

105TH CONGRESS  
1ST SESSION

# H. R. 1346

To amend the Solid Waste Disposal Act to provide congressional authorization for restrictions on receipt of out-of-State municipal solid waste, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 16, 1997

Mr. GILCHREST (for himself, Mr. BARCIA of Michigan, Mr. DINGELL, Mr. CALVERT, Mr. HOLDEN, Mr. GIBBONS, Ms. RIVERS, Ms. KILPATRICK, Mr. CONYERS, Mr. LEVIN, Mr. BEREUTER, Mr. KILDEE, Ms. STABENOW, and Mr. CLYBURN) introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To amend the Solid Waste Disposal Act to provide congressional authorization for restrictions on receipt of out-of-State 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 “State and Local Gov-  
5       ernment Interstate Waste Control Act of 1997”.

1       **TITLE I—INTERSTATE WASTE**

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

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

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

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

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

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

16       “(b) EXISTING HOST COMMUNITY AGREEMENTS.—

17               “(1) EXEMPTION FROM BAN.—Out-of-State  
18       municipal solid waste may be received at a landfill  
19       or incinerator for disposal or incineration pursuant  
20       to a host community agreement entered into before  
21       the enactment of this section if—

22               “(A) the agreement specifically authorizes  
23       the owner or operator to accept, at the landfill  
24       or incinerator, out-of-State municipal solid  
25       waste; and

1           “(B) the owner or operator complies with  
2           all of the terms and conditions of the host com-  
3           munity agreement.

4           The owner or operator shall provide a copy of the  
5           host community agreement, within 90 days after the  
6           enactment of this Act, to the State and affected  
7           local government and make such a copy available for  
8           inspection by the public in the affected local commu-  
9           nity.

10           “(2) REQUIREMENT FOR COMPLIANCE WITH  
11           CERTAIN REQUIREMENTS.—The exemption under  
12           this subsection shall not apply to a landfill or incin-  
13           erator in operation on the date of the enactment of  
14           this section if the State determines that the landfill  
15           or incinerator was not in compliance as of such date  
16           with applicable Federal and State laws and regula-  
17           tions relating to facility operation and design and—

18           “(A) in the case of landfills, facility loca-  
19           tion standards, leachate collection standards,  
20           groundwater monitoring standards, and stand-  
21           ards for financial assurance and for closure and  
22           post-closure and corrective action, and

23           “(B) in the case of incinerators, the appli-  
24           cable requirements of section 120 of the Clean  
25           Air Act (42 U.S.C. 7429).

1 “(c) NEW HOST COMMUNITY AGREEMENTS.—

2 “(1) EXEMPTION FROM BAN.—Out-of-State  
3 municipal solid waste may be received at a landfill  
4 or incinerator for disposal or incineration pursuant  
5 to a host community agreement entered into on or  
6 after the enactment of this section (hereinafter in  
7 this section referred to as a “new host community  
8 agreement) if the agreement specifically authorizes  
9 the receipt of such waste and meets the require-  
10 ments of paragraphs (2) through (5) of this sub-  
11 section.

12 “(2) REQUIREMENTS FOR AUTHORIZATION.—

13 An authorization to receive out-of-State municipal  
14 waste pursuant to a new host community agreement  
15 shall be granted by formal action at a meeting; be  
16 recorded in writing in the official record of the meet-  
17 ing; and remain in effect according to its terms.  
18 Such authorization may specify terms and condi-  
19 tions, including an amount of out-of-State waste  
20 that an owner or operator may receive and the dura-  
21 tion of the authorization.

