

105TH CONGRESS
1ST SESSION

H. R. 942

To amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 1997

Mr. FRANKS of New Jersey (for himself, Mrs. ROUKEMA, and Mr. FRELINGHUYSEN) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes.

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

3 **TITLE I—INTERSTATE WASTE**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Interstate Transpor-
6 tation of Municipal Solid Waste Act of 1997”.

1 **SEC. 102. INTERSTATE TRANSPORTATION OF MUNICIPAL**
2 **SOLID WASTE.**

3 (a) AMENDMENT.—Subtitle D of the Solid Waste
4 Disposal Act (42 U.S.C. 6941 et seq.) is amended by add-
5 ing after section 4010 the following new section:

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

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

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

1 solid waste received for disposal at such landfill or inciner-
2 ator during calendar year 1993.

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

9 “(i) In calendar year 1998, 95 percent of the
10 amount exported to the State in calendar year 1993.

11 “(ii) In calendar years 1999 through 2004, 95
12 percent of the amount exported to the State in the
13 previous year.

14 “(iii) In calendar year 2005, and each succeed-
15 ing year, the limit shall be 65 percent of the amount
16 exported in 1993.

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

21 “(B)(i) No State may export to landfills or inciner-
22 ators in any 1 State that are not covered by host commu-
23 nity agreements or permits authorizing receipt of out-of-
24 State municipal solid waste more than the following
25 amounts of municipal solid waste:

1 “(I) In calendar year 1998, the greater of
2 1,400,000 tons or 90 percent of the amount ex-
3 ported to the State in calendar year 1993.

4 “(II) In calendar year 1999, the greater of
5 1,300,000 tons or 90 percent of the amount ex-
6 ported to the State in calendar year 1998.

7 “(III) In calendar year 2000, the greater of
8 1,200,000 tons or 90 percent of the amount ex-
9 ported to the State in calendar year 1999.

10 “(IV) In calendar year 2001, the greater of
11 1,100,000 tons or 90 percent of the amount ex-
12 ported to the State in calendar year 2000.

13 “(V) In calendar year 2002, 1,000,000 tons.

14 “(VI) In calendar year 2003, 750,000 tons.

15 “(VII) In calendar year 2004 or any calendar
16 year thereafter, 550,000 tons.

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

21 “(I) the Governor of the importing State has
22 notified the Governor of the exporting State and the
23 Administrator, 12 months prior to taking any such
24 action, of the importing State’s intention to impose
25 the requirements of this section;

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

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

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

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

20 “(B) Except as provided in paragraph (3), a Gov-
21 ernor may not exercise the authority granted under this
22 section in a manner that would require any owner or oper-
23 ator of a landfill or incinerator covered by the exceptions
24 provided in subsection (b) to reduce the amount of out-
25 of-State municipal solid waste received from any State for

1 disposal at such landfill or incinerator to an annual quan-
2 tity less than the amount received from such State for dis-
3 posal at such landfill or incinerator during calendar year
4 1993.

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

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

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

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

16 “(6) ANNUAL STATE REPORT.—

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

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

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

23 “(C) LIST.—The Administrator shall publish a
24 list of importing States and the out-of-State munici-
25 pal solid waste received from each State at landfills

1 or incinerators not covered by host community
2 agreements or permits authorizing receipt of out-of-
3 State municipal solid waste. The list for any cal-
4 endar year shall be published by June 1 of the fol-
5 lowing calendar year.

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

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

22 “(7) Any affected local government that intends to
23 submit a request under paragraph (1) or take formal ac-
24 tion to enter into a host community agreement after the

1 date of enactment of this subsection shall, prior to taking
2 such action—

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

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

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

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

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

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

22 “(B) A map of the facility site that indicates
23 the location of the facility in relation to the local

1 road system and topographical and hydrological fea-
2 tures and any buffer zones and facility units to be
3 acquired by the owner or operator of the facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 “(d) COST RECOVERY SURCHARGE.—

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

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

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

23 “(4) AMOUNT OF SURCHARGE.—The amount of
24 the cost recovery surcharge may be no greater than

1 the amount necessary to recover those costs deter-
2 mined in conformance with paragraph (6) and in no
3 event may exceed \$1.00 per ton of waste.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 “(D) any solid waste that is—

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

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

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

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

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

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

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

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

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

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

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

12 (b) TABLE OF CONTENTS AMENDMENT.—The table
 13 of contents in section 1001 of the Solid Waste Disposal
 14 Act (42 U.S.C. prec. 6901) is amended by adding the fol-
 15 lowing new item after the item relating to section 4010:

