op-
7 eration prior to May 15, 1994 and were tempo-
8 rarily inoperative on May 15, 1994.

9 “(2) LIMITATION.—The authority of this sec-
10 tion extends only to the specific classes or categories
11 of municipal solid waste to which flow control au-
12 thority requiring a movement to a waste manage-
13 ment facility was actually applied on or before May
14 15, 1994 (or, in the case of a State, political sub-
15 division, or public service authority that qualifies
16 under subsection (c), to the specific classes or cat-
17 egories of municipal solid waste for which the State,
18 political subdivision, or public service authority prior
19 to May 15, 1994, had committed to the designation
20 of a waste management facility).

21 “(3) LACK OF CLEAR IDENTIFICATION.—With
22 regard to facilities granted flow control authority
23 under subsection (c), if the specific classes or cat-
24 egories of municipal solid waste are not clearly iden-

1 tified, the authority of this section shall apply only
2 to municipal solid waste generated by households.

3 “(4) DURATION OF AUTHORITY.—With respect
4 to each designated waste management facility, the
5 authority of this section shall be effective until the
6 later of—

7 “(A) the end of the remaining life of a con-
8 tract between the State, political subdivision, or
9 public service authority and any other person
10 regarding the movement or delivery of munici-
11 pal solid waste or voluntarily relinquished recy-
12 clable material to a designated facility (as in ef-
13 fect May 15, 1994);

14 “(B) completion of the schedule for pay-
15 ment of the capital costs of the facility con-
16 cerned (as in effect May 15, 1994); or

17 “(C) the end of the remaining useful life of
18 the facility (as in existence on the date of en-
19 actment of this section), as that remaining life
20 may be extended by—

21 “(i) retrofitting of equipment or the
22 making of other significant modifications
23 to meet applicable environmental require-
24 ments or safety requirements;

1 “(ii) routine repair or scheduled re-
2 placement of equipment or components
3 that does not add to the capacity of a
4 waste management facility; or

5 “(iii) expansion of the facility on land
6 that is—

7 “(I) legally or equitably owned,
8 or under option to purchase or lease,
9 by the owner or operator of the facil-
10 ity; and

11 “(II) covered by the permit for
12 the facility (as in effect May 15,
13 1994).

14 “(5) ADDITIONAL AUTHORITY.—

15 “(A) APPLICATION OF PARAGRAPH.—This
16 paragraph applies to a State or political sub-
17 division of a State that, on or before January
18 1, 1984—

19 “(i) adopted regulations under State
20 law that required the transportation to,
21 and management or disposal at, waste
22 management facilities in the State, of—

23 “(I) all solid waste from residen-
24 tial, commercial, institutional, or in-

1 industrial sources (as defined under
2 State law); and

3 “(II) recyclable material volun-
4 tarily relinquished by the owner or
5 generator of the recyclable material;
6 and

7 “(ii) as of January 1, 1984, had im-
8 plemented those regulations in the case of
9 every political subdivision of the State.

10 “(B) AUTHORITY.—Notwithstanding any-
11 thing to the contrary in this section (including
12 subsection (m)), a State or political subdivision
13 of a State described in subparagraph (A) may
14 continue to exercise flow control authority (in-
15 cluding designation of waste management facili-
16 ties in the State that meet the requirements of
17 subsection (c)) for all classes and categories of
18 solid waste that were subject to flow control on
19 January 1, 1984.

20 “(6) FLOW CONTROL ORDINANCE.—Notwith-
21 standing anything to the contrary in this section,
22 but subject to subsection (m), any political subdivi-
23 sion which adopted a flow control ordinance in No-
24 vember 1991, and designated facilities to receive
25 municipal solid waste prior to April 1, 1992, may ex-

1 exercise flow control authority until the end of the re-
2 maining life of all contracts between the political
3 subdivision and any other persons regarding the
4 movement or delivery of municipal solid waste or vol-
5 untarily relinquished recyclable material to a des-
6 ignated facility (as in effect May 15, 1994). Such
7 authority shall extend only to the specific classes or
8 categories of municipal solid waste to which flow
9 control authority was actually applied on or before
10 May 15, 1994. The authority under this subsection
11 shall be exercised in accordance with section
12 4012(b)(4).

