

107TH CONGRESS  
1ST SESSION

# S. 1194

To impose certain limitations on the receipt of out-of-State municipal solid waste, to authorize State and local controls over the flow of municipal solid waste, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 18, 2001

Mr. SPECTER (for himself, Ms. STABENOW, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To impose certain limitations on the receipt of out-of-State municipal solid waste, to authorize State and local controls over the flow of municipal solid waste, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Solid Waste Interstate  
5       Transportation and Local Authority Act of 2001”.

1 **SEC. 2. INTERSTATE TRANSPORTATION AND DISPOSAL OF**  
 2 **MUNICIPAL SOLID WASTE.**

3 (a) IN GENERAL.—Subtitle D of the Solid Waste Dis-  
 4 posal Act (42 U.S.C. 6941 et seq.) is amended by adding  
 5 after section 4010 the following new section:

6 **“SEC. 4011. RECEIPT AND DISPOSAL OF OUT-OF-STATE MU-**  
 7 **NICIPAL SOLID WASTE.**

8 “(a) PRESUMPTIVE BAN ON RECEIPT OF OUT-OF-  
 9 STATE WASTE.—No landfill or incinerator may receive  
 10 any out-of-State municipal solid waste for disposal or in-  
 11 cineration unless the waste is received pursuant to—

12 “(1) a host community agreement in accordance  
 13 with subsection (b) or (c); or

14 “(2) an exemption under subsection (d).

15 “(b) EXISTING HOST COMMUNITY AGREEMENTS.—  
 16 Except as provided in subsection (e), out-of-State munic-  
 17 ipal solid waste may be received at a landfill or incinerator  
 18 for disposal or incineration pursuant to a host community  
 19 agreement entered into before the enactment of this sec-  
 20 tion if—

21 “(1) the agreement specifically authorizes the  
 22 owner or operator to accept, at the landfill or incin-  
 23 erator, out-of-State municipal solid waste; and

24 “(2) the owner or operator complies with all of  
 25 the terms and conditions of the host community  
 26 agreement.

1 The owner or operator shall provide a copy of the host  
 2 community agreement, within 90 days after the enactment  
 3 of this section, to the State and affected local government  
 4 and make such a copy available for inspection by the pub-  
 5 lic in the affected local community.

6 “(c) NEW HOST COMMUNITY AGREEMENTS.—

7 “(1) EXEMPTION FROM BAN.—Except as pro-  
 8 vided in subsection (e), out-of-State municipal solid  
 9 waste may be received at a landfill or incinerator for  
 10 disposal or incineration pursuant to a host commu-  
 11 nity agreement entered into on or after the enact-  
 12 ment of this section (in this section referred to as  
 13 a ‘new host community agreement’) if the agreement  
 14 specifically authorizes the receipt of such waste and  
 15 meets the requirements of paragraphs (2) through  
 16 (5) of this subsection.

17 “(2) REQUIREMENTS FOR AUTHORIZATION.—

18 An authorization to receive out-of-State municipal  
 19 solid waste pursuant to a new host community  
 20 agreement shall be granted by formal action at a  
 21 meeting; be recorded in writing in the official record  
 22 of the meeting; and remain in effect according to its  
 23 terms. Such authorization may specify terms and  
 24 conditions, including an amount of out-of-State mu-

1       municipal solid waste that an owner or operator may  
2       receive and the duration of the authorization.

3           “(3) INFORMATION.—Prior to seeking an au-  
4       thorization to receive out-of-State municipal solid  
5       waste pursuant to a new host community agreement  
6       under this subsection, the owner or operator of the  
7       facility seeking such authorization shall provide (and  
8       make readily available to the State, each contiguous  
9       local government and Indian tribe, and any other in-  
10      terested person for inspection and copying) each of  
11      the following items of information:

12           “(A) A brief description of the facility, in-  
13       cluding, with respect to both the facility and  
14       any planned expansion of the facility, the size,  
15       the ultimate waste capacity, and the anticipated  
16       monthly and yearly quantities of waste to be  
17       handled. Such quantities shall be expressed in  
18       terms of volume.

19           “(B) A map of the facility site indicating  
20       location in relation to the local road system and  
21       topography and general hydrogeological fea-  
22       tures. The map shall indicate any buffer zones  
23       to be acquired by the owner or operator as well  
24       as all facility units.

1           “(C) A description of the then current en-  
2           vironmental characteristics of the site, a de-  
3           scription of ground water use in the area, and  
4           a discussion of alterations that may be neces-  
5           sitated by, or occur as a result of, the facility.  
6           The description of groundwater use shall in-  
7           clude identification of private wells and public  
8           drinking water sources.

9           “(D) A description of environmental con-  
10          trols typically required to be used on the site  
11          (pursuant to permit requirements), including  
12          run on or run off management, or both, air pol-  
13          lution control devices, source separation proce-  
14          dures (if any), methane monitoring and control,  
15          landfill covers, liners or leachate collection sys-  
16          tems, and monitoring programs. In addition,  
17          the description shall include a description of  
18          any waste residuals generated by the facility,  
19          including leachate or ash, and the planned man-  
20          agement of the residuals.

21          “(E) A description of site access controls  
22          to be employed, and roadway improvements to  
23          be made, by the owner or operator, and an esti-  
24          mate of the timing and extent of increased local  
25          truck traffic.

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

3           “(G) Estimates of the personnel require-  
4           ments of the facility, including information re-  
5           garding the probable skill and education levels  
6           required for jobs at the facility. To the extent  
7           practicable, the information shall distinguish  
8           between employment statistics for  
9           preoperational and postoperational levels.

10          “(H) Any information that is required by  
11          State or Federal law to be provided with re-  
12          spect to any violations of environmental laws  
13          (including regulations) by the owner, the oper-  
14          ator, and any subsidiary of the owner or oper-  
15          ator, the disposition of enforcement proceedings  
16          taken with respect to the violations, and correc-  
17          tive action and rehabilitation measures taken as  
18          a result of the proceedings.

19          “(I) Any information that is required by  
20          State or Federal law to be provided with re-  
21          spect to gifts and contributions made by the  
22          owner or operator.

23          “(J) Any information that is required by  
24          State or Federal law to be provided with re-

1           spect to compliance by the owner or operator  
2           with the State solid waste management plan.