22 “(3) INFORMATION.—Prior to seeking an au-  
23 thorization to receive out-of-State municipal solid  
24 waste pursuant to a new host community agreement  
25 under this subsection, the owner or operator of the

1 facility seeking such authorization shall provide (and  
2 make readily available to the State, each contiguous  
3 local government and Indian tribe, and any other in-  
4 terested person for inspection and copying) each of  
5 the following items of information:

6 “(A) A brief description of the facility, in-  
7 cluding, with respect to both the facility and  
8 any planned expansion of the facility, the size,  
9 ultimate waste capacity, and the anticipated  
10 monthly and yearly quantities of waste to be  
11 handled. Such quantities shall be expressed in  
12 terms of volume.

13 “(B) A map of the facility site indicating  
14 location in relation to the local road system and  
15 topography and general hydrogeological fea-  
16 tures. The map shall indicate any buffer zones  
17 to be acquired by the owner or operator as well  
18 as all facility units.

19 “(C) A description of the then current en-  
20 vironmental characteristics of the site, a de-  
21 scription of ground water use in the area, and  
22 a discussion of alterations that may be neces-  
23 sitated by, or occur as a result of, the facility.  
24 The description of groundwater use shall in-

1           clude identification of private wells and public  
2           drinking water sources.

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

15          “(E) A description of site access controls  
16          to be employed, and roadway improvements to  
17          be made, by the owner or operator, and an esti-  
18          mate of the timing and extent of increased local  
19          truck traffic.

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

22          “(G) Estimates of the personnel require-  
23          ments of the facility, including information re-  
24          garding the probable skill and education levels  
25          required for jobs at the facility. To the extent

1 practicable, the information shall distinguish  
2 between employment statistics for  
3 preoperational and postoperational levels.

4 “(H) Any information that is required by  
5 State or Federal law to be provided with re-  
6 spect to any violations of environmental laws  
7 (including regulations) by the owner, the opera-  
8 tor, and any subsidiary of the owner or opera-  
9 tor, the disposition of enforcement proceedings  
10 taken with respect to the violations, and correc-  
11 tive action and rehabilitation measures taken as  
12 a result of the proceedings.

13 “(I) Any information that is required by  
14 State or Federal law to be provided with re-  
15 spect to gifts and contributions made by the  
16 owner or operator.

17 “(J) Any information that is required by  
18 State or Federal law to be provided with re-  
19 spect to compliance by the owner or operator  
20 with the State solid waste management plan.

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

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

3           “(B) publish notice of the action in a  
4 newspaper of general circulation at least 15  
5 days before holding a hearing under subpara-  
6 graph (C), except where State law provides for  
7 an alternate form of public notification; and

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

11           “(5) SUBSEQUENT NOTIFICATION.—Promptly,  
12 but not later than 90 days after an authorization is  
13 granted pursuant to a new host community agree-  
14 ment under this subsection, the affected local gov-  
15 ernment shall notify the Governor, contiguous local  
16 governments, and any contiguous Indian tribes of  
17 such authorization.

18           “(d) EXEMPTION FOR WASTE NOT SUBJECT TO  
19 HOST COMMUNITY AGREEMENTS.—

20           “(1) IN GENERAL.—Out-of-State municipal  
21 solid waste received at a landfill or incinerator shall  
22 be exempt from the presumptive ban contained in  
23 subsection (a) if the owner or operator of the landfill  
24 or incinerator provides either of the following to the



1 State in which the landfill or incinerator is located  
2 and to the affected local government:

3 “(A) PERMIT.—Information establishing  
4 that, before the date of the enactment of this  
5 section, the owner or operator of the landfill or  
6 incinerator has received a State permit specifi-  
7 cally authorizing the owner or operator to ac-  
8 cept, at the landfill or incinerator, such out-of-  
9 State municipal solid waste. This subparagraph  
10 shall be effective only if the owner or operator  
11 complies with all of the terms and conditions of  
12 the permit and notifies the affected local gov-  
13 ernment of the permit as soon as practicable  
14 but not later than 90 days after the date of en-  
15 actment of this section.