13 “(c) COMMITMENT TO CONSTRUCTION.—

14 “(1) IN GENERAL.—Notwithstanding subsection
15 (b)(1) (A) and (B), any political subdivision of a
16 State may exercise flow control authority under sub-
17 section (b), if—

18 “(A)(i) the law, ordinance, regulation, or
19 other legally binding provision specifically pro-
20 vides for flow control authority for municipal
21 solid waste generated within its boundaries; and

22 “(ii) such authority was exercised prior to
23 May 15, 1995, and was being implemented on
24 May 15, 1994.

1 “(B) prior to May 15, 1994, the political
2 subdivision committed to the designation of the
3 particular waste management facilities or public
4 service authority to which municipal solid waste
5 is to be transported or at which municipal solid
6 waste is to be disposed of under that law, ordi-
7 nance, regulation, plan, or legally binding provi-
8 sion.

9 “(2) FACTORS DEMONSTRATING COMMIT-
10 MENT.—A commitment to the designation of waste
11 management facilities or public service authority is
12 demonstrated by 1 or more of the following factors:

13 “(A) CONSTRUCTION PERMITS.—All per-
14 mits required for the substantial construction of
15 the facility were obtained prior to May 15,
16 1994.

17 “(B) CONTRACTS.—All contracts for the
18 substantial construction of the facility were in
19 effect prior to May 15, 1994.

20 “(C) REVENUE BONDS.—Prior to May 15,
21 1994, revenue bonds were presented for sale to
22 specifically provide revenue for the construction
23 of the facility.

24 “(D) CONSTRUCTION AND OPERATING
25 PERMITS.—The State or political subdivision

1 submitted to the appropriate regulatory agency
2 or agencies, on or before May 15, 1994, sub-
3 stantially complete permit applications for the
4 construction and operation of the facility.

5 “(d) FORMATION OF SOLID WASTE MANAGEMENT
6 DISTRICT TO PURCHASE AND OPERATE EXISTING FACIL-
7 ITY.—Notwithstanding subsection (b)(1) (A) and (B), a
8 solid waste management district that was formed by a
9 number of political subdivisions for the purpose of pur-
10 chasing and operating a facility owned by 1 of the political
11 subdivisions may exercise flow control authority under
12 subsection (b) if—

13 “(1) the facility was fully licensed and in oper-
14 ation prior to May 15, 1994;

15 “(2) prior to April 1, 1994, substantial negotia-
16 tions and preparation of documents for the forma-
17 tion of the district and purchase of the facility were
18 completed;

19 “(3) prior to May 15, 1994, at least 80 percent
20 of the political subdivisions that were to participate
21 in the solid waste management district had adopted
22 ordinances committing the political subdivisions to
23 participation and the remaining political subdivisions
24 adopted such ordinances within 2 months after that
25 date; and

1 “(3) the financing was completed, the acquisi-
2 tion was made, and the facility was placed under op-
3 eration by the solid waste management district by
4 September 21, 1994.

5 “(e) CONSTRUCTED AND OPERATED.—A political
6 subdivision of a State may exercise flow control authority
7 for municipal solid waste and for recyclable material vol-
8 untarily relinquished by the owner or generator of the ma-
9 terial that is generated within its jurisdiction if—

10 “(1) prior to May 15, 1994, the political sub-
11 division—

12 “(A) contracted with a public service au-
13 thority or with its operator to deliver or cause
14 to be delivered to the public service authority
15 substantially all of the disposable municipal
16 solid waste that is generated or collected by or
17 is within or under the control of the political
18 subdivision, in order to support revenue bonds
19 issued by and in the name of the public service
20 authority or on its behalf by a State entity for
21 waste management facilities; or

22 “(B) entered into contracts with a public
23 service authority or its operator to deliver or
24 cause to be delivered to the public service au-
25 thority substantially all of the disposable munic-

1 ipal solid waste that is generated or collected by
 2 or within the control of the political subdivision,
 3 which imposed flow control pursuant to a law,
 4 ordinance, regulation, or other legally binding
 5 provision and where outstanding revenue bonds
 6 were issued in the name of public service au-
 7 thorities for waste management facilities; and
 8 “(2) prior to May 15, 1994, the public service
 9 authority—

10 “(A) issued the revenue bonds or had is-
 11 sued on its behalf by a State entity for the con-
 12 struction of municipal solid waste facilities to
 13 which the political subdivision’s municipal solid
 14 waste is transferred or disposed; and

15 “(B) commenced operation of the facilities.
 16 The authority under this subsection shall be exercised in
 17 accordance with section 4012(b)(4).

