

**Calendar No. 74**

104TH CONGRESS  
1ST SESSION

**S. 534**

[Report No. 104-52]

**A BILL**

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.

APRIL 18, 1995

Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

MARCH 10 (legislative day, MARCH 6), 1995

Mr. SMITH (for himself and Mr. CHAFEE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

APRIL 18, 1995

Reported, under authority of the order of the Senate of April 6 (legislative day, April 5), 1995, by Mr. CHAFEE, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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**A BILL**

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Interstate Transpor-  
3 tation of Municipal Solid Waste Act of 1995”.

4 **~~TITLE I—INTERSTATE WASTE~~**

5 **SEC. 101. INTERSTATE TRANSPORTATION OF MUNICIPAL**  
6 **SOLID WASTE.**

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

10 “INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID  
11 WASTE

12 “SEC. 4011. (a) AUTHORITY TO RESTRICT OUT-OF-  
13 STATE MUNICIPAL SOLID WASTE.—(1) Except as pro-  
14 vided in paragraph (4), immediately upon the date of en-  
15 actment of this section if requested in writing by an af-  
16 fected local government, a Governor may prohibit the dis-  
17 posal of out-of-State municipal solid waste in any landfill  
18 or incinerator that is not covered by the exceptions pro-  
19 vided in subsection (b) and that is subject to the jurisdic-  
20 tion of the Governor and the affected local government.

21 “(2) Except as provided in paragraph (4), imme-  
22 diately upon the date of publication of the list required  
23 in paragraph (6)(D) and notwithstanding the absence of  
24 a request in writing by the affected local government, a  
25 Governor, in accordance with paragraph (5), may limit the  
26 quantity of out-of-State municipal solid waste received for

1 disposal at each landfill or incinerator covered by the ex-  
2 ceptions provided in subsection (b) that is subject to the  
3 jurisdiction of the Governor, to an annual amount equal  
4 to or greater than the quantity of out-of-State municipal  
5 solid waste received for disposal at such landfill or inciner-  
6 ator during calendar year 1993.

7 “(3)(A) Except as provided in paragraph (4), under  
8 the conditions stated in subparagraph (B), immediately  
9 upon the date of publication of the list required in para-  
10 graph (6)(E), and notwithstanding the absence of a re-  
11 quest in writing by the affected local government, a Gov-  
12 ernor, in accordance with paragraph (5), may prohibit or  
13 limit the amount of out-of-State municipal solid waste dis-  
14 posed of at any landfill or incinerator covered by the ex-  
15 ceptions in subsection (b) that is subject to the jurisdiction  
16 of the Governor, generated in any State that is determined  
17 by the Administrator under paragraph (6)(E) as having  
18 exported, to landfills or incinerators not covered by host  
19 community agreements, more than—

20 “(i) 3.5 million tons of municipal solid waste in  
21 calendar year 1996;

22 “(ii) 3.0 million tons of municipal solid waste in  
23 each of calendar years 1997 and 1998;

24 “(iii) 2.5 million tons of municipal solid waste  
25 in each of calendar years 1999 and 2000;

1           ~~“(iv) 1.5 million tons of municipal solid waste~~  
2           ~~in each of calendar years 2001 and 2002; and~~

3           ~~“(v) 1.0 million tons of municipal solid waste in~~  
4           ~~calendar year 2003 and each year thereafter.~~

5           ~~“(B) The conditions stated in this subparagraph are~~  
6           ~~that—~~

7           ~~“(i) the Governor of the importing State has~~  
8           ~~notified the Governor of the exporting State and the~~  
9           ~~Administrator 12 months prior to enforcement of~~  
10          ~~the importing State’s intention to impose the re-~~  
11          ~~quirements of this section;~~

12          ~~“(ii) the Governor of the importing State has~~  
13          ~~notified the Governor of the exporting State and the~~  
14          ~~Administrator of the violation by the exporting State~~  
15          ~~of this section at least 90 days prior to the enforce-~~  
16          ~~ment of this section; and~~

17          ~~“(iii) the restrictions imposed by the Governor~~  
18          ~~of the importing State are uniform at all facilities.~~

19          ~~“(C) The authority provided by subparagraphs (A)~~  
20          ~~and (B) shall apply for as long as a State exceeds the~~  
21          ~~permissible levels as determined by the Administrator~~  
22          ~~under paragraph (6)(E).~~

23          ~~“(4)(A) A Governor may not exercise the authority~~  
24          ~~granted under this section if such action would result in~~  
25          ~~the violation of, or would otherwise be inconsistent with,~~

1 the terms of a host community agreement or a permit is-  
2 sued from the State to receive out-of-State municipal solid  
3 waste.

4 “(B) Except as provided in paragraph (3), a Gov-  
5 ernor may not exercise the authority granted under this  
6 section in a manner that would require any owner or oper-  
7 ator of a landfill or incinerator covered by the exceptions  
8 provided in subsection (b) to reduce the amount of out-  
9 of-State municipal solid waste received from any State for  
10 disposal at such landfill or incinerator to an annual quan-  
11 tity less than the amount received from such State for dis-  
12 posal at such landfill or incinerator during calendar year  
13 1993.

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

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

17 “(B) shall not directly or indirectly discriminate  
18 against any particular landfill or incinerator within  
19 the State; and

20 “(C) shall not directly or indirectly discriminate  
21 against any shipments of out-of-State municipal  
22 solid waste on the basis of State of origin and all  
23 such limitations shall be applied to all States in vio-  
24 lation of paragraph (3).

1       “(6)(A)(i) Any Governor who intends to exercise the  
2 authority provided in paragraph (2) or (3) shall, within  
3 120 days after the date of enactment of this section, and  
4 on the same day of each year thereafter, submit to the  
5 Administrator information documenting the State of ori-  
6 gin and the quantity of out-of-State municipal solid waste  
7 received for disposal at landfills and incinerators covered  
8 by the exceptions provided in subsection (b) in the State  
9 of such Governor during calendar year 1993.

10       “(ii) The Administrator is authorized and directed to  
11 collect such additional information in addition to what is  
12 submitted under clause (i) as may be necessary to deter-  
13 mine if the level of exports of municipal solid waste by  
14 any State exceeds the level established in paragraph (3).

15       “(B) On receipt of the information submitted or col-  
16 lected pursuant to subparagraph (A), the Administrator  
17 shall notify the Governor of each such State and the Gov-  
18 ernors of States with exports that exceed the level of ex-  
19 ports of municipal solid waste established in paragraph (3)  
20 and shall publish notice and shall provide a comment pe-  
21 riod of not less than 30 days.

22       “(C) Not later than 60 days after receipt of informa-  
23 tion from a Governor, and any additional information ob-  
24 tained by the Administrator, under subparagraph (A), the  
25 Administrator shall determine the quantity of out-of-State

1 municipal solid waste that was received for disposal in the  
2 State during calendar year 1993, the State of origin and  
3 the total amount of municipal solid waste exports from  
4 each State that exceeds the level established in paragraph  
5 (3), and the quantity of out-of-State municipal solid waste  
6 received for disposal at landfills and incinerators covered  
7 by the exceptions provided in subsection (b) in the State  
8 of such Governor during calendar year 1993. The Admin-  
9 istrator shall publish a public notice and shall provide di-  
10 rect notification to each of the Governors of all States af-  
11 fected by this determination, for each such State for which  
12 the determination is made. A determination by the Admin-  
13 istrator under this subparagraph shall be final and not  
14 subject to judicial review.

15       “(D) Not later than 180 days after the date of enact-  
16 ment of this section, the Administrator shall publish a list  
17 of the quantity of out-of-State municipal solid waste that  
18 was received during calendar year 1993 at each landfill  
19 and incinerator covered by the exceptions provided in sub-  
20 section (b) for disposal in each State in which the Gov-  
21 ernor intends to exercise the authority provided in para-  
22 graph (2) or (3), as determined in accordance with sub-  
23 paragraph (C).

24       “(E) Not later than March 1, 1997, and on March  
25 1 of each year thereafter, the Administrator shall publish



1 a list of States that the Administrator has determined  
2 have exported out of State an amount of municipal solid  
3 waste in excess of 3.5 million tons in calendar year 1996,  
4 3.0 million tons in each of calendar years 1997 and 1998,  
5 2.5 million tons in each of calendar years 1999 and 2000,  
6 1.5 million tons in each of calendar years 2000 and 2001,  
7 and 1.0 million tons in calendar year 2002 and each year  
8 thereafter, as determined in accordance with subpara-  
9 graph (C).