3           “(4) PRIOR NOTIFICATION.—Prior to taking  
4           formal action with respect to granting authorization  
5           to receive out-of-State municipal solid waste pursu-  
6           ant to a new host community agreement under this  
7           subsection, an affected local government shall—

8                   “(A) notify the State, contiguous local gov-  
9                   ernments, and any contiguous Indian tribes;

10                   “(B) publish notice of the action in a  
11                   newspaper of general circulation in the affected  
12                   area at least 15 days before holding a hearing  
13                   under subparagraph (C), except where State  
14                   law provides for an alternate form of public no-  
15                   tification; and

16                   “(C) provide an opportunity for public  
17                   comment in accordance with State law, includ-  
18                   ing at least 1 public hearing.

19           “(5) SUBSEQUENT NOTIFICATION.—Promptly,  
20           but not later than 90 days after an authorization is  
21           granted pursuant to a new host community agree-  
22           ment under this subsection, the affected local gov-  
23           ernment shall notify the Governor, contiguous local  
24           governments, and any contiguous Indian tribes of  
25           such authorization.

1 “(6) AUTHORITY.—

2 “(A) IN GENERAL.—A State may enact a  
3 law or laws with respect to the entry, by an af-  
4 fected local government in the State, into a host  
5 community agreement, as it relates to the inter-  
6 state transportation of solid waste.

7 “(B) NO DISCRIMINATION.—In enacting a  
8 law or laws pursuant to subparagraph (A), a  
9 State shall act in a consistent manner that does  
10 not discriminate against the receipt of out-of-  
11 State municipal solid waste on the basis of  
12 State of origin.

13 “(d) EXEMPTION FOR WASTE NOT SUBJECT TO  
14 HOST COMMUNITY AGREEMENTS.—

15 “(1) EXEMPTION FROM BAN.—Except as pro-  
16 vided in subsection (e), out-of-State municipal solid  
17 waste received at a landfill or incinerator shall be ex-  
18 empt from the presumptive ban contained in sub-  
19 section (a) if the owner or operator of the landfill or  
20 incinerator provides to the State in which the landfill  
21 or incinerator is located and to the affected local  
22 government either of the following:

23 “(A) PERMIT.—Information establishing  
24 that, before the enactment of this section, the  
25 owner or operator of the landfill or incinerator



1 has received a State permit that specifically au-  
2 thorizes the owner or operator to accept, at the  
3 landfill or incinerator, such out-of-State munic-  
4 ipal solid waste. This subparagraph shall be ef-  
5 fective only if the owner or operator complies  
6 with all of the terms and conditions of the per-  
7 mit after the date of enactment of this section  
8 and notifies the affected local government of  
9 the permit as soon as practicable but not later  
10 than 90 days after the date of enactment of  
11 this section.

12 “(B) CONTRACT.—Information estab-  
13 lishing that the owner or operator of the landfill  
14 or incinerator has entered into a binding con-  
15 tract before March 18, 2001, that commits to  
16 the delivery to and receipt at the landfill or in-  
17 cinerator of a specific quantity of out-of-State  
18 municipal solid waste and that the owner or op-  
19 erator of the landfill or incinerator has per-  
20 mitted capacity actually available on the date of  
21 enactment of this section for receipt of the spe-  
22 cific quantity of out-of-State municipal solid  
23 waste committed to in the contract. This sub-  
24 paragraph shall be effective only for the longer  
25 of—

1 “(i) the life of the contract (not in-  
2 cluding any renewal, novation, or extension  
3 thereof); or

4 “(ii) a period of 3 years after the date  
5 of enactment of this section,  
6 and only with respect to the amount of the obli-  
7 gation in the contract.

8 “(2) AVAILABILITY OF DOCUMENTATION.—The  
9 owner or operator of a landfill or incinerator receiv-  
10 ing out-of-State municipal solid waste pursuant to  
11 an exemption under paragraph (1) shall make avail-  
12 able for inspection by the public in the affected local  
13 community a copy of the permit or contract referred  
14 to in paragraph (1). The owner or operator may  
15 omit any proprietary information contained in con-  
16 tracts.

17 “(3) DENIED OR REVOKED PERMITS.—A land-  
18 fill or incinerator may not receive for disposal or in-  
19 cineration out-of-State municipal solid waste pursu-  
20 ant to an exemption under paragraph (1) if the op-  
21 erating permit for the landfill or incinerator (or re-  
22 newal thereof) was denied or revoked by the appro-  
23 priate State agency before the date of enactment of  
24 this section, unless such permit or license (or re-

1 newal) has been reinstated as of such date of enact-  
 2 ment.

3 “(e) REQUIRED COMPLIANCE.—Exemptions under  
 4 subsections (b), (c), and (d) shall not apply to a landfill  
 5 or incinerator during any period with respect to which the  
 6 State in which the facility is located has determined that  
 7 the facility is not in compliance with applicable Federal  
 8 and State laws and regulations relating to—

9 “(1) facility operation and design;

10 “(2) in the case of landfills, facility location  
 11 standards, leachate collection standards, ground-  
 12 water monitoring standards, and standards for fi-  
 13 nancial assurance and for closure and postclosure  
 14 and corrective action; and

15 “(3) in the case of incinerators, the applicable  
 16 requirements of section 129 of the Clean Air Act (42  
 17 U.S.C. 7429).

18 “(f) AUTHORITY OF STATE TO RESTRICT OUT-OF-  
 19 STATE MUNICIPAL SOLID WASTE.—

20 “(1) LIMITATIONS ON AMOUNT OF WASTE RE-  
 21 CEIVED.—

22 “(A) LIMIT FOR ALL FACILITIES IN THE  
 23 STATE.—A State may limit the amount of out-  
 24 of-State municipal solid waste received annually  
 25 at each landfill or incinerator in the State to

1 the limitation amount described in paragraph  
2 (2), except as provided in this subsection. No  
3 such limit may conflict—

4 “(i) with provisions of a permit spe-  
5 cifically authorizing the owner or operator  
6 to accept, at the facility, out-of-State mu-  
7 nicipal solid waste; or

8 “(ii) with a host community agree-  
9 ment entered into between the owner or  
10 operator of any such landfill or incinerator  
11 and the affected local government.

12 “(B) CONFLICT.—A limit referred to in  
13 subparagraph (A) shall be treated as conflicting  
14 with—

15 “(i) a permit if the permit establishes  
16 a higher limit or does not establish any  
17 limit on the amount of out-of-State munic-  
18 ipal solid waste which may be received an-  
19 nually at the facility; and

20 “(ii) a host community agreement if  
21 the host community agreement establishes  
22 a higher limit or does not establish any  
23 limit on the amount of out-of-State munic-  
24 ipal solid waste which may be received an-  
25 nually at the facility, but only to the extent

1           that the landfill or incinerator, at the time  
2           the host community agreement was entered  
3           into, had specifically permitted capacity to  
4           receive the solid waste authorized by the  
5           host community agreement.