18 “(f) STATE-MANDATED DISPOSAL SERVICES.—A po-
 19 litical subdivision of a State may exercise flow control au-
 20 thority for municipal solid waste and for recyclable mate-
 21 rial voluntarily relinquished by the owner or generator of
 22 the material that is generated within its jurisdiction if,
 23 prior to May 15, 1994, the political subdivision—

24 “(1) was responsible under State law for pro-
 25 viding for the operation of solid waste facilities to

1 serve the disposal needs of all incorporated and un-
2 incorporated areas of the county;

3 “(2) is required to initiate a recyclable mate-
4 rials recycling program in order to meet a municipal
5 solid waste reduction goal of at least 30 percent;

6 “(3) has been authorized by State statute to ex-
7 ercise flow control authority and had implemented
8 the authority through the adoption or execution of
9 a law, ordinance, regulation, contract, or other le-
10 gally binding provision;

11 “(4) had incurred, or caused a public service
12 authority to incur, significant financial expenditures
13 to comply with State law and to repay outstanding
14 bonds that were issued specifically for the construc-
15 tion of solid waste management facilities to which
16 the political subdivision’s waste is to be delivered;
17 and

18 “(5) the authority under this subsection shall
19 be exercised in accordance with section 4012(b)(4).

20 “(g) STATE SOLID WASTE DISTRICT AUTHORITY.—
21 A solid waste district or a political subdivision of a State
22 may exercise flow control authority for municipal solid
23 waste and for recyclable material voluntarily relinquished
24 by the owner or generator of the material that is generated
25 within its jurisdiction if—

1 “(1) the solid waste district, political subdivi-
2 sion or municipality within said district is currently
3 required to initiate a recyclable materials recycling
4 program in order to meet a municipal solid waste re-
5 duction goal of at least 30 percent by the year 2005,
6 and uses revenues generated by the exercise of flow
7 control authority strictly to implement programs to
8 manage municipal solid waste, other than develop-
9 ment of incineration; and

10 “(2) prior to May 15, 1994, the solid waste dis-
11 trict, political subdivision or municipality within said
12 district—

13 “(A) was responsible under State law for
14 the management and regulation of the storage,
15 collection, processing, and disposal of solid
16 wastes within its jurisdiction;

17 “(B) was authorized by State statute (en-
18 acted prior to January 1, 1992) to exercise flow
19 control authority, and subsequently adopted or
20 sought to exercise the authority through a law,
21 ordinance, regulation, regulatory proceeding,
22 contract, franchise, or other legally binding pro-
23 vision; and

24 “(C) was required by State statute (en-
25 acted prior to January 1, 1992) to develop and

1 implement a solid waste management plan con-
2 sistent with the State solid waste management
3 plan, and the district solid waste management
4 plan was approved by the appropriate State
5 agency prior to September 15, 1994.

6 (h) STATE-AUTHORIZED SERVICES AND LOCAL PLAN
7 ADOPTION.—A political subdivision of a State may exer-
8 cise flow control authority for municipal solid waste and
9 for recyclable material voluntarily relinquished by the
10 owner or generator of the material that is generated with-
11 in its jurisdiction if, prior to May 15, 1994, the political
12 subdivision—

13 (1) had been authorized by State statute which
14 specifically named the political subdivision to exer-
15 cise flow control authority and had implemented the
16 authority through a law, ordinance, regulation, con-
17 tract, or other legally binding provision; and

18 (2) had adopted a local solid waste management
19 plan pursuant to State statute and was required by
20 State statute to adopt such plan in order to submit
21 a complete permit application to construct a new
22 solid waste management facility proposed in such
23 plan; and

24 (3) had presented for sale a revenue or general
25 obligation bond to provide for the site selection, per-

1 mitting, or acquisition for construction of new facili-
2 ties identified and proposed in its local solid waste
3 management plan; and

4 (4) includes a municipality or municipalities re-
5 quired by State law to adopt a local law or ordinance
6 to require that solid waste which has been left for
7 collection shall be separated into recyclable, reusable
8 or other components for which economic markets
9 exist; and

10 (5) is in a State that has aggressively pursued
11 closure of substandard municipal landfills, both by
12 regulatory action and under statute designed to pro-
13 tect deep flow recharge areas in counties where pota-
14 ble water supplies are derived from sole source
15 aquifers.