10 “(F) Not later than March 1 of each year after the  
11 date of enactment of this section, or as required by State  
12 law, the owner or operator of each landfill or incinerator  
13 receiving out-of-State municipal solid waste shall submit  
14 to the Governor of the State in which the landfill or incin-  
15 erator is located information specifying, by State of origin,  
16 the amount of out-of-State municipal solid waste received  
17 for disposal during the preceding year. Each year the Gov-  
18 ernor of a State who intends to exercise the authority pro-  
19 vided in paragraph (2) or (3) shall publish and make avail-  
20 able to the public a report containing information on the  
21 amount of out-of-State municipal solid waste received for  
22 disposal in the State during the preceding year.

23 “(7) Any affected local government that intends to  
24 submit a request under paragraph (1) or take formal ac-

1 tion on a host community agreement shall, prior to taking  
2 such action—

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

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

8       “(C) provide an opportunity for public com-  
9 ment; and

10       “(D) following notice and comment, take formal  
11 action on any proposed request or action at a public  
12 meeting.

13       “(8) Any owner or operator seeking a host commu-  
14 nity agreement shall provide to the affected local govern-  
15 ment the following information, which shall be made avail-  
16 able to the public from the affected local government:

17       “(A) A brief description of the planned facility,  
18 including a description of the facility size, ultimate  
19 waste capacity, and anticipated monthly and yearly  
20 waste quantities to be handled.

21       “(B) A map of the facility site that indicates  
22 the location of the facility in relation to the local  
23 road system and topographical and hydrological fea-  
24 tures and any buffer zones and facility units to be  
25 acquired by the owner or operator of the facility.

1           ~~“(C) A description of the existing environ-~~  
2           ~~mental conditions at the site, and any violations of~~  
3           ~~applicable laws or regulations.~~

4           ~~“(D) A description of environmental controls to~~  
5           ~~be utilized at the facility.~~

6           ~~“(E) A description of the site access controls to~~  
7           ~~be employed, and roadway improvements to be~~  
8           ~~made, by the owner or operator, and an estimate~~  
9           ~~of the timing and extent of increased local truck~~  
10          ~~traffic.~~

11          ~~“(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT~~  
12          ~~OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) The au-~~  
13          ~~thority to prohibit the disposal of out-of-State municipal~~  
14          ~~solid waste provided under subsection (a)(1) shall not~~  
15          ~~apply to landfills and incinerators in operation on the date~~  
16          ~~of enactment of this section that—~~

17                 ~~“(A) received during calendar year 1993 docu-~~  
18                 ~~mented shipments of out-of-State municipal solid~~  
19                 ~~waste; and~~

20                 ~~“(B)(i) in the case of landfills, are in compli-~~  
21                 ~~ance with all applicable Federal and State laws and~~  
22                 ~~regulations relating to operation, design and location~~  
23                 ~~standards, leachate collection, ground water monitor-~~  
24                 ~~ing, and financial assurance for closure and post-clo-~~  
25                 ~~sure and corrective action; or~~

1           ~~“(ii) in the case of incinerators, are in compli-~~  
2           ~~ance with the applicable requirements of section 129~~  
3           ~~of the Clean Air Act (42 U.S.C. 7429) and applica-~~  
4           ~~ble State laws and regulations relating to facility de-~~  
5           ~~sign and operations.~~

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

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

23          ~~“(2) The municipal solid waste management capacity~~  
24          ~~referred to in paragraph (1) is that capacity—~~

1           ~~“(A) that is permitted under Federal or State~~  
2     ~~law;~~

3           ~~“(B) that is identified under the State plan;~~  
4     ~~and~~

5           ~~“(C) for which a legally binding commitment~~  
6     ~~between the owner or operator and another party~~  
7     ~~has been made for its use for disposal or inciner-~~  
8     ~~ation of municipal solid waste generated within the~~  
9     ~~region (identified under section 4006(a)) in which~~  
10    ~~the local government is located.~~

11    ~~“(d) COST RECOVERY SURCHARGE.—~~

12           ~~“(1) AUTHORITY.—A State described in para-~~  
13    ~~graph (2) may adopt a law and impose and collect~~  
14    ~~a cost recovery charge on the processing or disposal~~  
15    ~~of out-of-State municipal solid waste in the State in~~  
16    ~~accordance with this subsection.~~

17           ~~“(2) APPLICABILITY.—The authority to impose~~  
18    ~~a cost recovery surcharge under this subsection ap-~~  
19    ~~plies to any State that on or before April 3, 1994,~~  
20    ~~imposed and collected a special fee on the processing~~  
21    ~~or disposal of out-of-State municipal waste pursuant~~  
22    ~~to a State law.~~

23           ~~“(3) LIMITATION.—No such State may impose~~  
24    ~~or collect a cost recovery surcharge from a facility~~  
25    ~~on any out-of-State municipal solid waste that is~~

1 being received at the facility under 1 or more con-  
2 tracts entered into after April 3, 1994, and before  
3 the date of enactment of this section.

4 “(4) AMOUNT OF SURCHARGE.—The amount of  
5 the cost recovery surcharge may be no greater than  
6 the amount necessary to recover those costs deter-  
7 mined in conformance with paragraph (6) and in no  
8 event may exceed \$1.00 per ton of waste.

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

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

20 “(i) the State demonstrates a cost to the  
21 State arising from the processing or disposal  
22 within the State of a volume of municipal solid  
23 waste from a source outside the State;

24 “(ii) the surcharge is based on those costs  
25 to the State demonstrated under subparagraph

1           (A) that, if not paid for through the surcharge,  
2           would otherwise have to be paid or subsidized  
3           by the State; and

4           “(iii) the surcharge is compensatory and is  
5           not discriminatory.

6           “(B) In no event shall a cost recovery surcharge  
7           be imposed by a State to the extent that the cost for  
8           which recovery is sought is otherwise paid, recov-  
9           ered, or offset by any other fee or tax assessed  
10          against or voluntarily paid to the State or its politi-  
11          cal subdivision in connection with the generation,  
12          transportation, treatment, processing, or disposal of  
13          solid waste.

14          “(C) The grant of a subsidy by a State with re-  
15          spect to entities disposing of waste generated within  
16          the State that does not constitute discrimination for  
17          purposes of subparagraph (A)(iii).

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

19                 “(A) The term ‘costs’ means the costs in-  
20                 curred by the State for the implementation of  
21                 its laws governing the processing or disposal of  
22                 municipal solid waste, limited to the issuance of  
23                 new permits and renewal of modified permits,  
24                 inspection and compliance monitoring, enforce-

1           ment, and costs associated with technical assist-  
2           ance, data management and collection fees.

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

9           ~~“(e) SAVINGS CLAUSE.—Nothing in this section shall~~  
10          ~~be interpreted or construed—~~

11           ~~“(1) to have any effect on State law relating to~~  
12          ~~contracts; or~~

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

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



1           ~~“(1)(A) The term ‘affected local government’,~~  
2           ~~used with respect to a landfill or incinerator,~~  
3           ~~means—~~

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

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

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

22                    ~~“(ii) If a Governor fails to make such a des-~~  
23                    ~~ignation, the affected local government shall be the~~  
24                    ~~elected officials of the city, town, township, borough,~~  
25                    ~~county, parish, or other public body created pursu-~~

1 ant to State law with primary jurisdiction over the  
2 land or the use of land on which the facility is lo-  
3 cated or is proposed to be located.

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

10 “(2)(A) The term ‘host community agreement’  
11 means, with respect to any agreement entered into  
12 on or after March 10, 1995, a written, legally bind-  
13 ing document or documents executed by duly author-  
14 ized officials of the affected local government that  
15 expressly authorizes a landfill or incinerator to re-  
16 ceive specified amounts of municipal solid waste gen-  
17 erated out of State.

18 “(B) The term ‘host community agreement’  
19 means, with respect to any agreement entered into  
20 before March 10, 1995, a written, legally binding  
21 document or documents executed by duly authorized  
22 officials of the affected local government expressly  
23 authorizing a landfill or incinerator to receive munic-  
24 ipal solid waste generated out of State, but does not  
25 include any agreement to pay host community fees

1       for receipt of waste unless additional express author-  
2       ization to receive out-of-State municipal solid waste  
3       is also included. For purposes of a host community  
4       agreement entered into before March 10, 1995, such  
5       agreement may use a term other than 'out-of-State',  
6       provided that any alternative term or terms evidence  
7       the approval or consent of the affected local govern-  
8       ment for receipt of municipal solid waste from  
9       sources or locations outside the State in which the  
10      landfill or incinerator is located or is proposed to be  
11      located.