16 “(B) DOCUMENTED SHIPMENTS.—Infor-  
17 mation establishing that during 1993, the land-  
18 fill or incinerator received shipments of out-of-  
19 State municipal solid waste. Such information  
20 shall be in such documented form as will result  
21 in criminal penalties under State law in case of  
22 false or misleading information. Such informa-  
23 tion shall include information about the date of  
24 shipment, place of origin of such waste, and the  
25 type of such waste.

1           “(2) COMPLIANCE WITH CERTAIN LAWS RE-  
 2           QUIRED.—The exemption under this subsection shall  
 3           not apply to a landfill or incinerator in operation on  
 4           the date of the enactment of this section if the State  
 5           determines that the landfill or incinerator was not in  
 6           compliance as of such date with applicable Federal  
 7           and State laws and regulations relating to facility  
 8           operation and design and—

9                   “(A) in the case of landfills, facility loca-  
 10                  tion standards, leachate collection standards,  
 11                  groundwater monitoring standards, and stand-  
 12                  ards for financial assurance and for closure and  
 13                  post-closure and corrective action, and

14                   “(B) in the case of incinerators, the appli-  
 15                  cable requirements of section 120 of the Clean  
 16                  Air Act (42 U.S.C. 7429).

17           “(3) AMOUNT LIMITATION ON PARAGRAPH  
 18           (1)(B) EXEMPTION.—The amount of out-of-State mu-  
 19           nicipal solid waste exempt under paragraph (1)(B)  
 20           from the presumptive ban contained in subsection  
 21           (a) shall be determined as provided in this para-  
 22           graph.

23                   “(A) STATES NOT EXERCISING RATCHET  
 24                  AUTHORITY UNDER SUBSECTION (F).—In States  
 25                  which do not establish a limit on out-of-State

1           municipal solid waste under subsection (f) (re-  
2           lating to the ratchet authority), the amount of  
3           exempt out-of-State municipal solid waste shall  
4           be determined under clause (i) or (ii).

5                   “(i) WASTE UNDER CONTRACT.—For  
6           out-of-State municipal solid waste received  
7           at the landfill or incinerator under a con-  
8           tract in effect during 1993, the exemption  
9           under paragraph (1)(B) shall apply only  
10          for the longer of the following periods: (a)  
11          the date 3 years after the enactment of  
12          this section, and (b) the life of the contract  
13          referred to in this subparagraph. For pur-  
14          poses of this subparagraph the life of the  
15          contract shall be determined without re-  
16          gard to any renewal, novation, or other ex-  
17          tension thereof (as determined under State  
18          law). For out-of-State municipal solid  
19          waste received at the landfill or incinerator  
20          under a contract in effect during 1993, the  
21          exemption under paragraph (1)(B) shall  
22          apply only to the amount of out-of-State  
23          municipal solid waste specified in the con-  
24          tract unless a lower level is provided pur-  
25          suant to a freeze under subsection (e).

1                   “(ii) SPOT WASTE.—For out-of-State  
2                   municipal solid waste received at the land-  
3                   fill or incinerator in the absence of a con-  
4                   tract in effect during 1993 the exemption  
5                   under paragraph (1)(B)—

6                   “(I) shall apply to the receipt of  
7                   out-of-State municipal solid waste  
8                   only for a period ending 3 years after  
9                   the enactment of this section; and

10                  “(II) shall not be limited in an  
11                  amount under this subsection but may  
12                  be limited pursuant to a freeze under  
13                  subsection (e).

14                  “(B) STATES EXERCISING RATCHET AU-  
15                  THORITY UNDER SUBSECTION (F).—In States  
16                  which establish a limit on out-of-State municipi-  
17                  pal solid waste under subsection (f) (relating to  
18                  the ratchet authority), the exemption under  
19                  paragraph (1)(B) shall be limited to the same  
20                  amounts and time periods as specified in sub-  
21                  paragraph (A), except that in lieu of the 3-year  
22                  period referred to in subparagraph (A) there  
23                  shall be substituted a period ending January 1,  
24                  2001.