6           “(C) LIMIT FOR PARTICULAR FACILI-  
7           TIES.—An affected local government that has  
8           not executed a host community agreement with  
9           a particular landfill or incinerator may limit the  
10          amount of out-of-State municipal solid waste  
11          received annually at the landfill or incinerator  
12          concerned to the limitation amount described in  
13          paragraph (2). No such limit may conflict with  
14          provisions of a permit specifically authorizing  
15          the owner or operator to accept, at the facility,  
16          out-of-State municipal solid waste.

17          “(D) EFFECT ON OTHER LAWS.—Nothing  
18          in this subsection shall be interpreted or con-  
19          strued to supersede any State law relating to  
20          contracts.

21          “(2) LIMITATION AMOUNT.—For any landfill or  
22          incinerator that commenced receiving documented  
23          out-of-State municipal solid waste before the date of  
24          enactment of this section, the limitation amount re-  
25          ferred to in paragraph (1) for any year shall be

1 equal to the amount of out-of-State municipal solid  
2 waste received at the landfill or incinerator con-  
3 cerned during calendar year 1993. The documenta-  
4 tion referred to in this paragraph shall be such as  
5 would result in criminal penalties under State law  
6 in case of false or misleading information. Such doc-  
7 umentation shall include the amount of waste re-  
8 ceived in 1993, place of origin, identity of the gener-  
9 ator, date of shipment, and type of waste.

10 “(3) NO DISCRIMINATION.—In establishing a  
11 limitation under this subsection, a State shall act in  
12 a consistent manner that does not discriminate  
13 against any shipments of out-of-State municipal  
14 solid waste on the basis of State of origin.

15 “(g) LIMITATIONS ON PROSPECTIVE WASTE  
16 FLOWS.—

17 “(1) STATE AUTHORITY TO DENY PERMITS.—A  
18 State may provide by law that the State will deny,  
19 or refuse to renew, a permit for the construction or  
20 operation of a landfill or incinerator, or for a major  
21 modification to an existing landfill or incinerator,  
22 if—

23 “(A) the State has approved a State or  
24 local comprehensive municipal solid waste man-

1           agement plan developed under Federal or State  
2           law; and

3           “(B) the denial or refusal to renew is  
4           based on a determination, pursuant to a State  
5           law authorizing the denial or refusal to renew,  
6           that there is not a local or regional need for the  
7           landfill or incinerator in the State.

8           “(2) PERCENTAGE LIMIT.—

9           “(A) IN GENERAL.—A State may provide  
10          by law that a State permit issued or renewed  
11          after the date of enactment of this section for  
12          a municipal solid waste landfill or incinerator,  
13          or for expansion of a municipal solid waste  
14          landfill or incinerator, shall include a require-  
15          ment that not more than a specified percentage  
16          of the total amount of municipal solid waste re-  
17          ceived annually at the landfill or incinerator  
18          may be out-of-State municipal solid waste. A  
19          percentage limitation established by a State  
20          under this subparagraph shall not be less than  
21          20 percent.

22          “(B) HOST COMMUNITY AGREEMENT.—  
23          Notwithstanding subparagraphs (A) and (C), a  
24          landfill or incinerator acting pursuant to a host  
25          community agreement entered into prior to the

1 date of enactment of this section that specifi-  
 2 cally authorizes the landfill or incinerator to re-  
 3 ceive a specific quantity of out-of-State munic-  
 4 ipal solid waste annually may receive the spe-  
 5 cific quantity authorized under the host com-  
 6 munity agreement.

7 “(C) NONDISCRIMINATION.—An annual  
 8 percentage limitation referred to in subpara-  
 9 graph (A)—

10 “(i) shall be uniform for all municipal  
 11 solid waste landfills and incinerators in the  
 12 State; and

13 “(ii) may not discriminate against  
 14 out-of-State municipal solid waste accord-  
 15 ing to the State of origin.

16 “(h) AUTHORITY OF STATE TO RESTRICT OUT-OF-  
 17 STATE MUNICIPAL SOLID WASTE BASED ON RECYCLING  
 18 PROGRAMS.—

19 “(1) AUTHORITY.—

20 “(A) LIMITATION.—A State may limit the  
 21 amount of out-of-State municipal solid waste  
 22 received annually at each landfill or incinerator  
 23 in the State to the amount of out-of-State mu-  
 24 nicipal solid waste received at the landfill or in-  
 25 cinerator concerned during calendar year 1995



1 if the State has enacted a comprehensive, state-  
2 wide recycling program. No such limit may  
3 conflict—

4 “(i) with provisions of a permit spe-  
5 cifically authorizing the owner or operator  
6 to accept, at the facility, out-of-State mu-  
7 nicipal solid waste; or

8 “(ii) with a host community agree-  
9 ment entered into between the owner or  
10 operator of any such landfill or incinerator  
11 and the affected local government.

12 “(B) CONFLICT.—A limit referred to in  
13 subparagraph (A) shall be treated as conflicting  
14 with—

15 “(i) a permit if the permit establishes  
16 a higher limit or does not establish any  
17 limit on the amount of out-of-State munic-  
18 ipal solid waste which may be received an-  
19 nually at the facility; and

20 “(ii) a host community agreement if  
21 the host community agreement establishes  
22 a higher limit or does not establish any  
23 limit on the amount of out-of-State munic-  
24 ipal solid waste which may be received an-  
25 nually at the facility, but only to the extent

1           that the landfill or incinerator, at the time  
2           the host community agreement was entered  
3           into, had specifically permitted capacity to  
4           receive the solid waste authorized by the  
5           host community agreement.

6           “(2) NO DISCRIMINATION.—In establishing a  
7           limitation under this subsection, a State shall act in  
8           a consistent manner that does not discriminate  
9           against any shipments of out-of-State municipal  
10          solid waste on the basis of State of origin.

11          “(3) EFFECT ON OTHER LAWS.—Nothing in  
12          this subsection shall be interpreted or construed to  
13          supersede any State law relating to contracts.

14          “(4) DEFINITION.—As used in this subsection,  
15          the term ‘comprehensive, statewide recycling pro-  
16          gram’ means a law of statewide applicability that re-  
17          quires the generators of municipal solid waste to  
18          separate all of the following materials for recycling  
19          as a condition of disposing of the waste at landfills  
20          or incinerators in the State:

21                  “(A) Aluminum containers.

22                  “(B) Corrugated paper or other container  
23          board.

24                  “(C) Glass containers.

1           “(D) Magazines or other material printed  
2           on similar paper.