12           “(3) The term ‘out-of-State municipal solid  
13      waste’ means, with respect to any State, municipal  
14      solid waste generated outside of the State. To the  
15      extent that the President determines it is consistent  
16      with the North American Free Trade Agreement  
17      and the General Agreement on Tariffs and Trade,  
18      the term shall include municipal solid waste gen-  
19      erated outside of the United States.

20           “(4) The term ‘municipal solid waste’ means  
21      refuse (and refuse-derived fuel) generated by the  
22      general public or from a residential, commercial, in-  
23      stitutional, or industrial source (or any combination  
24      thereof), consisting of paper, wood, yard wastes,  
25      plastics, leather, rubber, or other combustible or

1 noncombustible materials such as metal or glass (or  
2 any combination thereof). The term ‘municipal solid  
3 waste’ does not include—

4 “(A) any solid waste identified or listed as  
5 a hazardous waste under section 3001, or any  
6 solid waste containing polychlorinated biphenyls  
7 regulated under the Toxic Substances Control  
8 Act (15 U.S.C. 2601 et seq.);

9 “(B) any solid waste, including contami-  
10 nated soil and debris, resulting from a response  
11 action taken under section 104 or 106 of the  
12 Comprehensive Environmental Response, Com-  
13 pensation, and Liability Act of 1980 (42 U.S.C.  
14 9604 or 9606) or a corrective action taken  
15 under this Act;

16 “(C) any metal, pipe, glass, plastic, paper,  
17 textile, or other material that has been sepa-  
18 rated or diverted from municipal solid waste (as  
19 otherwise defined in this paragraph) and has  
20 been transported into a State for the purpose of  
21 recycling or reclamation;

22 “(D) any solid waste that is—

23 “(i) generated by an industrial facil-  
24 ity; and

1           “(ii) transported for the purpose of  
2           treatment, storage, or disposal to a facility  
3           that is owned or operated by the generator  
4           of the waste, or is located on property  
5           owned by the generator of the waste, or is  
6           located on property owned by a company  
7           with which the generator is affiliated;

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

11          “(F) any industrial waste that is not iden-  
12          tical to municipal solid waste (as otherwise de-  
13          fined in this paragraph) with respect to the  
14          physical and chemical state of the industrial  
15          waste, and composition, including construction  
16          and demolition debris;

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

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

23          “(5) The term ‘compliance’ means a pattern or  
24          practice of adhering to and satisfying standards and  
25          requirements promulgated by the Federal or a State

1 government for the purpose of preventing significant  
 2 harm to human health and the environment. Actions  
 3 undertaken in accordance with compliance schedules  
 4 for remediation established by Federal or State en-  
 5 forcement authorities shall be considered compliance  
 6 for purposes of this section.”.

7 ~~(b) TABLE OF CONTENTS AMENDMENT.—~~The table  
 8 of contents in section 1001 of the Solid Waste Disposal  
 9 Act (42 U.S.C. prec. 6901) is amended by adding at the  
 10 end of the items relating to subtitle D the following new  
 11 item:

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

## 12 **TITLE II—FLOW CONTROL**

### 13 **SEC. 201. SHORT TITLE.**

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

### 16 **SEC. 202. STATE AND LOCAL GOVERNMENT CONTROL OF** 17 **MOVEMENT OF MUNICIPAL SOLID WASTE** 18 **AND RECYCLABLE MATERIAL.**

19 Subtitle D of the Solid Waste Disposal Act is amend-  
 20 ed by adding after section 4010 the following new section:

### 21 **“SEC. 4011. STATE AND LOCAL GOVERNMENT CONTROL OF** 22 **MOVEMENT OF MUNICIPAL SOLID WASTE** 23 **AND RECYCLABLE MATERIAL.**

24 “(a) DEFINITIONS.—In this section:

1           “(1) ~~DESIGNATE; DESIGNATION.~~—The terms  
 2           ‘designate’ and ‘designation’ refer to a requirement  
 3           by a State or political subdivision, and the act of a  
 4           State or political subdivision in requiring, that all or  
 5           any portion of the municipal solid waste or recycla-  
 6           ble material that is generated within the boundaries  
 7           of the State or political subdivision be delivered to  
 8           a waste management facility or facility for recyclable  
 9           material identified by the State or political subdivi-  
 10          sion.

11          “(2) ~~FLOW CONTROL AUTHORITY.~~—The term  
 12          ‘flow control authority’ means the authority to con-  
 13          trol the movement of solid waste or recyclable mate-  
 14          rial and direct such solid waste or recyclable mate-  
 15          rial to a designated waste management facility or fa-  
 16          cility for recyclable material.

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

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

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

5       “(B) does not include—

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

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

18          “(iii) medical waste listed in section  
19      11002;

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

24          “(v) recyclable material; or

25          “(vi) sludge.



1           ~~“(4) RECYCLABLE MATERIAL.—The term ‘recy-~~  
2           ~~clable material’ means—~~

3                   ~~“(A) material that has been separated~~  
4                   ~~from waste otherwise destined for disposal (at~~  
5                   ~~the source of the waste or at a processing facil-~~  
6                   ~~ity) or has been managed separately from waste~~  
7                   ~~destined for disposal, for the purpose of recy-~~  
8                   ~~cling, reclamation, composting of organic mate-~~  
9                   ~~rial such as food and yard waste, or reuse~~  
10                  ~~(other than for the purpose of incineration); but~~

11                  ~~“(B) for the purpose of subsection (b), in-~~  
12                  ~~cludes material described in subparagraph (A)~~  
13                  ~~only if the generator or owner of the material~~  
14                  ~~voluntarily made the material available to the~~  
15                  ~~State or political subdivision (or the designee of~~  
16                  ~~the State or political subdivision) and relin-~~  
17                  ~~quished any rights to, or ownership of, the ma-~~  
18                  ~~terial, and the State or political subdivision (or~~  
19                  ~~designee) assumes such rights to, or ownership~~  
20                  ~~of, the material.~~

21           ~~“(5) 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 and each politi-  
3 cal subdivision of a State may exercise flow control  
4 authority for municipal solid waste and for recycla-  
5 ble material voluntarily relinquished by the owner or  
6 generator of the material that is generated within its  
7 jurisdiction by directing the municipal solid waste or  
8 recyclable material to a waste management facility  
9 or facility for recyclable material, if such flow con-  
10 trol authority—

11               “(A) is imposed pursuant to a law, ordi-  
12 nance, regulation, or other legally binding provi-  
13 sion or official act of the State or political sub-  
14 division in effect on May 15, 1994; and

15               “(B) has been implemented by designating  
16 before May 15, 1994, the particular waste man-  
17 agement facilities to which the municipal solid  
18 waste or recyclable material is to be delivered,  
19 the substantial construction of which facilities  
20 was performed after the effective date of that  
21 legally binding provision or official act and  
22 which facilities were in operation as of May 15,  
23 1994.

24               “(2) LIMITATION.—The authority of this sec-  
25 tion extends only to the specific classes or categories

1 of municipal solid waste to which flow control au-  
2 thority requiring a movement to a waste manage-  
3 ment facility was actually applied on or before May  
4 15, 1994 (or, in the case of a State or political sub-  
5 division that qualifies under subsection (c), to the  
6 specific classes or categories of municipal solid waste  
7 for which the State or political subdivision prior to  
8 May 15, 1994, had committed to the designation of  
9 a waste management facility).

10 “(3) LACK OF CLEAR IDENTIFICATION.—With  
11 regard to facilities granted flow control authority  
12 under subsection (c), if the specific classes or cat-  
13 egories of municipal solid waste are not clearly iden-  
14 tified, the authority of this section shall apply only  
15 to municipal solid waste generated by households.