1           “(4) AVAILABILITY OF DOCUMENTATION.—The  
2           owner or operator of a landfill or incinerator receiv-  
3           ing waste pursuant to an exemption under this sub-  
4           section shall make available for inspection by the  
5           public in the affected local community, a copy of the  
6           documentation referred to in paragraph (1). The  
7           owner or operator may omit any proprietary infor-  
8           mation contained in contracts, but shall ensure that  
9           at least the following information is apparent: the  
10          volume of out-of-State municipal solid waste to be  
11          received, the source of the waste, and the duration  
12          of the contract.

13          “(5) DENIED OR REVOKED PERMITS.—A land-  
14          fill or incinerator may not receive for disposal or in-  
15          cineration out-of-State municipal solid waste pursu-  
16          ant to an exemption under paragraph (1)(B) if the  
17          operating permit or license for the landfill or incin-  
18          erator (or renewal thereof) was denied or revoked by  
19          the appropriate State agency before the date of en-  
20          actment of this section unless such permit or license  
21          (or renewal) has been reinstated as of such date of  
22          enactment.

23          “(6) WASTE WITHIN BI-STATE METROPOLITAN  
24          STATISTICAL AREAS.—A landfill or incinerator in a  
25          State shall be exempt from the presumptive ban set

1       forth in subsection (a) if the out-of-State waste is  
2       generated within, and the landfill or incinerator is  
3       located within, the same bi-State level A metropoli-  
4       tan statistical area (as defined by the Office of Man-  
5       agement and Budget and as listed by the Office of  
6       Management and Budget as of the date of enact-  
7       ment of this section) which contains two contiguous  
8       major cities each of which is in a different State.

9               “(7) EXEMPTION UNDER THIS SUBSECTION  
10       SUBJECT TO FREEZE OR RATCHET.—The authority  
11       of a landfill or incinerator to receive out-of-State  
12       municipal solid waste pursuant to an exemption  
13       under this subsection may be limited by a State pur-  
14       suant to either subsection (e) (relating to the freeze)  
15       or subsection (f) (relating to the ratchet).

16       “(e) AUTHORITY OF STATE TO FREEZE CERTAIN  
17       EXEMPT OUT-OF-STATE MUNICIPAL SOLID WASTE.—

18               “(1) FREEZE.—A State in which a landfill or  
19       incinerator is located may establish a limit, as pro-  
20       vided in this subsection, on the amount of out-of-  
21       State municipal solid waste received annually for  
22       disposal at each landfill or incinerator in the State  
23       pursuant to an exemption under subsection  
24       (d)(1)(B), or the affected local government may  
25       limit the amount of out-of-State municipal solid

1 waste received annually for disposal at a particular  
2 landfill or incinerator pursuant to an exemption  
3 under subsection (d)(1)(B). For any landfill or in-  
4 cinerator, a limit under this subsection shall be in  
5 lieu of any limit under subsection (f) (relating to the  
6 ratchet).

7 “(2) LIMITATION AMOUNT.—For any landfill or  
8 incinerator that commenced receiving documented  
9 out-of-State municipal solid waste before the date of  
10 enactment of this section, any limitation under para-  
11 graph (1) for any year shall be equal to the amount  
12 of out-of-State municipal solid waste received for  
13 disposal at the landfill or incinerator concerned dur-  
14 ing calendar year 1993. The limitation shall be zero  
15 if no out-of-State municipal solid waste was received  
16 for disposal at the landfill or incinerator concerned  
17 during calendar year 1993. The documentation re-  
18 ferred to in this subparagraph shall be such as  
19 would result in criminal penalties in case of false or  
20 misleading information. Such documentation shall  
21 include the amount of waste received, place of origin,  
22 including the identity of the generator, date of ship-  
23 ment, and type of waste.

24 “(3) NO DISCRIMINATION.—In establishing a  
25 limitation under this subsection, a State shall act in

1 a consistent manner that does not discriminate  
2 against any shipments of out-of-State municipal  
3 solid waste on the basis of State of origin.