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

16 **SEC. 103. NEEDS DETERMINATION.**

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

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

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

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

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

6 **TITLE II—FLOW CONTROL**

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

8 This title may be cited as the “Municipal Solid Waste
9 Flow Control Act of 1997”.

10 **SEC. 202. CONGRESSIONAL AUTHORIZATION OF STATE AND**

11 **LOCAL MUNICIPAL SOLID WASTE FLOW CON-**

12 **TROL.**

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

17 **“SEC. 4012. CONGRESSIONAL AUTHORIZATION OF STATE**

18 **AND LOCAL GOVERNMENT CONTROL OVER**

19 **MOVEMENT OF MUNICIPAL SOLID WASTE**

20 **AND RECYCLABLE MATERIALS.**

21 “(a) FLOW CONTROL AUTHORITY FOR FACILITIES
22 DESIGNATED AS OF MAY 16, 1994.—Any State or politi-
23 cal subdivision thereof is authorized to exercise flow con-
24 trol authority to direct the movement of municipal solid
25 waste, and recyclable materials voluntarily relinquished by

1 the owner or generator thereof, to particular waste man-
2 agement facilities, or facilities for recyclable materials,
3 designated as of May 16, 1994, if each of the following
4 conditions are met:

5 “(1) The waste and recyclable materials are
6 generated within the jurisdictional boundaries of
7 such State or political subdivision, determined as of
8 May 16, 1994.

9 “(2) Such flow control authority is imposed
10 through the adoption or execution of a law, ordi-
11 nance, regulation, resolution, or other legally binding
12 provision or legally binding official act of the State
13 or political subdivision that—

14 “(A) was in effect on May 16, 1994,

15 “(B) was in effect prior to the issuance of
16 an injunction or other order by a court based
17 on a ruling that such law, ordinance, regula-
18 tion, resolution, or other legally binding provi-
19 sion or official act violated the Commerce
20 Clause of the United States Constitution, or

21 “(C) was in effect immediately prior to
22 suspension thereof by legislative or official ad-
23 ministrative action of the State or political sub-
24 division expressly because of the existence of a

1 court order of the type described in subpara-
2 graph (B) issued by a court of the same State
3 or Federal judicial circuit.

4 “(3) The State or a political subdivision thereof
5 has, for one or more of such designated facilities, in
6 accordance with paragraph (2), on or before May
7 16, 1994, either—

8 “(A) presented eligible bonds for sale, or

9 “(B) executed a legally binding contract or
10 agreement that obligates it to deliver a mini-
11 mum quantity of waste or recyclable materials
12 to one or more such designated waste manage-
13 ment facilities or facilities for recyclable mate-
14 rials and that obligates it to pay for that mini-
15 mum quantity of waste or recyclable materials
16 even if the stated minimum quantity of such
17 waste or recyclable materials is not delivered
18 within a required timeframe.

19 “(b) WASTE STREAM SUBJECT TO FLOW CON-
20 TROL.—The flow control authority of subsection (a) shall
21 only permit the exercise of flow control authority to any
22 designated facility of the specific classes or categories of
23 municipal solid waste and voluntarily relinquished recyc-la-
24 ble materials to which flow control authority was applica-
25 ble on May 16, 1994, or immediately before the effective

1 date of an injunction or court order referred to in sub-
2 section (a)(2)(B) or an action referred to in subsection
3 (a)(2)(C) and—

4 “(1) in the case of any designated waste man-
5 agement facility or facility for recyclable materials
6 that was in operation as of May 16, 1994, only if
7 the facility concerned received municipal solid waste
8 or recyclable materials in those classes or categories
9 within 2 years prior to May 16, 1994, or the effec-
10 tive date of such injunction or other court order or
11 action,

12 “(2) in the case of any designated waste man-
13 agement facility or facility for recyclable materials
14 that was not yet in operation as of May 16, 1994,
15 only of the classes or categories that were clearly
16 identified by the State or political subdivision as of
17 May 16, 1994, to be flow controlled to such facility,
18 and

19 “(3) only to the extent of the maximum volume
20 authorized by State permit to be disposed at the
21 waste management facility or processed at the facil-
22 ity for recyclable materials.

1 If specific classes or categories of municipal solid waste
2 or recyclable materials were not clearly identified, para-
3 graph (2) shall apply only to municipal solid waste gen-
4 erated by households, including single family residences
5 and multi-family residences of up to 4 units.