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

20 “(A) the end of the remaining life of a con-  
21 tract between the State or political subdivision  
22 and any other person regarding the movement  
23 or delivery of municipal solid waste or recycla-  
24 ble material (as in effect May 15, 1994);

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

4           ~~“(C) the end of the remaining useful life of~~  
5           ~~the original facility, as that remaining life may~~  
6           ~~be extended by—~~

7                   ~~“(i) retrofitting of equipment or the~~  
8                   ~~making of other significant modifications~~  
9                   ~~to meet applicable environmental require-~~  
10                  ~~ments or safety requirements;~~

11                  ~~“(ii) routine repair or scheduled re-~~  
12                  ~~placement of equipment or components~~  
13                  ~~that does not add to the capacity of a~~  
14                  ~~waste management facility; or~~

15                  ~~“(iii) expansion of the facility on land~~  
16                  ~~that is—~~

17                   ~~“(I) legally or equitably owned,~~  
18                   ~~or under option to purchase or lease,~~  
19                   ~~by the owner or operator of the facil-~~  
20                   ~~ity; and~~

21                   ~~“(II) covered by the permit for~~  
22                   ~~the facility (as in effect May 15,~~  
23                   ~~1994).~~

24           ~~“(c) COMMITMENT TO CONSTRUCTION.—~~

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

5                   “(A) the law, ordinance, regulation, or  
6                   other legally binding provision specifically pro-  
7                   vides for flow control authority for municipal  
8                   solid waste generated within its boundaries and  
9                   was in effect prior to May 15, 1994; and

10                   “(B) the political subdivision took action  
11                   prior to May 15, 1994, to commit to the des-  
12                   ignation of a waste management facility to  
13                   which municipal solid waste is to be transported  
14                   or at which municipal solid waste is to be dis-  
15                   posed of under that law, ordinance, regulation,  
16                   plan, or legally binding provision.

17           “(2) FACTORS DEMONSTRATING COMMIT-  
18           MENT.—A commitment to the designation of a waste  
19           management facility is demonstrated by 1 or more  
20           of the following factors:

21                   “(A) CONSTRUCTION PERMITS.—All per-  
22                   mits required for the substantial construction of  
23                   the facility were obtained prior to May 15,  
24                   1994.

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

4           “(C) REVENUE BONDS.—Prior to May 15,  
5           1994, revenue bonds were presented for sale to  
6           specifically provide revenue for the construction  
7           of the facility.

8           “(D) CONSTRUCTION AND OPERATING  
9           PERMITS.—The State or political subdivision  
10          submitted to the appropriate regulatory agency  
11          or agencies, on or before May 16, 1994, sub-  
12          stantially complete permit applications for the  
13          construction and operation of the facility.

14       “(d) RETAINED AUTHORITY.—

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

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

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

12      “(e) LIMITATIONS ON REVENUE.—A State or politi-  
 13      cal subdivision may exercise flow control authority under  
 14      subsection (b) or (c) only if the State or political subdivi-  
 15      sion certifies that the use of any of its revenues derived  
 16      from the exercise of that authority will be used solely for  
 17      solid waste management services.

18      “(f) REASONABLE REGULATION OF COMMERCE.—A  
 19      law, ordinance, regulation, or other legally binding provi-  
 20      sion or official act of a State or political subdivision, de-  
 21      scribed in subsection (b) or (c), that implements flow con-  
 22      trol authority in compliance with this section shall be con-  
 23      sidered to be a reasonable regulation of commerce and  
 24      shall not be considered to be an undue burden on or other-

1 wise considered as impairing, restraining, or discriminat-  
 2 ing against interstate commerce.

3 ~~“(g) EFFECT ON EXISTING LAWS AND CON-~~  
 4 ~~TRACTS.—~~

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

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

15 ~~“(3) OWNERSHIP OF RECYCLABLE MATERIAL.—~~  
 16 ~~Nothing in this section—~~

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

21 ~~“(B) prohibits a generator or owner of re-~~  
 22 ~~cyclable material from selling, purchasing, ac-~~  
 23 ~~cepting, conveying, or transporting recyclable~~  
 24 ~~material for the purpose of transformation or~~  
 25 ~~remanufacture into usable or marketable mate-~~



1           rial, unless the generator or owner voluntarily  
 2           made the recyclable material available to the  
 3           State or political subdivision and relinquished  
 4           any right to, or ownership of, the recyclable  
 5           material.”.

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

7           The table of contents for subtitle D in section 1001  
 8   of the Solid Waste Disposal Act (42 U.S.C. prec. 6901),  
 9   as amended by section 101(b), is amended by adding after  
 10 the item relating to section 4010 the following new item:

          “Sec. 4011. State and local government control of movement of municipal solid  
           waste and recyclable material.”.

11   **SEC. 204. REPEAL.**

12           Section 4014 of the Solid Waste Disposal Act, as  
 13   added by section 202, and the item relating to that section  
 14   in the table of contents for subtitle D of the Solid Waste  
 15   Disposal Act, as added by section 203, are repealed effec-  
 16   tive as of the date that is 30 years after the date of enact-  
 17   ment of this Act.

18   **SECTION 1. SHORT TITLE.**

19           *This Act may be cited as the “Interstate Transpor-*  
 20   *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 Dis-*  
 5   *posal Act (42 U.S.C. 6941 et seq.) is amended by adding*  
 6   *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 MUNIC-*  
 10   *IPAL SOLID WASTE.*—(1) *Except as provided in paragraph*  
 11   *(4), immediately upon the date of enactment of this section*  
 12   *if requested in writing by an affected local government, a*  
 13   *Governor may prohibit the disposal of out-of-State munici-*  
 14   *pal solid waste in any landfill or incinerator that is not*  
 15   *covered by the exceptions provided in subsection (b) and*  
 16   *that is subject to the jurisdiction of the Governor and the*  
 17   *affected local government.*

18           “(2) *Except as provided in paragraph (4), imme-*  
 19   *diately upon the date of publication of the list required in*  
 20   *paragraph (6)(D) and notwithstanding the absence of a re-*  
 21   *quest in writing by the affected local government, a Gov-*  
 22   *ernor, 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 excep-*  
 25   *tions provided in subsection (b) that is subject to the juris-*

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

5       “(3)(A) *Except as provided in paragraph (4), imme-*  
6 *diately upon the date of publication of the list required in*  
7 *paragraph (6)(E), and notwithstanding the absence of a re-*  
8 *quest in writing by the affected local government, a Gov-*  
9 *ernor, in accordance with paragraph (5), may prohibit or*  
10 *limit the amount of out-of-State municipal solid waste dis-*  
11 *posed of at any landfill or incinerator covered by the excep-*  
12 *tions in subsection (b) that is subject to the jurisdiction of*  
13 *the Governor, generated in any State that is determined*  
14 *by the Administrator under paragraph (6)(E) as having*  
15 *exported, to landfills or incinerators not covered by host*  
16 *community agreements or permits authorizing receipt of*  
17 *out-of-State municipal solid waste, more than—*

18               “(i) *3,500,000 tons of municipal solid waste in*  
19       *calendar year 1996;*

20               “(ii) *3,000,000 tons of municipal solid waste in*  
21       *each of calendar years 1997 and 1998;*

22               “(iii) *2,500,000 tons of municipal solid waste in*  
23       *each of calendar years 1999 and 2000;*

24               “(iv) *1,500,000 tons of municipal solid waste in*  
25       *each of calendar years 2001 and 2002; and*

1           “(v) 1,000,000 tons of municipal solid waste in  
2           calendar year 2003 and each year thereafter.

3           “(B)(i) No State may export to landfills or inciner-  
4           ators in any 1 State that are not covered by host commu-  
5           nity agreements more than the following amounts of munic-  
6           ipal solid waste:

7           “(I) In calendar year 1996, the greater of  
8           1,400,000 tons or 90 percent of the amount exported  
9           to the State in calendar year 1993.

10          “(II) In calendar year 1997, the greater of  
11          1,300,000 tons or 90 percent of the amount exported  
12          to the State in calendar year 1996.

13          “(III) In calendar year 1998, the greater of  
14          1,200,000 tons or 90 percent of the amount exported  
15          to the State in calendar year 1997.

16          “(IV) In calendar year 1999, the greater of  
17          1,100,000 tons or 90 percent of the amount exported  
18          to the State in calendar year 1998.

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

20          “(VI) In calendar year 2001, 800,000 tons.

21          “(VII) In calendar year 2002 or any calendar  
22          year thereafter, 600,000 tons.

23          “(ii) The Governor of an importing State may take  
24          action to restrict levels of imports to reflect the appropriate  
25          level of out-of-State municipal solid waste imports if—

1           “(I) the Governor of the importing State has no-  
2           tified the Governor of the exporting State and the Ad-  
3           ministrator, 12 months prior to taking any such ac-  
4           tion, of the importing State’s intention to impose the  
5           requirements of this section;

6           “(II) the Governor of the importing State has  
7           notified the Governor of the exporting State and the  
8           Administrator of the violation by the exporting State  
9           of this section at least 90 days prior to taking any  
10          such action; and

11          “(III) the restrictions imposed by the Governor  
12          of the importing State are uniform at all facilities.