4 “(4) EFFECT ON OTHER LAWS.—Nothing in  
5 this subsection shall be interpreted or construed to  
6 have any effect on any State law relating to con-  
7 tracts.

8 “(f) RATCHET.—

9 “(1) AUTHORITY.—Any State (hereinafter in  
10 this subsection referred to as an ‘importing State’)  
11 that imported more than 750,000 tons of out-of-  
12 State municipal solid waste in 1993 may establish a  
13 limit under this subsection on the amount of out-of-  
14 State municipal solid waste received pursuant to the  
15 authority of subsection (d)(1)(B) for disposal at  
16 landfills and incinerators in the importing State. A  
17 limit under this paragraph shall be in lieu of any  
18 limit imposed under subsection (e) (relating to the  
19 freeze). A limit under this paragraph may be im-  
20 posed only if each of the following requirements are  
21 met:

22 “(A) The importing State shall notify the  
23 Governor of the exporting State or States of the  
24 proposed limit at least 12 months before im-  
25 position of the limit.



1           “(B) The importing State shall notify the  
 2           Governor of the exporting State or States of the  
 3           proposed limit at least 90 days before enforce-  
 4           ment of the limit.

5           “(C) The percentage reduction in the  
 6           amount of out-of-State municipal solid waste  
 7           which is received at each facility pursuant to  
 8           subsection (d)(1)(B) in the importing State at  
 9           which a limit may be established under this  
 10          subsection shall be uniform for all such facili-  
 11          ties.

12          “(2) PERCENTAGE.—The limit established  
 13          under this subsection shall be a percentage of the  
 14          amount of out-of-State municipal solid waste gen-  
 15          erated in the exporting State during calendar year  
 16          1993 and received at facilities in the importing State  
 17          in which a limit is established under this subsection.  
 18          For any calendar year after 1997, the percentage  
 19          shall be as specified in the following table:

“Calendar year:	Applicable Percentage:
1998 .....	85
1999 .....	75
2000 .....	65
after 2000 .....	50.

20          “(g) NEEDS DETERMINATION.—Any comprehensive  
 21          solid waste management plan approved under Federal or  
 22          State law and any implementation of such plan through

1 the State permitting process may take into account local  
2 and regional needs for solid waste disposal capacity. An  
3 affected local government may make a determination that  
4 there is no local or regional need for a new landfill or in-  
5 cinerator or major modification creating additional capac-  
6 ity at an existing facility in the area under the jurisdiction  
7 of the affected local government. Such determination shall  
8 be based on a finding that the proposed facility does not  
9 have a host community agreement or is inconsistent with  
10 the capacity needs established in the comprehensive solid  
11 waste management plan adopted by the affected local gov-  
12 ernment pursuant to State law. No comprehensive solid  
13 waste management plan may expressly prohibit the impor-  
14 tation of municipal solid waste from out of State.

15 “(h) PERCENTAGE LIMITATION ON OUT-OF-STATE  
16 MUNICIPAL SOLID WASTE.—

17 “(1) PERCENTAGE LIMITATIONS.—Any State  
18 may, by law, provide that a State permit issued after  
19 the date of enactment of this section for a new mu-  
20 nicipal solid waste landfill or incinerator shall in-  
21 clude an annual percentage limitation of not less  
22 than 20 percent on the total amount of out-of-State  
23 municipal solid waste received annually at the land-  
24 fill or incinerator relative to the total amount of

1       municipal solid waste received annually at the land-  
2       fill or incinerator.

3               “(2) EXPANSION OF EXISTING FACILITIES.—

4       The provisions of paragraph (1) of this subsection  
5       shall apply to an expansion of an existing landfill or  
6       incinerator in the same manner as such provisions  
7       apply to a new landfill or incinerator. Landfills or  
8       incinerators that are authorized to receive a specific  
9       amount of out-of-State waste pursuant to a host  
10      community agreement prior to the date of the enact-  
11      ment of this section that exceeds the percentage lim-  
12      itation may receive the specific amount authorized  
13      pursuant to such host community agreement.