3           “(E) Newspapers or other material printed  
4           on newsprint.

5           “(F) Office paper.

6           “(G) Plastic containers.

7           “(H) Steel containers.

8           “(I) Containers for carbonated or malt  
9           beverages that are primarily made of a com-  
10          bination of steel and aluminum.

11       “(i) COST RECOVERY SURCHARGE.—

12           “(1) AUTHORITY.—A State may impose and  
13           collect a cost recovery charge on the processing,  
14           combustion, or disposal in a landfill or incinerator of  
15           out-of-State municipal solid waste in the State in ac-  
16           cordance with this subsection.

17           “(2) AMOUNT OF SURCHARGE.—The amount of  
18           the cost recovery surcharge may be no greater than  
19           the amount necessary to recover those costs deter-  
20           mined in conformance with paragraph (4) and in no  
21           event may exceed \$2.00 per ton of waste.

22           “(3) USE OF SURCHARGE COLLECTED.—All  
23           cost recovery surcharges collected by a State shall be  
24           used to fund those solid waste management pro-  
25           grams administered by the State or its political sub-

1 division that incur costs for which the surcharge is  
2 collected.

3 “(4) CONDITIONS.—(A) Subject to subpara-  
4 graphs (B) and (C), a State may impose and collect  
5 a cost recovery surcharge on the processing, combus-  
6 tion, or disposal within the State of out-of-State mu-  
7 nicipal solid waste if—

8 “(i) the State demonstrates a cost to the  
9 State arising from the processing, combustion,  
10 or disposal within the State of a volume of mu-  
11 nicipal solid waste from a source outside the  
12 State;

13 “(ii) the surcharge is based on those costs  
14 to the State demonstrated under clause (i) that,  
15 if not paid for through the surcharge, would  
16 otherwise have to be paid or subsidized by the  
17 State; and

18 “(iii) the surcharge is compensatory and is  
19 not discriminatory.

20 “(B) In no event shall a cost recovery surcharge  
21 be imposed by a State to the extent that the cost for  
22 which recovery is sought is otherwise paid, recov-  
23 ered, or offset by any other fee or tax paid to the  
24 State or its political subdivision or to the extent that  
25 the amount of the surcharge is offset by voluntarily

1       agreed payments to a State or its political subdivi-  
2       sion in connection with the generation, transpor-  
3       tation, treatment, processing, combustion, or dis-  
4       posal of solid waste.

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

9               “(5) DEFINITIONS.—As used in this subsection:

10              “(A) The term ‘costs’ means the costs in-  
11       curred by the State for the implementation of  
12       its laws governing the processing, combustion,  
13       or disposal of municipal solid waste, limited to  
14       the issuance of new permits and renewal of or  
15       modification of permits, inspection and compli-  
16       ance monitoring, enforcement, and costs associ-  
17       ated with technical assistance, data manage-  
18       ment, and collection of fees.

19              “(B) The term ‘processing’ means any ac-  
20       tivity to reduce the volume of solid waste or  
21       alter its chemical, biological or physical state,  
22       through processes such as thermal treatment,  
23       bailing, composting, crushing, shredding, sepa-  
24       ration, or compaction.

1       “(j) IMPLEMENTATION AND ENFORCEMENT.—Any  
 2 State may adopt such laws and regulations, not incon-  
 3 sistent with this section, as are necessary to implement  
 4 and enforce this section, including provisions for penalties.

5       “(k) EFFECT ON INTERSTATE COMMERCE.—No  
 6 State or local government action taken as authorized by  
 7 this section, including the establishment of a limit pursu-  
 8 ant to subsection (f) or the enactment or execution of a  
 9 law or regulation described in subsection (c)(6), (g), (h),  
 10 (i), or (j), shall be considered to impose an undue burden  
 11 on interstate commerce or to otherwise impair, restrain,  
 12 or discriminate against interstate commerce.

13       “(l) ANNUAL STATE REPORT.—Each year the owner  
 14 or operator of each landfill or incinerator receiving out-  
 15 of-State municipal solid waste shall submit to the Gov-  
 16 ernor of the State in which the landfill or incinerator is  
 17 located information specifying the amount of out-of-State  
 18 municipal solid waste received for disposal during the pre-  
 19 ceding year. Each year each such State shall publish and  
 20 make available to the public a report containing informa-  
 21 tion on the amount of out-of-State municipal solid waste  
 22 received for disposal in the State during the preceding  
 23 year.

24       “(m) DEFINITIONS.—For purposes of this section:

1           “(1) AFFECTED LOCAL GOVERNMENT.—The  
2       term ‘affected local government’ means—

3           “(A) the public body authorized by State  
4       law to plan for the management of municipal  
5       solid waste, a majority of the members of which  
6       are elected officials, for the area in which a  
7       landfill or incinerator is located or proposed to  
8       be located;

9           “(B) if there is no such body authorized by  
10      State law, 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 a landfill or incinerator is lo-  
15      cated or proposed to be located; or

16          “(C) contiguous units of local government  
17      located in each of 2 or more adjoining States  
18      acting jointly as an affected local government,  
19      pursuant to the authority provided in section  
20      1005(b), for purposes of providing authoriza-  
21      tion under subsection (b), (c), or (d) for munic-  
22      ipal solid waste generated in the jurisdiction of  
23      one of those units of local government and re-  
24      ceived for disposal or incineration in the juris-  
25      diction of another.

1           “(2) HOST COMMUNITY AGREEMENT.—The  
 2           term ‘host community agreement’ means a written,  
 3           legally binding agreement, lawfully entered into be-  
 4           tween an owner or operator of a landfill or inciner-  
 5           ator and an affected local government that specifi-  
 6           cally authorizes the landfill or incinerator to receive  
 7           out-of-State municipal solid waste.

8           “(3) MUNICIPAL SOLID WASTE.—

9           “(A) WASTE INCLUDED.—Except as pro-  
 10          vided in subparagraph (B), the term ‘municipal  
 11          solid waste’ means—

12               “(i) all waste materials discarded for  
 13               disposal by households, including single  
 14               and multifamily residences, and hotels and  
 15               motels; and

16               “(ii) all waste materials discarded for  
 17               disposal that were generated by commer-  
 18               cial, institutional, municipal, and industrial  
 19               sources, to the extent such materials—

20                       “(I) are essentially the same as  
 21                       materials described in clause (i); or

22                       “(II) were collected and disposed  
 23                       of with other municipal solid waste  
 24                       described in clause (i) or subclause (I)  
 25                       of this clause as part of normal mu-



1                   municipal solid waste collection services,  
2                   except that this subclause does not  
3                   apply to hazardous materials other  
4                   than hazardous materials that, pursu-  
5                   ant to regulations issued under sec-  
6                   tion 3001(d), are not subject to regu-  
7                   lation under subtitle C.