13          “(C) The authority provided by subparagraphs (A)  
14          and (B) shall apply for as long as a State exceeds the per-  
15          missible levels as determined by the Administrator under  
16          paragraph (6)(E).

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

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

1 *in subsection (b) to reduce the amount of out-of-State mu-*  
 2 *nicipal solid waste received from any State for disposal at*  
 3 *such landfill or incinerator to an annual quantity less than*  
 4 *the amount received from such State for disposal at such*  
 5 *landfill or incinerator during calendar year 1993.*

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

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

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

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

17 “(6) ANNUAL STATE REPORT.—

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

1     *solid waste received for disposal during the preceding*  
 2     *calendar year. Within 120 days after enactment of*  
 3     *this section and on July 1 of each year thereafter each*  
 4     *State shall publish and make available to the Admin-*  
 5     *istrator, the Governor of the State of origin and the*  
 6     *public, a report containing information on the*  
 7     *amount of out-of-State municipal solid waste received*  
 8     *for disposal in the State during the preceding cal-*  
 9     *endar year.*

10         “(B) *CONTENTS.*—*Each submission referred to*  
 11     *in this section shall be such as would result in crimi-*  
 12     *nal penalties in case of false or misleading informa-*  
 13     *tion. Such information shall include the amount of*  
 14     *waste received, the State of origin, the identity of the*  
 15     *generator, the date of the shipment, and the type of*  
 16     *out-of-State municipal solid waste.*

17         “(C) *LIST.*—*The Administrator shall publish a*  
 18     *list of States that the Administrator has determined*  
 19     *have exported out-of-State in any of the following cal-*  
 20     *endar years an amount of municipal solid waste in*  
 21     *excess of—*

22                 “(i) *3,500,000 tons in 1996;*

23                 “(ii) *3,000,000 tons in 1997;*

24                 “(iii) *3,000,000 tons in 1998;*

25                 “(iv) *2,500,000 tons in 1999;*

1                   “(v) 2,500,000 tons in 2000;

2                   “(vi) 1,500,000 tons in 2001;

3                   “(vii) 1,500,000 tons in 2002;

4                   “(viii) 1,000,000 tons in 2003; and

5                   “(ix) 1,000,000 tons in each calendar year  
6                   after 2003.

7                   *The list for any calendar year shall be published by*  
8                   *June 1 of the following calendar year.*

9                   “(D) *SAVINGS PROVISION.*—*Nothing in this sub-*  
10                   *section shall be construed to preempt any State re-*  
11                   *quirement that requires more frequent reporting of in-*  
12                   *formation.*

13                   “(7) *Any affected local government that intends to sub-*  
14                   *mit a request under paragraph (1) or take formal action*  
15                   *to enter into a host community agreement after the date*  
16                   *of enactment of this subsection shall, prior to taking such*  
17                   *action—*

18                   “(A) *notify the Governor, contiguous local gov-*  
19                   *ernments, and any contiguous Indian tribes;*

20                   “(B) *publish notice of the action in a newspaper*  
21                   *of general circulation at least 30 days before taking*  
22                   *such action;*

23                   “(C) *provide an opportunity for public comment;*  
24                   *and*



1           “(D) following notice and comment, take formal  
2           action on any proposed request or action at a public  
3           meeting.

4           “(8) Any owner or operator seeking a host community  
5           agreement after the date of enactment of this subsection  
6           shall provide to the affected local government the following  
7           information, which shall be made available to the public  
8           from the affected local government:

9           “(A) A brief description of the planned facility,  
10          including a description of the facility size, ultimate  
11          waste capacity, and anticipated monthly and yearly  
12          waste quantities to be handled.

13          “(B) A map of the facility site that indicates the  
14          location of the facility in relation to the local road  
15          system and topographical and hydrological features  
16          and any buffer zones and facility units to be acquired  
17          by the owner or operator of the facility.

18          “(C) A description of the existing environmental  
19          conditions at the site, and any violations of applica-  
20          ble laws or regulations.

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

23          “(E) A description of the site access controls to  
24          be employed, and roadway improvements to be made,  
25          by the owner or operator, and an estimate

1       *of the timing and extent of increased local truck*  
2       *traffic.*

3               “(F) *A list of all required Federal, State, and*  
4       *local permits.*

5               “(G) *Any information that is required by State*  
6       *or Federal law to be provided with respect to any vio-*  
7       *lations of environmental laws (including regulations)*  
8       *by the owner and operator, the disposition of enforce-*  
9       *ment proceedings taken with respect to the violations,*  
10       *and corrective measures taken as a result of the*  
11       *proceedings.*

12               “(H) *Any information that is required by State*  
13       *or Federal law to be provided with respect to compli-*  
14       *ance by the owner or operator with the State solid*  
15       *waste management plan.*

16       “(b) *EXCEPTIONS TO AUTHORITY TO PROHIBIT OUT-*  
17       *OF-STATE MUNICIPAL SOLID WASTE.—(1) The authority to*  
18       *prohibit the disposal of out-of-State municipal solid waste*  
19       *provided under subsection (a)(1) shall not apply to landfills*  
20       *and incinerators in operation on the date of enactment of*  
21       *this section that—*

22               “(A) *received during calendar year 1993 docu-*  
23       *mented shipments of out-of-State municipal solid*  
24       *waste; and*

1           “(B)(i) in the case of landfills, are in compliance  
 2           with all applicable Federal and State laws and regu-  
 3           lations relating to operation, design and location  
 4           standards, leachate collection, ground water monitor-  
 5           ing, and financial assurance for closure and post-clo-  
 6           sure and corrective action; or

7           “(ii) in the case of incinerators, are in compli-  
 8           ance with the applicable requirements of section 129  
 9           of the Clean Air Act (42 U.S.C. 7429) and applicable  
 10          State laws and regulations relating to facility design  
 11          and operations.

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

18          “(c) ADDITIONAL AUTHORITY TO LIMIT OUT-OF-  
 19          STATE MUNICIPAL SOLID WASTE.—(1) In any case in  
 20          which an affected local government is considering entering  
 21          into, or has entered into, a host community agreement and  
 22          the disposal or incineration of out-of-State municipal solid  
 23          waste under such agreement would preclude the use of mu-  
 24          nicipal solid waste management capacity described in  
 25          paragraph (2), the Governor of the State in which the af-

1 *ected local government is located may prohibit the execu-*  
 2 *tion of such host community agreement with respect to that*  
 3 *capacity.*

4       “(2) *The municipal solid waste management capacity*  
 5 *referred to in paragraph (1) is that capacity—*

6               “(A) *that is permitted under Federal or State*  
 7 *law;*

8               “(B) *that is identified under the State plan; and*

9               “(C) *for which a legally binding commitment be-*  
 10 *tween the owner or operator and another party has*  
 11 *been made for its use for disposal or incineration of*  
 12 *municipal solid waste generated within the region*  
 13 *(identified under section 4006(a)) in which the local*  
 14 *government is located.*

15       “(d) *COST RECOVERY SURCHARGE.—*

16               “(1) *AUTHORITY.—A State described in para-*  
 17 *graph (2) may adopt a law and impose and collect*  
 18 *a cost recovery charge on the processing or disposal*  
 19 *of out-of-State municipal solid waste in the State in*  
 20 *accordance with this subsection.*

21               “(2) *APPLICABILITY.—The authority to impose a*  
 22 *cost recovery surcharge under this subsection applies*  
 23 *to any State that on or before April 3, 1994, imposed*  
 24 *and collected a special fee on the processing or dis-*

1     posal of out-of-State municipal solid waste pursuant  
2     to a State law.

3             “(3) *LIMITATION.*—No such State may impose or  
4     collect a cost recovery surcharge from a facility on  
5     any out-of-State municipal solid waste that is being  
6     received at the facility under 1 or more contracts en-  
7     tered into after April 3, 1994, and before the date of  
8     enactment of this section.

9             “(4) *AMOUNT OF SURCHARGE.*—The amount of  
10    the cost recovery surcharge may be no greater than  
11    the amount necessary to recover those costs deter-  
12    mined in conformance with paragraph (6) and in no  
13    event may exceed \$1.00 per ton of waste.

14            “(5) *USE OF SURCHARGE COLLECTED.*—All cost  
15    recovery surcharges collected by a State covered by  
16    this subsection shall be used to fund those solid waste  
17    management programs administered by the State or  
18    its political subdivision that incur costs for which the  
19    surcharge is collected.