16 “(i) RETAINED AUTHORITY.—

17 “(1) REQUEST.—On the request of a generator
18 of municipal solid waste affected by this section, a
19 State or political subdivision may authorize the di-
20 version of all or a portion of the solid waste gen-
21 erated by the generator making the request to an al-
22 ternative solid waste treatment or disposal facility, if
23 the purpose of the request is to provide a higher
24 level of protection for human health and the environ-
25 ment or reduce potential future liability of the gen-

1 erator under Federal or State law for the manage-
2 ment of such waste, unless the State or political sub-
3 division determines that the facility to which the mu-
4 nicipal solid waste is proposed to be diverted does
5 not provide a higher level of protection for human
6 health and the environment or does not reduce the
7 potential future liability of the generator under Fed-
8 eral or State law for the management of such waste.

9 “(2) CONTENTS.—A request under paragraph
10 (1) shall include information on the environmental
11 suitability of the proposed alternative treatment or
12 disposal facility and method, compared to that of the
13 designated facility and method.

14 “(j) LIMITATIONS ON REVENUE.—A State or politi-
15 cal subdivision may exercise flow control authority under
16 subsection (b), (c), (d), or (e) only if the State or political
17 subdivision certifies that the use of any of its revenues
18 derived from the exercise of that authority will be used
19 for solid waste management services or related landfill rec-
20 lamation.

21 “(k) REASONABLE REGULATION OF COMMERCE.—A
22 law, ordinance, regulation, or other legally binding provi-
23 sion or official act of a State or political subdivision, as
24 described in subsection (b), (c), (d), or (e), that imple-
25 ments flow control authority in compliance with this sec-

1 tion shall be considered to be a reasonable regulation of
2 commerce retroactive to its date of enactment or effective
3 date and shall not be considered to be an undue burden
4 on or otherwise considered as impairing, restraining, or
5 discriminating against interstate commerce.

6 “(I) EFFECT ON EXISTING LAWS AND CONTRACTS.—

7 “(1) ENVIRONMENTAL LAWS.—Nothing in this
8 section shall be construed to have any effect on any
9 other law relating to the protection of human health
10 and the environment or the management of municipi-
11 pal solid waste or recyclable material.

12 “(2) STATE LAW.—Nothing in this section shall
13 be construed to authorize a political subdivision of a
14 State to exercise the flow control authority granted
15 by this section in a manner that is inconsistent with
16 State law.

17 “(3) OWNERSHIP OF RECYCLABLE MATERIAL.—
18 Nothing in this section—

19 “(A) authorizes a State or political subdivi-
20 sion of a State to require a generator or owner
21 of recyclable material to transfer recyclable ma-
22 terial to the State or political subdivision; or

23 “(B) prohibits a generator or owner of re-
24 cyclable material from selling, purchasing, ac-
25 cepting, conveying, or transporting recyclable

1 material for the purpose of transformation or
2 remanufacture into usable or marketable mate-
3 rial, unless the generator or owner voluntarily
4 made the recyclable material available to the
5 State or political subdivision and relinquished
6 any right to, or ownership of, the recyclable ma-
7 terial.

8 “(m) REPEAL.—(1) Notwithstanding any provision
9 of this title, authority to flow control by directing munici-
10 pal solid waste or recyclable materials to a waste manage-
11 ment facility shall terminate on the date that is 30 years
12 after the date of enactment of this Act.

13 “(2) This section and the item relating to this section
14 in the table of contents for subtitle D of the Solid Waste
15 Disposal Act are repealed effective as of the date that is
16 30 years after the date of enactment of this Act.

17 “(n) TITLE NOT APPLICABLE TO LISTED FACILI-
18 TIES.—Notwithstanding any other provision of this title,
19 the authority to exercise flow control shall not apply to
20 any facility that—

21 “(1) on the date of enactment of this Act, is
22 listed on the National Priorities List under the Com-
23 prehensive Environmental, Response, Compensation
24 and Liability Act (42 U.S.C. 9601 et seq.); or

1 “(2) as of May 15, 1994, was the subject of a
 2 pending proposal by the Administrator of the Envi-
 3 ronmental Protection Agency to be listed on the Na-
 4 tional Priorities List.”.