8                   Examples of municipal solid waste include food  
9                   and yard waste, paper, clothing, appliances,  
10                  consumer product packaging, disposable dia-  
11                  pers, office supplies, cosmetics, glass and metal  
12                  food containers, and household hazardous  
13                  waste. Such term shall include debris resulting  
14                  from construction, remodeling, repair, or demo-  
15                  lition of structures.

16                  “(B) WASTE NOT INCLUDED.—The term  
17                  ‘municipal solid waste’ does not include any of  
18                  the following:

19                         “(i) Any solid waste identified or list-  
20                         ed as a hazardous waste under section  
21                         3001, except for household hazardous  
22                         waste.

23                         “(ii) Any solid waste, including con-  
24                         taminated soil and debris, resulting from—

1           “(I) a response action taken  
2           under section 104 or 106 of the Com-  
3           prehensive Environmental Response,  
4           Compensation, and Liability Act (42  
5           U.S.C. 9604 or 9606);

6           “(II) a response action taken  
7           under a State law with authorities  
8           comparable to the authorities of such  
9           section 104 or 106; or

10          “(III) a corrective action taken  
11          under this Act.

12          “(iii) Recyclable materials that have  
13          been separated, at the source of the waste,  
14          from waste otherwise destined for disposal  
15          or that have been managed separately from  
16          waste destined for disposal.

17          “(iv) Scrap rubber to be used as a  
18          fuel source.

19          “(v) Materials and products returned  
20          from a dispenser or distributor to the man-  
21          ufacturer or an agent of the manufacturer  
22          for credit, evaluation, and possible reuse.

23          “(vi) Any solid waste that is—

24                 “(I) generated by an industrial  
25                 facility; and

1                   “(II) transported for the purpose  
2                   of treatment, storage, or disposal to a  
3                   facility or unit thereof that is owned  
4                   or operated by the generator of the  
5                   waste, located on property owned by  
6                   the generator or a company with  
7                   which the generator is affiliated, or  
8                   the capacity of which is contractually  
9                   dedicated exclusively to a specific gen-  
10                  erator, so long as the disposal area  
11                  complies with local and State land use  
12                  and zoning regulations applicable to  
13                  the disposal site.

14               “(vii) Any medical waste that is seg-  
15               regated from or not mixed with solid  
16               waste.

17               “(viii) Sewage sludge and residuals  
18               from any sewage treatment plant, includ-  
19               ing any sewage treatment plant required to  
20               be constructed in the State of Massachu-  
21               setts pursuant to any court order issued  
22               against the Massachusetts Water Re-  
23               sources Authority.

24               “(ix) Combustion ash generated by re-  
25               source recovery facilities or municipal in-

1 cinerators, or waste from manufacturing or  
 2 processing (including pollution control) op-  
 3 erations not essentially the same as waste  
 4 normally generated by households.

5 “(4) OUT-OF-STATE MUNICIPAL SOLID  
 6 WASTE.—The term ‘out-of-State municipal solid  
 7 waste’ means, with respect to any State, municipal  
 8 solid waste generated outside of the State. The term  
 9 includes municipal solid waste generated outside of  
 10 the United States.

11 “(5) RECYCLABLE MATERIALS.—The term ‘re-  
 12 cyclable materials’ means materials that are di-  
 13 verted, separated from, or separately managed from  
 14 materials otherwise destined for disposal as solid  
 15 waste, by collecting, sorting, or processing for use as  
 16 raw materials or feedstocks in lieu of, or in addition  
 17 to, virgin materials, including petroleum, in the  
 18 manufacture of usable materials or products.

19 “(6) SPECIFICALLY AUTHORIZES.—The term  
 20 ‘specifically authorizes’ refers to an explicit author-  
 21 ization, contained in a host community agreement or  
 22 permit, to import municipal solid waste from outside  
 23 the State. Such authorization may include a ref-  
 24 erence to a fixed radius surrounding the landfill or  
 25 incinerator which includes an area outside the State

1 or a reference to ‘any place of origin’, reference to  
 2 specific places outside the State, or use of such  
 3 phrases as ‘regardless of origin’ or ‘outside the  
 4 State’. The language for such authorization must  
 5 clearly and affirmatively state the approval or con-  
 6 sent of the affected local government or State for  
 7 receipt of municipal solid waste from sources or lo-  
 8 cations outside the State from which the owner or  
 9 operator of a landfill or incinerator proposes to im-  
 10 port it. The term shall not include general references  
 11 to the receipt of waste from outside the jurisdiction  
 12 of the affected local government.”.

13 (b) TABLE OF CONTENTS.—The table of contents of  
 14 the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is  
 15 amended by adding after the item relating to section 4010  
 16 the following new item:

“Sec. 4011. Receipt and disposal of out-of-State municipal solid waste.”.

17 (c) INCIDENT REPORTS.—Not later than one year  
 18 after the date of the enactment of this Act and annually  
 19 for the next two years, the General Accounting Office shall  
 20 submit a report to the Committee on Commerce of the  
 21 House of Representatives and the Committee on Environ-  
 22 ment and Public Works of the Senate that contains the  
 23 following information:

24 (1) Available information for each State that  
 25 imports municipal solid waste detailing any incidents

1 or circumstances where waste materials that are not  
 2 authorized by permit to be disposed of at a landfill  
 3 or incinerator have been discovered in the imported  
 4 municipal solid waste during the transportation,  
 5 processing, or disposal of such waste. Such unau-  
 6 thorized waste materials can include hazardous  
 7 waste, medical waste, radioactive waste, and indus-  
 8 trial waste.

9 (2) For each incident or circumstance identified  
 10 under paragraph (1), an indication of the method or  
 11 circumstances of detection, and the identity of the  
 12 source of the waste, the transporter, and the dis-  
 13 posal facility.

14 (3) For each incident or circumstance identified  
 15 under paragraph (1), an indication of whether any-  
 16 one was cited for a violation, and if so the nature  
 17 of the violation and any penalty assessed.