20            “(6) *CONDITIONS.*—(A) Subject to subparagraphs  
21    (B) and (C), a State covered by this subsection may  
22    impose and collect a cost recovery surcharge on the  
23    processing or disposal within the State of out-of-State  
24    municipal solid waste if—

1           “(i) the State demonstrates a cost to the  
2           State arising from the processing or disposal  
3           within the State of a volume of municipal solid  
4           waste from a source outside the State;

5           “(ii) the surcharge is based on those costs to  
6           the State demonstrated under clause (i) that, if  
7           not paid for through the surcharge, would other-  
8           wise have to be paid or subsidized by the State;  
9           and

10          “(iii) the surcharge is compensatory and is  
11          not discriminatory.

12          “(B) In no event shall a cost recovery surcharge  
13          be imposed by a State to the extent that the cost for  
14          which recovery is sought is otherwise paid, recovered,  
15          or offset by any other fee or tax assessed against or  
16          voluntarily paid to the State or its political subdivi-  
17          sion in connection with the generation, transpor-  
18          tation, treatment, processing, or disposal of solid  
19          waste.

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

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

1           “(A) The term ‘costs’ means the costs in-  
2           curred by the State for the implementation of its  
3           laws governing the processing or disposal of mu-  
4           nicipal solid waste, limited to the issuance of  
5           new permits and renewal of or modification of  
6           permits, inspection and compliance monitoring,  
7           enforcement, and costs associated with technical  
8           assistance, data management, and collection of  
9           fees.

10           “(B) The term ‘processing’ means any ac-  
11           tivity to reduce the volume of solid waste or alter  
12           its chemical, biological or physical state, through  
13           processes such as thermal treatment, bailing,  
14           composting, crushing, shredding, separation, or  
15           compaction.

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

18           “(1) to have any effect on State law relating to  
19           contracts; or

20           “(2) to affect the authority of any State or local  
21           government to protect public health and the environ-  
22           ment through laws, regulations, and permits, includ-  
23           ing the authority to limit the total amount of municipi-  
24           pal solid waste that landfill or incinerator owners or  
25           operators within the jurisdiction of a State may ac-

cept during a prescribed period, provided that such limitations do not discriminate between in-State and out-of-State municipal solid waste, except to the extent authorized by this section.

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

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

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

“(ii) the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility over municipal solid waste management or the use of land in the jurisdiction in which the facility is located or is proposed to be located.

“(B)(i) Within 90 days after the date of enactment of this section, a Governor may designate and publish notice of which entity listed in clause (i) or (ii) of subparagraph (A) shall serve as the affected



1     *local government for actions taken under this section*  
 2     *and after publication of such notice.*

3             “(ii) *If a Governor fails to make and publish no-*  
 4     *tice of such a designation, the affected local govern-*  
 5     *ment shall be the elected officials of the city, town,*  
 6     *township, borough, county, parish, or other public*  
 7     *body created pursuant to State law with primary ju-*  
 8     *risdiction over the land or the use of land on which*  
 9     *the facility is located or is proposed to be located.*

10            “(C) *For purposes of host community agreements*  
 11     *entered into before the date of publication of the no-*  
 12     *tice, the term means either a public body described in*  
 13     *subparagraph (A)(i) or the elected officials of any of*  
 14     *the public bodies described in subparagraph (A)(ii).*

15            “(2) *HOST COMMUNITY AGREEMENT.—The term*  
 16     *‘host community agreement’ means a written, legally*  
 17     *binding document or documents executed by duly au-*  
 18     *thorized officials of the affected local government that*  
 19     *specifically authorizes a landfill or incinerator to re-*  
 20     *ceive municipal solid waste generated out of State,*  
 21     *but does not include any agreement to pay host com-*  
 22     *munity fees for receipt of waste unless additional ex-*  
 23     *press authorization to receive out-of-State waste is*  
 24     *also included.*

1           “(3) The term ‘out-of-State municipal solid  
2 waste’ means, with respect to any State, municipal  
3 solid waste generated outside of the State. To the ex-  
4 tent that the President determines it is consistent  
5 with the North American Free Trade Agreement and  
6 the General Agreement on Tariffs and Trade, the term  
7 shall include municipal solid waste generated outside  
8 of the United States.

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

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

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

1       9604 or 9606) or a corrective action taken under  
2       this Act;

3               “(C) any metal, pipe, glass, plastic, paper,  
4       textile, or other material that has been separated  
5       or diverted from municipal solid waste (as other-  
6       wise defined in this paragraph) and has been  
7       transported into a State for the purpose of recy-  
8       cling or reclamation;

9               “(D) any solid waste that is—

10               “(i) generated by an industrial facil-  
11       ity; and

12               “(ii) transported for the purpose of  
13       treatment, storage, or disposal to a facility  
14       that is owned or operated by the generator  
15       of the waste, or is located on property  
16       owned by the generator of the waste, or is  
17       located on property owned by a company  
18       with which the generator is affiliated;

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

22               “(F) any industrial waste that is not iden-  
23       tical to municipal solid waste (as otherwise de-  
24       fined in this paragraph) with respect to the  
25       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 ‘spe-*  
19       *cifically authorizes’ refer to an explicit authorization,*  
20       *contained in a host community agreement or permit,*  
21       *to import waste from outside the State. Such author-*  
22       *ization may include a reference to a fixed radius sur-*  
23       *rounding the landfill or incinerator that includes an*  
24       *area outside the State or a reference to any place of*  
25       *origin, reference to specific places outside the State, or*

1        *use of such phrases as ‘regardless of origin’ or ‘outside*  
 2        *the State’. The language for such authorization may*  
 3        *vary as long as it clearly and affirmatively states the*  
 4        *approval or consent of the affected local government*  
 5        *or State for receipt of municipal solid waste from*  
 6        *sources outside the State.’.*

7        *(b) TABLE OF CONTENTS AMENDMENT.—The table of*  
 8        *contents in section 1001 of the Solid Waste Disposal Act*  
 9        *(42 U.S.C. prec. 6901) is amended by adding at the end*  
 10       *of the items relating to subtitle D the following new item:*  
           *“Sec. 4011. Interstate transportation of municipal solid waste.”.*

## 11                    **TITLE II—FLOW CONTROL**

### 12        **SEC. 201. SHORT TITLE.**

13            *This title may be cited as the “Municipal Solid Waste*  
 14        *Flow Control Act of 1995”.*

### 15        **SEC. 202. STATE AND LOCAL GOVERNMENT CONTROL OF** 16                    **MOVEMENT OF MUNICIPAL SOLID WASTE AND** 17                    **RECYCLABLE MATERIAL.**

18            *Subtitle D of the Solid Waste Disposal Act (42 U.S.C.*  
 19        *6941 et seq.), as amended by section 101, is amended by*  
 20        *adding after section 4011 the following new section:*

### 21        **“SEC. 4012. STATE AND LOCAL GOVERNMENT CONTROL OF** 22                    **MOVEMENT OF MUNICIPAL SOLID WASTE AND** 23                    **RECYCLABLE MATERIAL.**

24            *“(a) DEFINITIONS.—In this section:*

1           “(1) *DESIGNATE; DESIGNATION.*—The terms ‘des-  
 2           ignate’ and ‘designation’ refer to an authorization by  
 3           a State or political subdivision, and the act of a State  
 4           or political subdivision in requiring or contractually  
 5           committing, that all or any portion of the municipal  
 6           solid waste or recyclable material that is generated  
 7           within the boundaries of the State or political sub-  
 8           division be delivered to waste management facilities  
 9           or facilities for recyclable material or a public service  
 10          authority identified by the State or political subdivi-  
 11          sion.

12          “(2) *FLOW CONTROL AUTHORITY.*—The term  
 13          ‘flow control authority’ means the authority to control  
 14          the movement of municipal solid waste or voluntarily  
 15          relinquished recyclable material and direct such solid  
 16          waste or voluntarily relinquished recyclable material  
 17          to a designated waste management facility or facility  
 18          for recyclable material.