14              “(3) REQUIREMENTS FOR PERCENTAGE LIMITA-  
15      TIONS.—Any percentage limitation referred to in  
16      paragraphs (1) and (2) shall be uniform for all such  
17      municipal solid waste landfills or incinerators, and  
18      no such percentage limitation may discriminate  
19      against out-of-State municipal solid waste based on  
20      the State of origin, unless the waste is received  
21      under an agreement entered into under section  
22      1005(b) pursuant to which the State and 1 or more  
23      other States (hereinafter in this subsection referred  
24      to as ‘exporting States’) have agreed upon a dif-  
25      ferent percentage limitation for specific facilities for

1       municipal solid waste from any such exporting State  
2       or States.

3       “(i) IMPLEMENTATION AND ENFORCEMENT.—Any  
4 State may adopt such laws and regulations, not inconsis-  
5 ent with this section, as are necessary to implement and  
6 enforce this section, including provisions for penalties.

7       “(j) EFFECT ON INTERSTATE COMMERCE.—No State  
8 prohibition or limitation established as provided this sec-  
9 tion, no State planning and permitting process referred  
10 to in subsection (g), and no State law or regulation re-  
11 ferred to in subsection (h) shall be considered to impose  
12 an undue burden on interstate commerce or to otherwise  
13 impair, restrain, or discriminate against interstate com-  
14 merce.

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

1 “(l) DEFINITIONS.—For purposes of this section:

2 “(1) AFFECTED LOCAL GOVERNMENT.—(A) Ex-  
3 cept as provided in subparagraphs (B) and (C), for  
4 any landfill or incinerator, the term ‘affected local  
5 government’ shall mean—

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

12 “(ii) if there is no such body created by  
13 State law, the elected officials of the city, town,  
14 township, borough, county, or parish exercising  
15 primary responsibility for the use of land on  
16 which the facility is located or proposed to be  
17 located.

18 “(B) In the case of host community agreements  
19 entered into before January 1, 1993, for any landfill  
20 or incinerator, the term shall mean either the public  
21 body described in clause (i) of subparagraph (A) or  
22 the elected officials of the city, town, township, bor-  
23 ough, county, or parish exercising primary respon-  
24 sibility for the use of land on which the facility is  
25 located or proposed to be located.

1           “(C) Two or more Governors of adjoining  
2 States may use the authority provided in section  
3 1005(b) to enter into an agreement under which  
4 contiguous units of local government located in each  
5 of the adjoining States may act jointly as the af-  
6 fected local government for purposes of providing  
7 authorization under subsection (a) for municipal  
8 solid waste generated in one of such counties and  
9 received for disposal or incineration in another.

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

17           “(3) MUNICIPAL SOLID WASTE.—The term  
18 ‘municipal solid waste’ means all waste materials  
19 discarded for disposal by households, including sin-  
20 gle and multifamily residences, and hotels and mo-  
21 tels. The term also includes waste materials gen-  
22 erated by commercial, institutional, and industrial  
23 sources, to the extent such wastes are essentially the  
24 same as waste normally generated by households or  
25 were collected and disposed of with other municipal