6 “(c) DURATION OF FLOW CONTROL AUTHORITY.—
7 Flow control authority may be exercised pursuant to this
8 section to any facility or facilities only until the later of
9 the following:

10 “(1) The expiration date of the bond referred to
11 in subsection (a)(3)(A).

12 “(2) The expiration date of the contract or
13 agreement referred to in subsection (a)(3)(B).

14 “(3) The adjusted expiration date of a bond is-
15 sued for a qualified environmental retrofit.

16 Such expiration dates shall be determined based upon the
17 terms and provisions of the bond or contract in effect on
18 May 16, 1994. In the case of a contract described in sub-
19 section (a)(3)(B) that has no specified expiration date, for
20 purposes of paragraph (2) the expiration date shall be
21 treated as the first date that the State or political subdivi-
22 sion that is a party to the contract can withdraw from
23 its responsibilities under the contract without being in de-
24 fault thereunder and without substantial penalty or other
25 substantial legal sanction.

1 “(d) MANDATORY OPT-OUT FOR GENERATORS AND
2 TRANSPORTERS.—Notwithstanding any other provision of
3 this section, no State or political subdivision may require
4 any generator or transporter of municipal solid waste or
5 recyclable materials to transport such waste or materials,
6 or deliver such waste or materials for transportation, to
7 a facility that is listed on the National Priorities List es-
8 tablished under the Comprehensive Environmental Re-
9 sponse, Compensation, and Liability Act of 1980 unless
10 such State or political subdivision or the owner or operator
11 of such facility has adequately indemnified the generator
12 or transporter against all liability under that Act with re-
13 spect to such waste or materials.

14 “(e) EFFECT ON EXISTING LAWS.—

15 “(1) ENVIRONMENTAL LAWS.—Nothing in this
16 section shall be interpreted or construed to have any
17 effect on any other law relating to the protection of
18 human health and the environment, or the manage-
19 ment of municipal solid waste or recyclable mate-
20 rials.

21 “(2) STATE LAW.—Nothing in this section shall
22 be interpreted to authorize a political subdivision to
23 exercise the flow control authority granted by this
24 section in a manner inconsistent with State law.

1 “(3) OWNERSHIP OF RECYCLABLE MATE-
2 RIALS.—Nothing in this section shall authorize any
3 State or political subdivision to require any genera-
4 tor or owner of recyclable materials to transfer any
5 recyclable materials to such State or political sub-
6 division, nor shall prohibit any persons from selling,
7 purchasing, accepting, conveying, or transporting
8 any recyclable materials, unless the generator or
9 owner voluntarily makes such recyclable materials
10 available to the State or political subdivision and re-
11 linquishes any rights to, or ownership of, such recy-
12 clable materials.

13 “(f) FACILITIES NOT QUALIFIED FOR FLOW CON-
14 TROL.—No flow control authority may be exercised under
15 the provisions of this section to direct solid waste or recy-
16 clable materials to any facility pursuant to an ordinance
17 if—

18 “(1) the ordinance was determined to be uncon-
19 stitutional by a State or Federal court in October of
20 1994;

21 “(2) the facility is located over a sole source aq-
22 uifer, within 5 miles of a public beach, and within
23 25 miles of a city with a population of more than
24 5,000,000; and

1 “(3) the facility is not fully permitted and oper-
2 ating in complete official compliance with all Fed-
3 eral, State, and local environmental regulations.

4 “(g) LIMITATION ON REVENUE.—A State or quali-
5 fied political subdivision may exercise the flow control au-
6 thority granted in this section only if the State or qualified
7 political subdivision limits the use of any of the revenues
8 it derives from the exercise of such authority for the pay-
9 ment of one or more of the following:

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

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

13 “(3) Payments required by the terms of a con-
14 tract referred to in subsection (a)(3)(B).

15 “(4) Other expenses necessary for the operation
16 and maintenance of designated facilities and other
17 integral facilities necessary for the operation and
18 maintenance of such designated facilities that are
19 identified by the same eligible bond.

20 “(5) To the extent not covered by paragraphs
21 (1) through (4), expenses for recycling, composting,
22 and household hazardous waste activities in which
23 the State or political subdivision was engaged before
24 May 16, 1994, and for which the State or political
25 subdivision, after periodic evaluation, beginning no

1 later than one year after the enactment of this sec-
2 tion, finds that there is no comparable qualified pri-
3 vate sector service provider available. Such periodic
4 evaluation shall be based on public notice and open
5 competition. The amount and nature of payments
6 described in this paragraph shall be fully disclosed
7 to the public annually.