19          “(3) *MUNICIPAL SOLID WASTE.*—The term ‘mu-  
 20          nicipal solid waste’ means—

21               “(A) solid waste generated by the general  
 22               public or from a residential, commercial, institu-  
 23               tional, or industrial source, consisting of paper,  
 24               wood, yard waste, plastics, leather, rubber, and  
 25               other combustible material and noncombustible

1        *material such as metal and glass, including resi-*  
2        *due remaining after recyclable material has been*  
3        *separated from waste destined for disposal, and*  
4        *including waste material removed from a septic*  
5        *tank, septage pit, or cesspool (other than from*  
6        *portable toilets); but*

7                *“(B) does not include—*

8                        *“(i) waste identified or listed as a haz-*  
9                        *ardous waste under section 3001 of this Act*  
10                       *or waste regulated under the Toxic Sub-*  
11                       *stances Control Act (15 U.S.C. 2601 et seq.);*

12                       *“(ii) waste, including contaminated*  
13                       *soil and debris, resulting from a response*  
14                       *action taken under section 104 or 106 of the*  
15                       *Comprehensive Environmental Response,*  
16                       *Compensation, and Liability Act of 1980*  
17                       *(42 U.S.C. 9604, 9606) or any corrective*  
18                       *action taken under this Act;*

19                       *“(iii) medical waste listed in section*  
20                       *11002;*

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

25                       *“(v) recyclable material; or*

1                   “(vi) *sludge*.

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

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

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

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

20                  “(6) *WASTE MANAGEMENT FACILITY*.—The term  
21                  ‘*waste management facility*’ means *a facility that col-*  
22                  *lects, separates, stores, transports, transfers, treats,*  
23                  *processes, combusts, or disposes of municipal solid*  
24                  *waste.*

25                  “(b) *AUTHORITY*.—



1           “(1) *IN GENERAL.*—Each State and each politi-  
2           cal subdivision of a State may exercise flow control  
3           authority for municipal solid waste and for recyclable  
4           material voluntarily relinquished by the owner or  
5           generator of the material that is generated within its  
6           jurisdiction by directing the municipal solid waste or  
7           recyclable material to a waste management facility or  
8           facility for recyclable material, if such flow control  
9           authority—

10           “(A) is imposed pursuant to a law, ordi-  
11           nance, regulation, or other legally binding provi-  
12           sion of the State or political subdivision in effect  
13           on May 15, 1994; and

14           “(B) has been implemented by designating  
15           before May 15, 1994, the particular waste man-  
16           agement facilities or public service authority to  
17           which the municipal solid waste or recyclable  
18           material is to be delivered, the substantial con-  
19           struction of which facilities was performed after  
20           the effective date of that law, ordinance, regula-  
21           tion, or other legally binding provision and  
22           which facilities were in operation as of May 15,  
23           1994.

24           “(2) *LIMITATION.*—The authority of this section  
25           extends only to the specific classes or categories of mu-

1      *municipal solid waste to which flow control authority re-*  
 2      *quiring a movement to a waste management facility*  
 3      *was actually applied on or before May 15, 1994 (or,*  
 4      *in the case of a State or political subdivision that*  
 5      *qualifies under subsection (c), to the specific classes or*  
 6      *categories of municipal solid waste for which the*  
 7      *State or political subdivision prior to May 15, 1994,*  
 8      *had committed to the designation of a waste manage-*  
 9      *ment facility).*

10      “(3) *LACK OF CLEAR IDENTIFICATION.*—With re-  
 11      *gard to facilities granted flow control authority under*  
 12      *subsection (c), if the specific classes or categories of*  
 13      *municipal solid waste are not clearly identified, the*  
 14      *authority of this section shall apply only to municip-*  
 15      *pal solid waste generated by households.*

16      “(4) *DURATION OF AUTHORITY.*—With respect to  
 17      *each designated waste management facility, the au-*  
 18      *thority of this section shall be effective until the later*  
 19      *of—*

20      “(A) *the end of the remaining life of a con-*  
 21      *tract between the State or political subdivision*  
 22      *and any other person regarding the movement or*  
 23      *delivery of municipal solid waste or voluntarily*  
 24      *relinquished recyclable material to a designated*  
 25      *facility (as in effect May 15, 1994);*

1           “(B) completion of the schedule for payment  
2 of the capital costs of the facility concerned (as  
3 in effect May 15, 1994); or

4           “(C) the end of the remaining useful life of  
5 the original facility, as that remaining life may  
6 be extended by—

7           “(i) retrofitting of equipment or the  
8 making of other significant modifications to  
9 meet applicable environmental requirements  
10 or safety requirements;

11           “(ii) routine repair or scheduled re-  
12 placement of equipment or components that  
13 does not add to the capacity of a waste  
14 management facility; or

15           “(iii) expansion of the facility on land  
16 that is—

17           “(I) legally or equitably owned, or  
18 under option to purchase or lease, by  
19 the owner or operator of the facility;  
20 and

21           “(II) covered by the permit for the  
22 facility (as in effect May 15, 1994).

23           “(5) ADDITIONAL AUTHORITY.—Notwithstanding  
24 anything to the contrary in this section, but subject  
25 to subsection (j), a State or political subdivision of a

1     *State that, on or before January 1, 1984, adopted reg-*  
 2     *ulations under State law that required or directed the*  
 3     *transportation, management, or disposal of solid*  
 4     *waste from residential, commercial, institutional, or*  
 5     *industrial sources (as defined under State law) to*  
 6     *specifically identified waste management facilities*  
 7     *and applied those regulations to every political sub-*  
 8     *division of the State may—*

9             *“(A) designate any waste management fa-*  
 10            *cility in the State that—*

11                 *“(i) was designated prior to May 15,*  
 12                 *1994, and meets the requirements of sub-*  
 13                 *section (c); or*

14                 *“(ii) meets the requirements of para-*  
 15                 *graph (1); and*

16             *“(B) continue to exercise flow control au-*  
 17             *thority for the remaining useful life of that facil-*  
 18             *ity over all classes and categories of solid waste*  
 19             *that were subject to flow control on May 15,*  
 20             *1994.*

21            *“(c) COMMITMENT TO CONSTRUCTION.—*

22                 *“(1) IN GENERAL.—Notwithstanding subsection*  
 23                 *(b)(1) (A) and (B), any political subdivision of a*  
 24                 *State may exercise flow control authority under sub-*  
 25                 *section (b), if—*

1           “(A) the law, ordinance, regulation, or other  
 2           legally binding provision specifically provides for  
 3           flow control authority for municipal solid waste  
 4           generated within its boundaries and was in effect  
 5           prior to May 15, 1994; and

6           “(B) prior to May 15, 1994, the political  
 7           subdivision committed to the designation of a  
 8           waste management facility to which municipal  
 9           solid waste is to be transported or at which mu-  
 10          nicipal solid waste is to be disposed of under  
 11          that law, ordinance, regulation, plan, or legally  
 12          binding provision.

13          “(2) *FACTORS DEMONSTRATING COMMITMENT.*—  
 14          A commitment to the designation of a waste manage-  
 15          ment facility is demonstrated by 1 or more of the fol-  
 16          lowing factors:

17               “(A) *CONSTRUCTION PERMITS.*—All permits  
 18               required for the substantial construction of the  
 19               facility were obtained prior to May 15, 1994.

20               “(B) *CONTRACTS.*—All contracts for the  
 21               substantial construction of the facility were in  
 22               effect prior to May 15, 1994.

23               “(C) *REVENUE BONDS.*—Prior to May 15,  
 24               1994, revenue bonds were presented for sale to

1       *specifically provide revenue for the construction*  
 2       *of the facility.*

3               “(D) *CONSTRUCTION AND OPERATING PER-*  
 4       *MITTS.—The State or political subdivision sub-*  
 5       *mitted to the appropriate regulatory agency or*  
 6       *agencies, on or before May 15, 1994, substan-*  
 7       *tially complete permit applications for the con-*  
 8       *struction and operation of the facility.*

9       “(d) *CONSTRUCTED AND OPERATED.—*

10              “(1) *IN GENERAL.—A political subdivision of a*  
 11       *State may exercise flow control authority for municip-*  
 12       *al solid waste and for recyclable material volun-*  
 13       *tarily relinquished by the owner or generator of the*  
 14       *material that is generated within its jurisdiction if—*

15              “(A) *prior to May 15, 1994, the political*  
 16       *subdivision—*

17              “(i) *contracted with a public service*  
 18       *authority or with its operator to deliver or*  
 19       *cause to be delivered to the public service*  
 20       *authority substantially all of the disposable*  
 21       *municipal solid waste that is generated or*  
 22       *collected by or is within or under the con-*  
 23       *trol of the political subdivision, in order to*  
 24       *support revenue bonds issued by and in the*

1           *name of the public service authority for*  
2           *waste management facilities; or*

3           “(ii) entered into contracts with a pub-  
4           *lic service authority to deliver or cause to be*  
5           *delivered to the public service authority sub-*  
6           *stantially all of the disposable municipal*  
7           *solid waste that is generated or collected by*  
8           *or within the control of the political sub-*  
9           *division, which imposed flow control pursu-*  
10          *ant to a law, ordinance, regulation, or other*  
11          *legally binding provision and where out-*  
12          *standing revenue bonds were issued in the*  
13          *name of public service authorities for waste*  
14          *management facilities; and*

15          “(B) prior to May 15, 1994, the public serv-  
16          *ice authority—*

17               “(i) issued the revenue bonds for the  
18               *construction of municipal solid waste facili-*  
19               *ties to which the political subdivision’s mu-*  
20               *nicipal solid waste is transferred or dis-*  
21               *posed; and*

22               “(ii) commenced operation of the fa-  
23               *cilities.*

24          “(2) DURATION OF AUTHORITY.—Authority  
25          *under this subsection may be exercised by a political*

1       subdivision qualifying under paragraph (1)(A)(ii)  
 2       only until the expiration of the contract or the life of  
 3       the bond, whichever is earlier.