5 **SEC. 203. TABLE OF CONTENTS AMENDMENT.**

6 The table of contents for subtitle D in section 1001
 7 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901),
 8 as amended by section 101(b), is amended by adding after
 9 the item relating to section 4011 the following new item:

 “Sec. 4012. State and local government control of movement of municipal solid
 waste and recyclable material.”.

10 **TITLE III—GROUND WATER MONITORING**

11 **SEC. 301. GROUND WATER MONITORING.**

12 (a) AMENDMENT OF SOLID WASTE DISPOSAL ACT.—
 13 Section 4010(c) of the Solid Waste Disposal Act (42
 14 U.S.C. 6949a(c)) is amended—

15 (1) by striking “CRITERIA.—Not later” and in-
 16 serting the following: “CRITERIA.—

17 “(1) IN GENERAL.—Not later”; and

18 (2) by adding at the end the following new
 19 paragraph:

20 “(2) ADDITIONAL REVISIONS.—Subject to para-
 21 graph (2), the requirements of the criteria described
 22 in paragraph (1) relating to ground water monitor-
 23 ing shall not apply to an owner or operator of a new
 24 municipal solid waste landfill unit, an existing mu-

1 municipal solid waste landfill unit, or a lateral expan-
2 sion of a municipal solid waste landfill unit, that dis-
3 poses of less than 20 tons of municipal solid waste
4 daily, based on an annual average, if—

5 “(A) there is no evidence of ground water
6 contamination from the municipal solid waste
7 landfill unit or expansion; and

8 “(B) the municipal solid waste landfill unit
9 or expansion serves—

10 “(i) a community that experiences an
11 annual interruption of at least 3 consecu-
12 tive months of surface transportation that
13 prevents access to a regional waste man-
14 agement facility; or

15 “(ii) a community that has no prac-
16 ticable waste management alternative and
17 the landfill unit is located in an area that
18 annually receives less than or equal to 25
19 inches of precipitation.

20 “(3) PROTECTION OF GROUND WATER RE-
21 SOURCES.—

22 “(A) MONITORING REQUIREMENT.—A
23 State may require ground water monitoring of
24 a solid waste landfill unit that would otherwise
25 be exempt under paragraph (2) if necessary to

1 protect ground water resources and ensure com-
2 pliance with a State ground water protection
3 plan, where applicable.

4 “(B) METHODS.—If a State requires
5 ground water monitoring of a solid waste land-
6 fill unit under subparagraph (A), the State may
7 allow the use of a method other than the use
8 of ground water monitoring wells to detect a re-
9 lease of contamination from the unit.

10 “(C) CORRECTIVE ACTION.—If a State
11 finds a release from a solid waste landfill unit,
12 the State shall require corrective action as ap-
13 propriate.

14 “(4) ALASKA NATIVE VILLAGES.—Upon certifi-
15 cation by the Governor of the State of Alaska that
16 application of the requirements of the criteria de-
17 scribed in paragraph (1) to a solid waste landfill
18 unit of a Native village (as defined in section 3 of
19 the Alaska Native Claims Settlement Act (16 U.S.C.
20 1602)) or unit that is located in or near a small, re-
21 mote Alaska village would be infeasible, or would not
22 be cost-effective, or is otherwise inappropriate be-
23 cause of the remote location of the unit, the State
24 may exempt the unit from some or all of those re-
25 quirements. This subsection shall apply only to solid

1 waste landfill units that dispose of less than 20 tons
2 of municipal solid waste daily, based on an annual
3 average.

4 “(5) NO-MIGRATION EXEMPTION.—

5 “(A) IN GENERAL.—Ground water mon-
6 itoring requirements may be suspended by the
7 Director of an approved State for a landfill op-
8 erator if the operator demonstrates that there is
9 no potential for migration of hazardous con-
10 stituents from the unit to the uppermost aqui-
11 fer during the active life of the unit and the
12 post-closure care period.

13 “(B) CERTIFICATION.—A demonstration
14 under subparagraph (A) shall—

15 “(i) be certified by a qualified ground-
16 water scientist and approved by the Direc-
17 tor of an approved State.

18 “(C) GUIDANCE.—Not later than 6 months
19 after the date of enactment of this paragraph,
20 the Administrator shall issue a guidance docu-
21 ment to facilitate small community use of the
22 no migration exemption under this paragraph.