8 “(h) INTERIM CONTRACTS.—A lawful, legally binding
9 contract under State law that was entered into during the
10 period—

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

16 “(2) after such State or political subdivision re-
17 frained pursuant to legislative or official administra-
18 tive action from enforcing flow control authority and
19 before the effective date on which it resumes en-
20 forcement of flow control authority after enactment
21 of this section,

22 shall be fully enforceable in accordance with State law.

23 “(i) AREAS WITH PRE-1984 FLOW CONTROL.—

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

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

9 “(B) subjected such waste management fa-
10 cilities to the jurisdiction of a State public utili-
11 ties commission,

12 may exercise flow control authority over municipal
13 solid waste in accordance with the other provisions
14 of this section and may exercise the additional flow
15 control authority described in paragraph (2).

16 “(2) ADDITIONAL FLOW CONTROL AUTHOR-
17 ITY.—A State that meets the requirements of para-
18 graph (1) and any political subdivision thereof may
19 exercise flow control authority over all classes and
20 categories of municipal solid waste that were subject
21 to flow control by such State or political subdivision
22 thereof on May 16, 1994, by directing it from any
23 existing waste management facility that was des-
24 ignated as of May 16, 1994, or any proposed waste
25 management facility in the State to any other such

1 existing or proposed waste management facility in
2 the State without regard to whether the political
3 subdivision within which the municipal solid waste is
4 generated had designated the particular waste man-
5 agement facility or had issued a bond or entered into
6 a contract referred to in subsection (a)(3) (A) or
7 (B), respectively.

8 “(3) DEFINITION.—For purposes of this sub-
9 section, the term ‘proposed waste management facil-
10 ity’ means a waste management facility that was
11 specifically identified in a waste management plan
12 prior to May 16, 1994, and for the construction of
13 which—

14 “(A) revenue bonds were issued and out-
15 standing as of May 16, 1994,

16 “(B) additional financing with revenue
17 bonds was required as of the date of enactment
18 of this section to complete construction, and

19 “(C) a permit had been issued prior to De-
20 cember 31, 1994.

21 “(4) LIMITATION OF AUTHORITY.—The addi-
22 tional flow control authority granted by paragraph
23 (2) may be exercised to—

1 “(A) any facility described in paragraph
2 (2) for up to 5 years after the date of enact-
3 ment of this section, and

4 “(B) after 5 years after enactment of this
5 section, only to those facilities and only with re-
6 spect to the classes, categories, and geographic
7 origin of waste directed to such facilities specifi-
8 cally identified by the State in a public notice
9 issued within 5 years after enactment of this
10 section.

11 “(5) DURATION OF AUTHORITY.—The authority
12 to direct municipal solid waste to any facility pursu-
13 ant to this subsection shall terminate with regard to
14 such facility in accordance with subsection (c).

15 “(j) SAVINGS CLAUSE.—Nothing in this section is in-
16 tended to have any effect on the authority of any State
17 or political subdivision to franchise, license, or contract for
18 municipal solid waste collection, processing, or disposal.

19 “(k) APPLICATION OF FLOW CONTROL AUTHOR-
20 ITY.—The flow control authority granted by this section
21 shall be exercised in a manner that ensures that it is ap-
22 plied to the public sector if it is applied to the private
23 sector.

24 “(l) PROMOTION OF RECYCLING.—The Congress
25 finds that, in order to promote recycling, anyone engaged

1 in recycling activities should strive to meet applicable
2 standards for the reuse of recyclable materials.

3 “(m) EFFECTIVE DATE.—The provisions of this sec-
4 tion shall take effect with respect to the exercise by any
5 State or political subdivision of flow control authority on
6 or after the date of enactment of this section, and such
7 provisions shall also apply to the exercise by any State
8 or political subdivision of flow control authority before
9 such date of enactment unless the exercise of such author-
10 ity has been declared unconstitutional by a final judicial
11 decision that is no longer subject to judicial review.