1 solid waste as part of normal municipal solid waste  
2 collection services, and regardless of when generated,  
3 would be considered conditionally exempt small  
4 quantity generator waste under section 3001(d). Ex-  
5 amples of municipal solid waste include food and  
6 yard waste, paper, clothing, appliances, consumer  
7 product packaging, disposable diapers, office sup-  
8 plies, cosmetics, glass and metal food containers, ele-  
9 mentary or secondary school science laboratory  
10 waste, and household hazardous waste. Such term  
11 shall include debris resulting from construction, re-  
12 modeling, repair, or demolition of structures other  
13 than debris that is not otherwise commingled with  
14 other municipal solid waste and has been determined  
15 by the generator, to be contaminated. For purposes  
16 of determining whether any such debris is contami-  
17 nated, the generator shall conduct representative  
18 sampling and analysis of such debris, the results of  
19 which shall be submitted to the affected local gov-  
20 ernment for record keeping purposes only, unless not  
21 required by the affected local government. Any such  
22 debris that has been determined to be contaminated  
23 shall be disposed of in a landfill that meets, at a  
24 minimum, the requirements of this subtitle. The  
25 term does not include any of the following:

1           “(A) Any solid waste identified or listed as  
2           a hazardous waste under section 3001.

3           “(B) Any solid waste, including contami-  
4           nated soil and debris, resulting from—

5                   “(i) a response action taken under  
6                   section 104 or 106 of the Comprehensive  
7                   Environmental Response, Compensation,  
8                   and Liability Act (42 U.S.C. 9604 or  
9                   9606),

10                   “(ii) a response action taken under a  
11                   State law with authorities comparable to  
12                   the authorities of section 104 or 106, or

13                   “(iii) a corrective action taken under  
14                   this Act.

15           “(C) Recyclable materials that have been  
16           separated, at the source of the waste, from  
17           waste otherwise destined for disposal or that  
18           have been managed separately from waste des-  
19           tined for disposal, including scrap rubber to be  
20           used as a fuel source.

21           “(D) Materials and products returned  
22           from a dispenser or distributor to the manufac-  
23           turer or an agent of the manufacturer for cred-  
24           it, evaluation, and possible reuse.

25           “(E) Any solid waste that is—



1 “(i) generated by an industrial facil-  
2 ity; and

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

14 “(F) Any medical waste that is segregated  
15 from or not mixed with solid waste.

16 “(G) Sewage sludge and residuals from  
17 any sewage treatment plant, including any sew-  
18 age treatment plant required to be constructed  
19 in the State of Massachusetts pursuant to any  
20 court order issued against the Massachusetts  
21 Water Resources Authority.

22 “(H) Combustion ash generated by re-  
23 source recovery facilities or municipal inciner-  
24 ators, or waste from manufacturing or process-  
25 ing (including pollution control) operations not

1           essentially the same as waste normally gen-  
2           erated by households.

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

9           “(5)     RECYCLE AND RECYCLING.—The terms  
10    ‘recycle’ and ‘recycling’ mean—

11           “(A) any process which produces any ma-  
12           terial defined as ‘recycled’ under section 1004;  
13           and

14           “(B) any process by which materials are  
15           diverted, separated from, or separately man-  
16           aged from materials otherwise destined for dis-  
17           posal as solid waste, by collecting, sorting, or  
18           processing for use as raw materials or feed-  
19           stocks in lieu of, or in addition to, virgin mate-  
20           rials, including petroleum, in the manufacture  
21           of usable materials or products.

22           “(6)     SPECIFIC AUTHORIZATION.—For purposes  
23     of this section, the term ‘specifically authorizes’ re-  
24     fers to an explicit authorization, contained in a host  
25     community agreement or permit, to import waste

1 from outside the State. Such authorization may in-  
2 clude a reference to a fixed radius surrounding the  
3 landfill or incinerator which includes an area outside  
4 the State or a reference to ‘any place of origin’, ref-  
5 erence to specific places outside the State, or use of  
6 such phrases as ‘regardless of origin’ or ‘outside the  
7 State’. The language for such authorization may  
8 vary as long as it clearly and affirmatively states the  
9 approval or consent of the affected local government  
10 or State for receipt of municipal solid waste from  
11 sources or locations outside the State from which the  
12 owner or operator of a landfill or incinerator pro-  
13 poses to import it. The term shall not include gen-  
14 eral references to the receipt of waste from outside  
15 the jurisdiction of the affected local government.”.

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

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