23 “(6) FURTHER REVISIONS OF GUIDELINES AND
24 CRITERIA.—Not later than April 9, 1997, the Ad-
25 ministrator shall promulgate revisions to the guide-

1 lines and criteria promulgated under this subchapter
 2 to allow States to promulgate alternate design, oper-
 3 ating, landfill gas monitoring, financial assurance,
 4 and closure requirements for landfills which receive
 5 20 tons or less of municipal solid waste per day
 6 based on an annual average: *Provided* That such al-
 7 ternate requirements are sufficient to protect human
 8 health and the environment.”.

9 (b) REINSTATEMENT OF REGULATORY EXEMP-
 10 TION.—It is the intent of section 4010(c)(2) of the Solid
 11 Waste Disposal Act, as added by subsection (a), to imme-
 12 diately reinstate subpart E of part 258 of title 40, Code
 13 of Federal Regulations, as added by the final rule pub-
 14 lished at 56 Federal Register 50798 on October 9, 1991.

15 **TITLE IV—STATE OR REGIONAL SOLID**
 16 **WASTE PLANS**

17 **SEC. 401. FINDING.**

18 Section 1002(a) of the Solid Waste Disposal Act (42
 19 U.S.C. 6901(a)) is amended—

20 (1) by striking the period at the end of para-
 21 graph (4) and inserting “; and”; and

22 (2) by adding at the end the following:

23 “(5) that the Nation’s improved standard of liv-
 24 ing has resulted in an increase in the amount of
 25 solid waste generated per capita, and the Nation has

1 not given adequate consideration to solid waste re-
2 duction strategies.”.

3 **SEC. 402. OBJECTIVE OF SOLID WASTE DISPOSAL ACT.**

4 Section 1003(a) of the Solid Waste Disposal Act (42
5 U.S.C. 6902(a)) is amended—

6 (1) by striking “and” at the end of paragraph
7 (10);

8 (2) by striking the period at the end of para-
9 graph (11) and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(12) promoting local and regional planning
12 for—

13 “(A) effective solid waste collection and
14 disposal; and

15 “(B) reducing the amount of solid waste
16 generated per capita through the use of solid
17 waste reduction strategies.”.

18 **SEC. 403. NATIONAL POLICY.**

19 Section 1003(b) of the Solid Waste Disposal Act (42
20 U.S.C. 6902(b)) is amended by inserting “solid waste
21 and” after “generation of”.

22 **SEC. 404. OBJECTIVE OF SUBTITLE D OF SOLID WASTE DIS-**
23 **POSAL ACT.**

24 Section 4001 of the Solid Waste Disposal Act (42
25 U.S.C. 6941) is amended by inserting “promote local and

1 regional planning for effective solid waste collection and
2 disposal and for reducing the amount of solid waste gen-
3 erated per capita through the use of solid waste reduction
4 strategies, and” after “objectives of this subtitle are to”.

5 **SEC. 405. DISCRETIONARY STATE PLAN PROVISIONS.**

6 Section 4003 of the Solid Waste Disposal Act (42
7 U.S.C. 6943) is amended by adding at the end the follow-
8 ing:

9 “(e) DISCRETIONARY PLAN PROVISIONS RELATING
10 TO SOLID WASTE REDUCTION GOALS, LOCAL AND RE-
11 GIONAL PLANS, AND ISSUANCE OF SOLID WASTE MAN-
12 AGEMENT PERMITS.—Except as provided in section
13 4011(a)(4), a State plan submitted under this subtitle
14 may include, at the option of the State, provisions for—

15 “(1) establishment of a State per capita solid
16 waste reduction goal, consistent with the goals and
17 objectives of this subtitle; and

18 “(2) establishment of a program that ensures
19 that local and regional plans are consistent with
20 State plans and are developed in accordance with
21 sections 4004, 4005, and 4006.”.

1 **SEC. 406. PROCEDURE FOR DEVELOPMENT AND IMPLE-**
 2 **MENTATION OF STATE PLANS.**

3 Section 4006(b) of the Solid Waste Disposal Act (42
 4 U.S.C. 6946(b)) is amended by inserting “and discre-
 5 tionary plan provisions” after “minimum requirements”.