18 **SEC. 3. CONGRESSIONAL AUTHORIZATION OF STATE AND**  
 19 **LOCAL MUNICIPAL SOLID WASTE FLOW CON-**  
 20 **TROL.**

21 (a) AMENDMENT OF SUBTITLE D.—Subtitle D of the  
 22 Solid Waste Disposal Act is amended by adding after sec-  
 23 tion 4011 the following new section:

1 **“SEC. 4012. CONGRESSIONAL AUTHORIZATION OF STATE**  
 2 **AND LOCAL GOVERNMENT CONTROL OVER**  
 3 **MOVEMENT OF MUNICIPAL SOLID WASTE**  
 4 **AND RECYCLABLE MATERIALS.**

5 “(a) FLOW CONTROL AUTHORITY FOR FACILITIES  
 6 PREVIOUSLY DESIGNATED.—Any State or political sub-  
 7 division thereof is authorized to exercise flow control au-  
 8 thority to direct the movement of municipal solid waste  
 9 and recyclable materials voluntarily relinquished by the  
 10 owner or generator thereof to particular waste manage-  
 11 ment facilities, or facilities for recyclable materials, des-  
 12 ignated as of the suspension date, if each of the following  
 13 conditions are met:

14 “(1) The waste and recyclable materials are  
 15 generated within the jurisdictional boundaries of  
 16 such State or political subdivision, as such jurisdic-  
 17 tion was in effect on the suspension date.

18 “(2) Such flow control authority is imposed  
 19 through the adoption or execution of a law, ordi-  
 20 nance, regulation, resolution, or other legally binding  
 21 provision or official act of the State or political sub-  
 22 division that—

23 “(A) was in effect on the suspension date;

24 “(B) was in effect prior to the issuance of  
 25 an injunction or other order by a court based  
 26 on a ruling that such law, ordinance, regula-

tion, resolution, or other legally binding provision or official act violated the Commerce Clause of the United States Constitution; or

“(C) was in effect immediately prior to suspension or partial suspension thereof by legislative or official administrative action of the State or political subdivision expressly because of the existence of an injunction or other court order of the type described in subparagraph (B) issued by a court of competent jurisdiction.

“(3) The State or a political subdivision thereof has, for one or more of such designated facilities—

“(A) on or before the suspension date, presented eligible bonds for sale;

“(B) on or before the suspension date, issued a written public declaration or regulation stating that bonds would be issued and held hearings regarding such issuance, and subsequently presented eligible bonds for sale within 180 days of the declaration or regulation; or

“(C) on or before the suspension date, executed a legally binding contract or agreement that—

“(i) was in effect as of the suspension date;



1 “(ii) obligates the delivery of a min-  
 2 imum quantity of municipal solid waste or  
 3 recyclable materials to one or more such  
 4 designated waste management facilities or  
 5 facilities for recyclable materials; and

6 “(iii) either—

7 “(I) obligates the State or polit-  
 8 ical subdivision to pay for that min-  
 9 imum quantity of waste or recyclable  
 10 materials even if the stated minimum  
 11 quantity of such waste or recyclable  
 12 materials is not delivered within a re-  
 13 quired timeframe; or

14 “(II) otherwise imposes liability  
 15 for damages resulting from such fail-  
 16 ure.

17 “(b) WASTE STREAM SUBJECT TO FLOW CON-  
 18 TROL.—Subsection (a) authorizes only the exercise of flow  
 19 control authority with respect to the flow to any des-  
 20 ignated facility of the specific classes or categories of mu-  
 21 nicipal solid waste and voluntarily relinquished recyclable  
 22 materials to which such flow control authority was applica-  
 23 ble on the suspension date and—

24 “(1) in the case of any designated waste man-  
 25 agement facility or facility for recyclable materials

1       that was in operation as of the suspension date, only  
2       if the facility concerned received municipal solid  
3       waste or recyclable materials in those classes or cat-  
4       egories on or before the suspension date; and

5           “(2) in the case of any designated waste man-  
6       agement facility or facility for recyclable materials  
7       that was not yet in operation as of the suspension  
8       date, only of the classes or categories that were  
9       clearly identified by the State or political subdivision  
10      as of the suspension date to be flow controlled to  
11      such facility.

12      “(c) DURATION OF FLOW CONTROL AUTHORITY.—  
13      Flow control authority may be exercised pursuant to this  
14      section with respect to any facility or facilities only until  
15      the later of the following:

16           “(1) The final maturity date of the bond re-  
17      ferred to in subsection (a)(3)(A) or (B).

18           “(2) The expiration date of the contract or  
19      agreement referred to in subsection (a)(3)(C).

20           “(3) The adjusted expiration date of a bond  
21      issued for a qualified environmental retrofit.

22      The dates referred to in paragraphs (1) and (2) shall be  
23      determined based upon the terms and provisions of the  
24      bond or contract or agreement. In the case of a contract  
25      or agreement described in subsection (a)(3)(C) that has

1 no specified expiration date, for purposes of paragraph (2)  
2 of this subsection the expiration date shall be the first date  
3 that the State or political subdivision that is a party to  
4 the contract or agreement can withdraw from its respon-  
5 sibilities under the contract or agreement without being  
6 in default thereunder and without substantial penalty or  
7 other substantial legal sanction. The expiration date of a  
8 contract or agreement referred to in subsection (a)(3)(C)  
9 shall be deemed to occur at the end of the period of an  
10 extension exercised during the term of the original con-  
11 tract or agreement, if the duration of that extension was  
12 specified by such contract or agreement as in effect on  
13 the suspension date.

14 “(d) INDEMNIFICATION FOR CERTAIN TRANSPOR-  
15 TATION.—Notwithstanding any other provision of this sec-  
16 tion, no State or political subdivision may require any per-  
17 son to transport municipal solid waste or recyclable mate-  
18 rials, or to deliver such waste or materials for transpor-  
19 tation, to any active portion of a municipal solid waste  
20 landfill unit if contamination of such active portion is a  
21 basis for listing of the municipal solid waste landfill unit  
22 on the National Priorities List established under the Com-  
23 prehensive Environmental Response, Compensation, and  
24 Liability Act of 1980 unless such State or political subdivi-  
25 sion or the owner or operator of such landfill unit has in-

1 demnified that person against all liability under that Act  
 2 with respect to such waste or materials.

3 “(e) OWNERSHIP OF RECYCLABLE MATERIALS.—  
 4 Nothing in this section shall authorize any State or polit-  
 5 ical subdivision to require any person to sell or transfer  
 6 any recyclable materials to such State or political subdivi-  
 7 sion.

8 “(f) LIMITATION ON REVENUE.—A State or political  
 9 subdivision may exercise the flow control authority grant-  
 10 ed in this section only if the State or political subdivision  
 11 limits the use of any of the revenues it derives from the  
 12 exercise of such authority to the payment of one or more  
 13 of the following:

14 “(1) Principal and interest on any eligible bond.