4       “(e) *STATE-MANDATED DISPOSAL SERVICES*.—A po-  
 5       litical subdivision of a State may exercise flow control au-  
 6       thority for municipal solid waste and for recyclable mate-  
 7       rial voluntarily relinquished by the owner or generator of  
 8       the material that is generated within its jurisdiction if,  
 9       prior to May 15, 1994, the political subdivision—

10           “(1) was mandated by State law to provide for  
 11       the operation of solid waste facilities to serve the dis-  
 12       posal needs of all incorporated and unincorporated  
 13       areas of the county;

14           “(2) is currently required to initiate a recyclable  
 15       materials recycling program in order to meet a mu-  
 16       nicipal solid waste reduction goal of at least 30 per-  
 17       cent;

18           “(3) has been authorized by State statute to exer-  
 19       cise flow control authority and had implemented the  
 20       authority through a law, ordinance, regulation, con-  
 21       tract, or other legally binding provision; and

22           “(4) had incurred significant financial expendi-  
 23       tures to comply with the mandates under State law  
 24       and to repay outstanding revenue bonds that were is-  
 25       sued for the construction of solid waste management



1        *facilities to which the political subdivision's waste*  
2        *was designated.*

3        *“(f) RETAINED AUTHORITY.—*

4                *“(1) REQUEST.—On the request of a generator of*  
5        *municipal solid waste affected by this section, a State*  
6        *or political subdivision may authorize the diversion*  
7        *of all or a portion of the solid waste generated by the*  
8        *generator making the request to an alternative solid*  
9        *waste treatment or disposal facility, if the purpose of*  
10       *the request is to provide a higher level of protection*  
11       *for human health and the environment or reduce po-*  
12       *tential future liability of the generator under Federal*  
13       *or State law for the management of such waste, unless*  
14       *the State or political subdivision determines that the*  
15       *facility to which the municipal solid waste is pro-*  
16       *posed to be diverted does not provide a higher level of*  
17       *protection for human health and the environment or*  
18       *does not reduce the potential future liability of the*  
19       *generator under Federal or State law for the manage-*  
20       *ment of such waste.*

21                *“(2) CONTENTS.—A request under paragraph (1)*  
22       *shall include information on the environmental suit-*  
23       *ability of the proposed alternative treatment or dis-*  
24       *posal facility and method, compared to that of the*  
25       *designated facility and method.*

1       “(g) *LIMITATIONS ON REVENUE.*—A State or political  
 2       subdivision may exercise flow control authority under sub-  
 3       section (b), (c), or (d) only if the State or political subdivi-  
 4       sion certifies that the use of any of its revenues derived from  
 5       the exercise of that authority will be used for solid waste  
 6       management services.

7       “(h) *REASONABLE REGULATION OF COMMERCE.*—A  
 8       law, ordinance, regulation, or other legally binding provi-  
 9       sion or official act of a State or political subdivision, as  
 10      described in subsection (b), (c), or (d), that implements flow  
 11      control authority in compliance with this section shall be  
 12      considered to be a reasonable regulation of commerce retro-  
 13      active to its date of enactment or effective date and shall  
 14      not be considered to be an undue burden on or otherwise  
 15      considered as impairing, restraining, or discriminating  
 16      against interstate commerce.

17      “(i) *EFFECT ON EXISTING LAWS AND CONTRACTS.*—

18           “(1) *ENVIRONMENTAL LAWS.*—Nothing in this  
 19      section shall be construed to have any effect on any  
 20      other law relating to the protection of human health  
 21      and the environment or the management of municipal  
 22      solid waste or recyclable material.

23           “(2) *STATE LAW.*—Nothing in this section shall  
 24      be construed to authorize a political subdivision of a  
 25      State to exercise the flow control authority granted by

1        *this section in a manner that is inconsistent with*  
 2        *State law.*

3            “(3) *OWNERSHIP OF RECYCLABLE MATERIAL.*—  
 4        *Nothing in this section—*

5            “(A) *authorizes a State or political subdivi-*  
 6        *sion of a State to require a generator or owner*  
 7        *of recyclable material to transfer recyclable ma-*  
 8        *terial to the State or political subdivision; or*

9            “(B) *prohibits a generator or owner of recy-*  
 10        *clable material from selling, purchasing, accept-*  
 11        *ing, conveying, or transporting recyclable mate-*  
 12        *rial for the purpose of transformation or re-*  
 13        *manufacture into usable or marketable material,*  
 14        *unless the generator or owner voluntarily made*  
 15        *the recyclable material available to the State or*  
 16        *political subdivision and relinquished any right*  
 17        *to, or ownership of, the recyclable material.*

18        “(j) *REPEAL.*—(1) *Notwithstanding any provision of*  
 19        *this title, authority to flow control by directing municipal*  
 20        *solid waste or recyclable materials to a waste management*  
 21        *facility shall terminate on the date that is 30 years after*  
 22        *the date of enactment of this Act.*

23        “(2) *This section and the item relating to this section*  
 24        *in the table of contents for subtitle D of the Solid Waste*

1 *Disposal Act are repealed effective as of the date that is*  
 2 *30 years after the date of enactment of this Act.”.*

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

4 *The table of contents for subtitle D in section 1001 of*  
 5 *the Solid Waste Disposal Act (42 U.S.C. prec. 6901), as*  
 6 *amended by section 101(b), is amended by adding after the*  
 7 *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.”.*

8 **TITLE III—GROUND WATER MONITORING**

9 **SEC. 301. GROUND WATER MONITORING.**

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

13 *(1) by striking “CRITERIA.—Not later” and in-*  
 14 *serting the following: “CRITERIA.—*

15 *“(1) IN GENERAL.—Not later”; and*

16 *(2) by adding at the end the following new para-*  
 17 *graph:*

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

1       *poses of less than 20 tons of municipal solid waste*  
 2       *daily, based on an annual average, if—*

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

6               “(B) *the municipal solid waste landfill unit*  
 7               *or expansion serves—*

8                       “(i) *a community that experiences an*  
 9                       *annual interruption of at least 3 consecu-*  
 10                      *tive months of surface transportation that*  
 11                      *prevents access to a regional waste manage-*  
 12                      *ment facility; or*

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

18               “(3) *PROTECTION OF GROUND WATER RE-*  
 19               *SOURCES.—*

20                   “(A) *MONITORING REQUIREMENT.—A State*  
 21                   *may require ground water monitoring of a solid*  
 22                   *waste landfill unit that would otherwise be ex-*  
 23                   *empt under paragraph (2) if necessary to protect*  
 24                   *ground water resources and ensure compliance*

1       with a State ground water protection plan,  
2       where applicable.

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

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

13              “(4) *REMOTE ALASKA NATIVE VILLAGES.*—Upon  
14      certification by the Governor of the State of Alaska  
15      that application of the requirements of the criteria de-  
16      scribed in paragraph (1) to a solid waste landfill unit  
17      of a Native village (as defined in section 3 of the  
18      Alaska Native Claims Settlement Act (16 U.S.C.  
19      1602)) would be infeasible, would not be cost-effective,  
20      or is otherwise inappropriate because of the remote lo-  
21      cation of the unit, the unit shall be exempt from those  
22      requirements.”.

23              (b) *REINSTATEMENT OF REGULATORY EXEMPTION.*—  
24      It is the intent of section 4010(c)(2) of the Solid Waste Dis-  
25      posal Act, as added by subsection (a), to immediately rein-

1 *state subpart E of part 258 of title 40, Code of Federal*  
2 *Regulations, as added by the final rule published at 56 Fed-*  
3 *eral Register 50798 on October 9, 1991.*

S 534 RS——2

S 534 RS——3

S 534 RS——4

S 534 RS——5

S 534 RS——6