6 **TITLE V—GENERAL PROVISIONS**

7 **SEC. 501. BORDER STUDIES.**

8 (a) DEFINITIONS.—In this section:

9 (1) ADMINISTRATOR.—The term “Adminis-
 10 trator” means the Administrator of the Environ-
 11 mental Protection Agency.

12 (2) MAQUILADORA.—The term “maquiladora”
 13 means an industry located in Mexico along the bor-
 14 der between the United States and Mexico.

15 (3) SOLID WASTE.—The term “solid waste” has
 16 the meaning provided the term under section
 17 1004(27) of the Solid Waste Disposal Act (42
 18 U.S.C. 6903(27)).

19 (b) IN GENERAL.—

20 (1) STUDY OF SOLID WASTE MANAGEMENT IS-
 21 SUES ASSOCIATED WITH NORTH AMERICAN FREE
 22 TRADE AGREEMENT.—As soon as practicable after
 23 the date of enactment of this Act, the Administrator
 24 is authorized to conduct a study of solid waste man-
 25 agement issues associated with increased border use

1 resulting from the implementation of the North
2 American Free Trade Agreement.

3 (2) STUDY OF SOLID WASTE MANAGEMENT IS-
4 SUES ASSOCIATED WITH UNITED STATES-CANADA
5 FREE-TRADE AGREEMENT.—As soon as practicable
6 after the date of enactment of this Act, the Adminis-
7 trator may conduct a similar study focused on bor-
8 der traffic of solid waste resulting from the imple-
9 mentation of the United States-Canada Free-Trade
10 Agreement, with respect to the border region be-
11 tween the United States and Canada.

12 (c) CONTENTS OF STUDY.—A study conducted under
13 this section shall provide for the following:

14 (1) A study of planning for solid waste treat-
15 ment, storage, and disposal capacity (including addi-
16 tional landfill capacity) that would be necessary to
17 accommodate the generation of additional household,
18 commercial, and industrial wastes by an increased
19 population along the border involved.

20 (2) A study of the relative impact on border
21 communities of a regional siting of solid waste stor-
22 age and disposal facilities.

23 (3) In the case of the study described in sub-
24 section (b)(1), research concerning methods of track-
25 ing of the transportation of—

1 (A) materials from the United States to
2 maquiladoras; and

3 (B) waste from maquiladoras to a final
4 destination.

5 (4) In the case of the study described in sub-
6 section (b)(1), a determination of the need for solid
7 waste materials safety training for workers in Mex-
8 ico and the United States within the 100-mile zone
9 specified in the First Stage Implementation Plan
10 Report for 1992–1994 of the Integrated Environ-
11 mental Plan for the Mexico-United States Border,
12 issued by the Administrator in February 1992.

13 (5) A review of the adequacy of existing emer-
14 gency response networks in the border region in-
15 volved, including the adequacy of training, equip-
16 ment, and personnel.

17 (6) An analysis of solid waste management
18 practices in the border region involved, including an
19 examination of methods for promoting source reduc-
20 tion, recycling, and other alternatives to landfills.

21 (d) SOURCES OF INFORMATION.—In conducting a
22 study under this section, the Administrator shall, to the
23 extent allowable by law, solicit, collect, and use the follow-
24 ing information:

1 (1) A demographic profile of border lands based
2 on census data prepared by the Bureau of the Cen-
3 sus of the Department of Commerce and, in the case
4 of the study described in subsection (b)(1), census
5 data prepared by the Government of Mexico.

6 (2) In the case of the study described in sub-
7 section (b)(1), information from the United States
8 Customs Service of the Department of the Treasury
9 concerning solid waste transported across the border
10 between the United States and Mexico, and the
11 method of transportation of the waste.

12 (3) In the case of the study described in sub-
13 section (b)(1), information concerning the type and
14 volume of materials used in maquiladoras.

15 (4)(A) Immigration data prepared by the Immi-
16 gration and Naturalization Service of the Depart-
17 ment of Justice.

18 (B) In the case of the study described in sub-
19 section (b)(1), immigration data prepared by the
20 Government of Mexico.

21 (5) Information relating to the infrastructure of
22 border land, including an accounting of the number
23 of landfills, wastewater treatment systems, and solid
24 waste treatment, storage, and disposal facilities.

1 (6) A listing of each site in the border region
2 involved where solid waste is treated, stored, or dis-
3 posed of.