15 “(2) Principal and interest on a bond issued for  
 16 a qualified environmental retrofit.

17 “(3) Payments required by the terms of a con-  
 18 tract referred to in subsection (a)(3)(C).

19 “(4) Other expenses necessary for the operation  
 20 and maintenance and closure of designated facilities  
 21 and other integral facilities identified by the bond  
 22 necessary for the operation and maintenance of such  
 23 designated facilities.

24 “(5) To the extent not covered by paragraphs  
 25 (1) through (4), expenses for recycling, composting,

1       and household hazardous waste activities in which  
2       the State or political subdivision was engaged before  
3       the suspension date. The amount and nature of pay-  
4       ments described in this paragraph shall be fully dis-  
5       closed to the public annually.

6       “(g) INTERIM CONTRACTS.—A contract of the type  
7       referred to in subsection (a)(3)(C) that was entered into  
8       during the period—

9               “(1) before November 10, 1995, and after the  
10       effective date of any applicable final court order no  
11       longer subject to judicial review specifically invali-  
12       dating the flow control authority of the applicable  
13       State or political subdivision; or

14              “(2) after the applicable State or political sub-  
15       division refrained pursuant to legislative or official  
16       administrative action from enforcing flow control au-  
17       thority expressly because of the existence of a court  
18       order of the type described in subsection (a)(2)(B)  
19       issued by a court of the same State or the Federal  
20       judicial circuit within which such State is located  
21       and before the effective date on which it resumes en-  
22       forcement of flow control authority after enactment  
23       of this section,

24       shall be fully enforceable in accordance with State law.

25       “(h) AREAS WITH PRE-1984 FLOW CONTROL.—

1           “(1) GENERAL AUTHORITY.—A State that on  
2           or before January 1, 1984—

3                   “(A) adopted regulations under a State  
4           law that required or directed transportation,  
5           management, or disposal of municipal solid  
6           waste from residential, commercial, institu-  
7           tional, or industrial sources (as defined under  
8           State law) to specifically identified waste man-  
9           agement facilities, and applied those regulations  
10          to every political subdivision of the State; and

11                   “(B) subjected such waste management fa-  
12          cilities to the jurisdiction of a State public utili-  
13          ties commission,  
14          may exercise flow control authority over municipal  
15          solid waste in accordance with the other provisions  
16          of this section.

17           “(2) DURATION OF AUTHORITY.—The authority  
18          to direct municipal solid waste to any facility pursu-  
19          ant to this subsection shall terminate with regard to  
20          such facility in accordance with subsection (c).

21           “(i) EFFECT ON AUTHORITY OF STATES AND POLIT-  
22          ICAL SUBDIVISIONS.—Nothing in this section shall be  
23          interpreted—

1           “(1) to authorize a political subdivision to exer-  
2           cise the flow control authority granted by this sec-  
3           tion in a manner inconsistent with State law;

4           “(2) to permit the exercise of flow control au-  
5           thority over municipal solid waste and recyclable ma-  
6           terials to an extent greater than the maximum vol-  
7           ume authorized by State permit to be disposed at  
8           the waste management facility or processed at the  
9           facility for recyclable materials;

10           “(3) to limit the authority of any State or polit-  
11           ical subdivision to place a condition on a franchise,  
12           license, or contract for municipal solid waste or recy-  
13           clable materials collection, processing, or disposal; or

14           “(4) to impair in any manner the authority of  
15           any State or political subdivision to adopt or enforce  
16           any law, ordinance, regulation, or other legally bind-  
17           ing provision or official act relating to the movement  
18           or processing of municipal solid waste or recyclable  
19           materials which does not constitute discrimination  
20           against or an undue burden upon interstate com-  
21           merce.

22           “(j) EFFECTIVE DATE.—The provisions of this sec-  
23           tion shall take effect with respect to the exercise by any  
24           State or political subdivision of flow control authority on  
25           or after the date of enactment of this section. Such provi-

1 sions, other than subsection (d), shall also apply to the  
 2 exercise by any State or political subdivision of flow con-  
 3 trol authority before such date of enactment, except that  
 4 nothing in this section shall affect any final judgment that  
 5 is no longer subject to judicial review as of the date of  
 6 enactment of this section insofar as such judgment award-  
 7 ed damages based on a finding that the exercise of flow  
 8 control authority was unconstitutional.

9 “(k) STATE SOLID WASTE DISTRICT AUTHORITY.—  
 10 In addition to any other flow control authority authorized  
 11 under this section a solid waste district or a political sub-  
 12 division of a State may exercise flow control authority for  
 13 a period of 20 years after the enactment of this section,  
 14 for municipal solid waste and for recyclable materials that  
 15 is generated within its jurisdiction if—

16 “(1) the solid waste district, or a political sub-  
 17 division within such district, is required through a  
 18 recyclable materials recycling program to meet a  
 19 municipal solid waste reduction goal of at least 30  
 20 percent by the year 2005, and uses revenues gen-  
 21 erated by the exercise of flow control authority  
 22 strictly to implement programs to manage municipal  
 23 solid waste and recyclable materials, other than in-  
 24 cineration programs; and



1           “(2) prior to the suspension date, the solid  
2       waste district, or a political subdivision within such  
3       district—

4           “(A) was responsible under State law for  
5       the management and regulation of the storage,  
6       collection, processing, and disposal of solid  
7       wastes within its jurisdiction;

8           “(B) was authorized by State statute (en-  
9       acted prior to January 1, 1992) to exercise flow  
10      control authority, and subsequently adopted or  
11      sought to exercise the authority through a law,  
12      ordinance, regulation, regulatory proceeding,  
13      contract, franchise, or other legally binding pro-  
14      vision; and

15          “(C) was required by State statute (en-  
16      acted prior to January 1, 1992) to develop and  
17      implement a solid waste management plan con-  
18      sistent with the State solid waste management  
19      plan, and the district solid waste management  
20      plan was approved by the appropriate State  
21      agency prior to September 15, 1994.

22          “(1) SPECIAL RULE FOR CERTAIN CONSORTIA.—For  
23      purposes of this section, if—

24          “(1) two or more political subdivisions are  
25      members of a consortium of political subdivisions es-

1       tablished to exercise flow control authority with re-  
2       spect to any waste management facility or facility  
3       for recyclable materials;

4           “(2) all of such members have either presented  
5       eligible bonds for sale or executed contracts with the  
6       owner or operator of the facility requiring use of  
7       such facility;

8           “(3) the facility was designated as of the sus-  
9       pension date by at least one of such members;

10          “(4) at least one of such members has met the  
11       requirements of subsection (a)(2) with respect to  
12       such facility; and

13          “(5) at least one of such members has pre-  
14       sented eligible bonds for sale, or entered into a con-  
15       tract or agreement referred to in subsection  
16       (a)(3)(C), on or before the suspension date, for such  
17       facility,

18       the facility shall be treated as having been designated, as  
19       of May 16, 1994, by all members of such consortium, and  
20       all such members shall be treated as meeting the require-  
21       ments of subsection (a)(2) and (3) with respect to such  
22       facility.