12 “(n) DEFINITIONS.—For the purposes of this sec-
13 tion—

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

19 “(2) BOND ISSUED FOR A QUALIFIED ENVIRON-
20 MENTAL RETROFIT.—The term ‘bond issued for a
21 qualified environmental retrofit’ means a revenue or
22 general obligation bond, the proceeds of which are
23 dedicated to financing the retrofitting of a resource
24 recovery facility or a municipal solid waste inciner-
25 ator necessary to comply with section 129 of the

1 Clean Air Act, provided that such bond is presented
2 for sale before the expiration date of the bond or
3 contract referred to in subsection (a)(3) (A) and (B)
4 respectively that is applicable to such facility and no
5 later than December 31, 1999.

6 “(3) DESIGNATE; DESIGNATION, ETC.—The
7 terms ‘designate’, ‘designated’, ‘designating’, and
8 ‘designation’ mean a requirement of a State or polit-
9 ical subdivision, and the act of a State or political
10 subdivision, individually or collectively, to require
11 that all or any portion of the municipal solid waste
12 or recyclable materials that is generated within the
13 boundaries of the State or any political subdivision
14 be delivered to one or more waste management fa-
15 cilities or facilities for recyclable materials identified
16 by the State or a political subdivision thereof. The
17 term ‘designation’ includes bond covenants, official
18 statements, or other official financing documents is-
19 sued by a political subdivision issuing an eligible
20 bond in which it identified a specific waste manage-
21 ment facility as being the subject of such bond and
22 the requisite facility for receipt of municipal solid
23 waste or recyclable materials generated within the
24 jurisdictional boundaries of that political subdivision.

1 “(4) ELIGIBLE BOND.—The term ‘eligible bond’
2 means—

3 “(A) a revenue bond specifically to finance
4 one or more designated waste management fa-
5 cilities, facilities for recyclable materials, or spe-
6 cifically and directly related assets, development
7 or finance costs, as evidenced by the bond docu-
8 ments; or

9 “(B) a general obligation bond, the pro-
10 ceeds of which were used solely to finance one
11 or more designated waste management facili-
12 ties, facilities for recyclable materials, or spe-
13 cifically and directly related assets, development
14 or finance costs, as evidenced by the bond docu-
15 ments.

16 “(5) FLOW CONTROL AUTHORITY.—The term
17 ‘flow control authority’ means the authority to con-
18 trol the movement of municipal solid waste or volun-
19 tarily relinquished recyclable materials and direct
20 such solid waste or voluntarily relinquished recycla-
21 ble materials to one or more designated waste man-
22 agement facilities or facilities for recyclable mate-
23 rials within the boundaries of a State or within the
24 boundaries of a political subdivision of a State, as in
25 effect on May 16, 1994.

1 “(6) MUNICIPAL SOLID WASTE.—The term
2 ‘municipal solid waste’ means any solid waste gen-
3 erated by the general public or by households, in-
4 cluding single residences and multifamily residences,
5 and from commercial, institutional, and industrial
6 sources, to the extent such waste is essentially the
7 same as waste normally generated by households or
8 was collected and disposed of with other municipal
9 solid waste as part of normal municipal solid waste
10 collection services, consisting of paper, wood, yard
11 waste, plastics, leather, rubber, and other combus-
12 tible materials and noncombustible materials such as
13 metal and glass, including residue remaining after
14 recyclable materials have been separated from waste
15 destined for disposal, and including waste material
16 removed from a septic tank, septage pit, or cesspool
17 (other than from portable toilets), except that the
18 term does not include any of the following:

19 “(A) Any waste identified or listed as a
20 hazardous waste under section 3001 of this Act
21 or waste regulated under the Toxic Substances
22 Control Act.

23 “(B) Any waste, including contaminated
24 soil and debris, resulting from—

1 “(i) response or remedial action taken
2 under the Comprehensive Environmental
3 Response, Compensation, and Liability Act
4 of 1980,

5 “(ii) any corrective action taken under
6 this Act, or

7 “(iii) any corrective action taken
8 under any comparable State statute.

9 “(C) Medical waste listed in section 11002
10 of this Act.

11 “(D) Industrial waste generated by manu-
12 facturing or industrial processes, including
13 waste generated during scrap processing and
14 scrap recycling.

15 “(E) Recyclable materials.

16 “(F) Sludge.

17 Such term also includes construction and demolition
18 debris.

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

1 “(8) RECYCLE AND RECYCLING.—The terms
2 ‘recycle’ and ‘recycling’ mean—

3 “(A) any process which produces any ma-
4 terial defined as ‘recycled’ under section 1004;
5 and

6 “(B) any process by which materials are
7 diverted, separated from, or separately man-
8 aged from materials otherwise destined for dis-
9 posal as solid waste, by collecting, sorting, or
10 processing for use as raw materials or feed-
11 stocks in lieu of, or in addition to, virgin mate-
12 rials, including petroleum, in the manufacture
13 of usable materials or products.