4 (7) In the case of the study described in sub-
5 section (b)(1), a profile of the industries in the re-
6 gion of the border between the United States and
7 Mexico.

8 (e) CONSULTATION AND COOPERATION.—In carrying
9 out this section, the Administrator shall consult with the
10 following entities in reviewing study activities:

11 (1) With respect to reviewing the study de-
12 scribed in subsection (b)(1), States and political sub-
13 divisions of States (including municipalities and
14 counties) in the region of the border between the
15 United States and Mexico.

16 (2) The heads of other Federal agencies (in-
17 cluding the Secretary of the Interior, the Secretary
18 of Housing, the Secretary of Health and Human
19 Services, the Secretary of Transportation, and the
20 Secretary of Commerce) and with respect to review-
21 ing the study described in subsection (b)(1), equiva-
22 lent officials of the Government of Mexico.

23 (f) REPORTS TO CONGRESS.—On completion of the
24 studies under this section, the Administrator shall, not
25 later than 2 years after the date of enactment of this Act,

1 submit to the appropriate committees of Congress reports
2 that summarize the findings of the studies and propose
3 methods by which solid waste border traffic may be
4 tracked, from source to destination, on an annual basis.

5 (g) BORDER STUDY DELAY.—The conduct of the
6 study described in subsection (b)(2) shall not delay or oth-
7 erwise affect completion of the study described in sub-
8 section (b)(1).

9 (h) FUNDING.—If any funding needed to conduct the
10 studies required by this section is not otherwise available,
11 the President may transfer to the Administrator, for use
12 in conducting the studies, any funds that have been appro-
13 priated to the President under section 533 of the North
14 American Free Trade Agreement Implementation Act (19
15 U.S.C. 3473) that are in excess of the amount needed to
16 carry out that section. States that wish to participate in
17 study will be asked to contribute to the costs of the study.
18 The terms of the cost share shall be negotiated between
19 the Environmental Protection Agency and the State.”.

20 **SEC. 502. STUDY OF INTERSTATE HAZARDOUS WASTE**
21 **TRANSPORT.**

22 (a) DEFINITION OF HAZARDOUS WASTE.—In this
23 section, the term “hazardous waste” has the meaning pro-
24 vided in section 1004 of the Solid Waste Disposal Act (42
25 U.S.C. 6903).

1 (b) STUDY.—Not later than 3 years after the date
2 of enactment of this Act, the Administrator of the Envi-
3 ronmental Protection Agency shall conduct a study, and
4 report to Congress on the results of the study, to deter-
5 mine—

6 (1) the quantity of hazardous waste that is
7 being transported across State lines; and

8 (2) the ultimate disposition of the transported
9 waste.

10 **SEC. 503. STUDY OF INTERSTATE SLUDGE TRANSPORT.**

11 (a) DEFINITIONS.—In this section:

12 (1) SEWAGE SLUDGE.—The term “sewage
13 sludge”—

14 (A) means solid, semisolid, or liquid resi-
15 due generated during the treatment of domestic
16 sewage in a treatment works; and

17 (B) includes—

18 (i) domestic septage;

19 (ii) scum or a solid removed in a pri-
20 mary, secondary, or advanced wastewater
21 treatment process; and

22 (iii) material derived from sewage
23 sludge (as otherwise defined in this para-
24 graph); but

25 (C) does not include—

- 1 (i) ash generated during the firing of
2 sewage sludge (as otherwise defined in this
3 paragraph) in a sewage sludge incinerator;
4 or
5 (ii) grit or screenings generated dur-
6 ing preliminary treatment of domestic sew-
7 age in a treatment works.

8 (2) SLUDGE.—The term “sludge” has the
9 meaning provided in section 1004 of the Solid Waste
10 Disposal Act (42 U.S.C. 6903).

11 (b) STUDY.—Not later than 3 years after the date
12 of enactment of this Act, the Administrator of the Envi-
13 ronmental Protection Agency shall conduct a study, and
14 report to Congress on the results of the study, to deter-
15 mine—

16 (1) the quantity of sludge (including sewage
17 sludge) that is being transported across State lines;
18 and

19 (2) the ultimate disposition of the transported
20 sludge.

Passed the Senate May 16 (legislative day, May 15),
1995.

Attest:

SHEILA P. BURKE,

Secretary.

S 534 RFH—2

S 534 RFH—3

S 534 RFH—4

S 534 RFH—5