23       “(m) RECOVERY OF DAMAGES.—

24           “(1) PROHIBITION.—No damages, interest on  
25       damages, costs, or attorneys’ fees may be recovered

1 in any claim against any State or local government,  
 2 or official or employee thereof, based on the exercise  
 3 of flow control authority on or before May 16, 1994.

4 “(2) APPLICABILITY.—Paragraph (1) shall  
 5 apply to cases commenced on or after the date of en-  
 6 actment of the Solid Waste Interstate Transpor-  
 7 tation and Local Authority Act of 2001, and shall  
 8 apply to cases commenced before such date except  
 9 cases in which a final judgment no longer subject to  
 10 judicial review has been rendered.

11 “(n) DEFINITIONS.—For the purposes of this  
 12 section—

13 “(1) ADJUSTED EXPIRATION DATE.—The term  
 14 ‘adjusted expiration date’ means, with respect to a  
 15 bond issued for a qualified environmental retrofit,  
 16 the earlier of the final maturity date of such bond  
 17 or 15 years after the date of issuance of such bond.

18 “(2) BOND ISSUED FOR A QUALIFIED ENVIRON-  
 19 MENTAL RETROFIT.—The term ‘bond issued for a  
 20 qualified environmental retrofit’ means a bond de-  
 21 scribed in paragraph (4)(A) or (B), the proceeds of  
 22 which are dedicated to financing the retrofitting of  
 23 a resource recovery facility or a municipal solid  
 24 waste incinerator necessary to comply with section  
 25 129 of the Clean Air Act, provided that such bond

1 is presented for sale before the expiration date of  
 2 the bond or contract referred to in subsection  
 3 (a)(3)(A), (B), or (C) that is applicable to such fa-  
 4 cility and no later than December 31, 2001.

5 “(3) DESIGNATED.—The term ‘designated’  
 6 means identified by a State or political subdivision  
 7 for receipt of all or any portion of the municipal  
 8 solid waste or recyclable materials that is generated  
 9 within the boundaries of the State or political sub-  
 10 division. Such designation includes designation  
 11 through—

12 “(A) bond covenants, official statements,  
 13 or other official financing documents issued by  
 14 a State or political subdivision issuing an eligi-  
 15 ble bond; and

16 “(B) the execution of a contract of the  
 17 type described in subsection (a)(3)(C),  
 18 in which one or more specific waste management fa-  
 19 cilities are identified as the requisite facility or facili-  
 20 ties for receipt of municipal solid waste or recyclable  
 21 materials generated within the jurisdictional bound-  
 22 aries of that State or political subdivision.

23 “(4) ELIGIBLE BOND.—The term ‘eligible bond’  
 24 means—

1           “(A) a revenue bond or similar instrument  
 2           of indebtedness pledging payment to the bond-  
 3           holder or holder of the debt of identified reve-  
 4           nues; or

5           “(B) a general obligation bond,  
 6           the proceeds of which are used to finance one or  
 7           more designated waste management facilities, facili-  
 8           ties for recyclable materials, or specifically and di-  
 9           rectly related assets, development costs, or finance  
 10          costs, as evidenced by the bond documents.

11          “(5) FLOW CONTROL AUTHORITY.—The term  
 12          ‘flow control authority’ means the regulatory author-  
 13          ity to control the movement of municipal solid waste  
 14          or voluntarily relinquished recyclable materials and  
 15          direct such solid waste or recyclable materials to one  
 16          or more designated waste management facilities or  
 17          facilities for recyclable materials within the bound-  
 18          aries of a State or political subdivision.

19          “(6) MUNICIPAL SOLID WASTE.—The term  
 20          ‘municipal solid waste’ has the meaning given that  
 21          term in section 4011, except that such term—

22                 “(A) includes waste material removed from  
 23                 a septic tank, septage pit, or cesspool (other  
 24                 than from portable toilets); and

25                 “(B) does not include—

1 “(i) any substance the treatment and  
 2 disposal of which is regulated under the  
 3 Toxic Substances Control Act;

4 “(ii) waste generated during scrap  
 5 processing and scrap recycling; or

6 “(iii) construction and demolition de-  
 7bris, except where the State or political  
 8 subdivision had on or before January 1,  
 9 1989, issued eligible bonds secured pursu-  
 10 ant to State or local law requiring the de-  
 11livery of construction and demolition debris  
 12 to a waste management facility designated  
 13 by such State or political subdivision.

14 “(7) POLITICAL SUBDIVISION.—The term ‘polit-  
 15 ical subdivision’ means a city, town, borough, coun-  
 16 ty, parish, district, or public service authority or  
 17 other public body created by or pursuant to State  
 18 law with authority to present for sale an eligible  
 19 bond or to exercise flow control authority.

20 “(8) RECYCLABLE MATERIALS.—The term ‘re-  
 21 cyclable materials’ means any materials that have  
 22 been separated from waste otherwise destined for  
 23 disposal (either at the source of the waste or at  
 24 processing facilities) or that have been managed sep-  
 25 arately from waste destined for disposal, for the pur-

pose of recycling, reclamation, composting of organic materials such as food and yard waste, or reuse (other than for the purpose of incineration). Such term includes scrap tires to be used in resource recovery.

“(9) SUSPENSION DATE.—The term ‘suspension date’ means, with respect to a State or political subdivision—

“(A) May 16, 1994;

“(B) the date of an injunction or other court order described in subsection (a)(2)(B) that was issued with respect to that State or political subdivision; or

“(C) the date of a suspension or partial suspension described in subsection (a)(2)(C) with respect to that State or political subdivision.

“(10) WASTE MANAGEMENT FACILITY.—The term ‘waste management facility’ means any facility for separating, storing, transferring, treating, processing, combusting, or disposing of municipal solid waste.”.

(b) TABLE OF CONTENTS.—The table of contents for subtitle D of the Solid Waste Disposal Act is amended

- 1 by adding the following new item after the item relating
- 2 to section 4011:

“Sec. 4012. Congressional authorization of State and local government control  
over movement of municipal solid waste and recyclable materials.”.