14 “(9) RECYCLABLE MATERIALS.—The term ‘re-
15 cyclable materials’ means any materials that have
16 been separated from waste otherwise destined for
17 disposal (either at the source of the waste or at
18 processing facilities) or that have been managed sep-
19 arately from waste destined for disposal, for the pur-
20 pose of recycling, reclamation, composting of organic
21 materials such as food and yard waste, or reuse
22 (other than for the purpose of incineration). Such
23 term includes scrap tires to be used in resource re-
24 covery.

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

11 SEC. 301. GROUND WATER MONITORING.

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

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

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

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

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

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

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

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

23 “(A) MONITORING REQUIREMENT.—A
24 State may require ground water monitoring of
25 a solid waste landfill unit that would otherwise

1 be exempt under paragraph (2) if necessary to
2 protect ground water resources and ensure com-
3 pliance with a State ground water protection
4 plan, where applicable.

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

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

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

1 may exempt the unit from some or all of those re-
2 quirements. This subsection shall apply only to solid
3 waste landfill units that dispose of less than 20 tons
4 of municipal solid waste daily, based on an annual
5 average.

6 “(5) NO-MIGRATION EXEMPTION.—

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

15 “(B) CERTIFICATION.—A demonstration
16 under subparagraph (A) shall—

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

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

1 “(6) FURTHER REVISIONS OF GUIDELINES AND
 2 CRITERIA.—Not later than April 9, 1997, the Ad-
 3 ministrator shall promulgate revisions to the guide-
 4 lines and criteria promulgated under this subchapter
 5 to allow States to promulgate alternate design, oper-
 6 ating, landfill gas monitoring, financial assurance,
 7 and closure requirements for landfills which receive
 8 20 tons or less of municipal solid waste per day
 9 based on an annual average: *Provided*, That such al-
 10 ternate requirements are sufficient to protect human
 11 health and the environment.”.

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

18 **TITLE IV—STATE OR REGIONAL SOLID** 19 **WASTE PLANS**

20 **SEC. 401. FINDING.**

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

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

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

1 “(5) that the Nation’s improved standard of liv-
2 ing has resulted in an increase in the amount of
3 solid waste generated per capita, and the Nation has
4 not given adequate consideration to solid waste re-
5 duction strategies.”.

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

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

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

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

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

14 “(12) promoting local and regional planning
15 for—

16 “(A) effective solid waste collection and
17 disposal; and

18 “(B) reducing the amount of solid waste
19 generated per capita through the use of solid
20 waste reduction strategies.”.

21 **SEC. 403. NATIONAL POLICY.**

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

1 **SEC. 404. OBJECTIVE OF SUBTITLE D OF SOLID WASTE DIS-**
2 **POSAL ACT.**

3 Section 4001 of the Solid Waste Disposal Act (42
4 U.S.C. 6941) is amended by inserting “promote local and
5 regional planning for effective solid waste collection and
6 disposal and for reducing the amount of solid waste gen-
7 erated per capita through the use of solid waste reduction
8 strategies, and” after “objectives of this subtitle are to”.

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

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

13 “(e) DISCRETIONARY PLAN PROVISIONS RELATING
14 TO SOLID WASTE REDUCTION GOALS, LOCAL AND RE-
15 GIONAL PLANS, AND ISSUANCE OF SOLID WASTE MAN-
16 AGEMENT PERMITS.—Except as provided in section
17 4011(a)(4), a State plan submitted under this subtitle
18 may include, at the option of the State, provisions for—

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

22 “(2) establishment of a program that ensures
23 that local and regional plans are consistent with
24 State plans and are developed in accordance with
25 sections 4004, 4005, and 4006.”.

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

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

6 **TITLE V—GENERAL PROVISIONS**

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

8 (a) DEFINITIONS.—In this section:

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

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

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

19 (b) IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (a) DEFINITIONS.—In this section:

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

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

17 (B) includes—

18 (i) domestic septage;

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

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

25 (C) does not include—

1 (i) ash generated during the firing of
2 sewage sludge (as otherwise defined in this
3 paragraph) in a sewage sludge incinerator;
4 or

5 (ii) grit or screenings generated dur-
6 ing preliminary treatment of domestic sew-
7 age in a treatment works.

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

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

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

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

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