

105TH CONGRESS  
1ST SESSION

# S. 443

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

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## IN THE SENATE OF THE UNITED STATES

MARCH 14, 1997

Mr. BAUCUS introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

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

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

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

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

8 “(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE  
 9 WASTE.—

10 “(1) IN GENERAL.—(A) Except as provided in  
 11 subsections (c), (e), and (i), effective January 1,  
 12 1998, a landfill or incinerator in a State may not re-  
 13 ceive for disposal or incineration any out-of-State  
 14 municipal solid waste unless the owner or operator  
 15 of such landfill or incinerator obtains explicit author-  
 16 ization (as part of a host community agreement)  
 17 from the affected local government to receive the  
 18 waste.

19 “(B) An authorization granted after enactment  
 20 of this section pursuant to subparagraph (A) shall—

21 “(i) be granted by formal action at a meet-  
 22 ing;

23 “(ii) be recorded in writing in the official  
 24 record of the meeting; and

25 “(iii) remain in effect according to its  
 26 terms.

1           “(C) An authorization granted pursuant to sub-  
2       paragraph (A) may specify terms and conditions, in-  
3       cluding an amount of out-of-State waste that an  
4       owner or operator may receive and the duration of  
5       the authorization.

6           “(D) Promptly, but not later than 90 days after  
7       such an authorization is granted, the affected local  
8       government shall notify the Governor, contiguous  
9       local governments, and any contiguous Indian tribes  
10      of an authorization granted under this subsection.

11          “(2) INFORMATION.—Prior to seeking an au-  
12      thorization to receive out-of-State municipal solid  
13      waste pursuant to this subsection, the owner or op-  
14      erator of the facility seeking such authorization shall  
15      provide (and make readily available to the Governor,  
16      each contiguous local government and Indian tribe,  
17      and any other interested person for inspection and  
18      copying) the following information:

19               “(A) A brief description of the facility, in-  
20              cluding, with respect to both the facility and  
21              any planned expansion of the facility, the size,  
22              ultimate waste capacity, and the anticipated  
23              monthly and yearly quantities (expressed in  
24              terms of volume) of waste to be handled.

1           “(B) A map of the facility site indicating  
2           location in relation to the local road system and  
3           topography and hydrogeological features. The  
4           map shall indicate any buffer zones to be ac-  
5           quired by the owner or operator as well as all  
6           facility units.

7           “(C) A description of the then current en-  
8           vironmental characteristics of the site, a de-  
9           scription of ground water use in the area (in-  
10          cluding identification of private wells and public  
11          drinking water sources), and a discussion of al-  
12          terations that may be necessitated by, or occur  
13          as a result of, the facility.

14          “(D) A description of environmental con-  
15          trols typically required to be used on the site  
16          (pursuant to permit requirements), including  
17          run on or run off management (or both), air  
18          pollution control devices, source separation pro-  
19          cedures (if any), methane monitoring and con-  
20          trol, landfill covers, liners or leachate collection  
21          systems, and monitoring programs. In addition,  
22          the description shall include a description of  
23          any waste residuals generated by the facility,  
24          including leachate or ash, and the planned man-  
25          agement of the residuals.

1           “(E) A description of site access controls  
2           to be employed, and roadway improvements to  
3           be made, by the owner or operator, and an esti-  
4           mate of the timing and extent of increased local  
5           truck traffic.

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

8           “(G) Estimates of the personnel require-  
9           ments of the facility, including information re-  
10          garding the probable skill and education levels  
11          required for jobs at the facility. To the extent  
12          practicable, the information shall distinguish  
13          between employment statistics for  
14          preoperational and postoperational levels.

15          “(H) Any information that is required by  
16          State or Federal law to be provided with re-  
17          spect to any violations of environmental laws  
18          (including regulations) by the owner, the opera-  
19          tor, and any subsidiary of the owner or opera-  
20          tor, the disposition of enforcement proceedings  
21          taken with respect to the violations, and correc-  
22          tive action and rehabilitation measures taken as  
23          a result of the proceedings.

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

1           spect to gifts and contributions made by the  
2           owner or operator.

3           “(J) Any information that is required by  
4           State or Federal law to be provided with re-  
5           spect to compliance by the owner or operator  
6           with the State solid waste management plan.

7           “(3) NOTIFICATION.—Prior to taking formal  
8           action with respect to granting authorization to re-  
9           ceive out-of-State municipal solid waste pursuant to  
10          this subsection, an affected local government shall—

11           “(A) notify the Governor, contiguous local  
12          governments, and any contiguous Indian tribes;

13           “(B) publish notice of the action in a  
14          newspaper of general circulation at least 30  
15          days before holding a hearing and again at  
16          least 15 days before holding the hearing, except  
17          where State law provides for an alternate form  
18          of public notification; and

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

22          “(b) ANNUAL STATE REPORT.—

23           “(1) IN GENERAL.—Within 90 days after enact-  
24          ment of this section and on April 1 of each year  
25          thereafter the owner or operator of each landfill or

1 incinerator receiving out-of-State municipal solid  
2 waste shall submit to the affected local government  
3 and to the Governor of the State in which the land-  
4 fill or incinerator is located information specifying  
5 the amount and State of origin of out-of-State mu-  
6 nicipal solid waste received for disposal during the  
7 preceding calendar year. Within 120 days after en-  
8 actment of this section and on June 1 of each year  
9 thereafter each such State shall publish and make  
10 available to the Administrator, the governor of the  
11 State of origin and the public a report containing in-  
12 formation on the amount of out-of-State municipal  
13 solid waste received for disposal in the State during  
14 the preceding calendar year.

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

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

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

21           “(4) SAVINGS PROVISION.—Nothing in this sub-  
22       section shall be construed to preempt any State re-  
23       quirement that requires more frequent reporting of  
24       information.

25       “(c) FREEZE.—



1           “(1) ANNUAL AMOUNT.—(A) Beginning Janu-  
2       ary 1, 1998, except as provided in paragraph (2)  
3       and unless it would result in a violation of, or be in-  
4       consistent with, a host community agreement or per-  
5       mit specifically authorizing the owner or operator of  
6       a landfill or incinerator to accept out-of-State mu-  
7       nicipal solid waste at such landfill or incinerator,  
8       and notwithstanding the absence of a request in  
9       writing by the affected local government, a Gov-  
10      ernor, in accordance with paragraph (3), may limit  
11      the quantity of out-of-State municipal solid waste re-  
12      ceived for disposal at each landfill or incinerator cov-  
13      ered by the exceptions provided in subsection (e)  
14      that is subject to the jurisdiction of the Governor, to  
15      an annual amount equal to the quantity of out-of-  
16      State municipal solid waste received for disposal at  
17      such landfill or incinerator during calendar year  
18      1993.

19           “(B) At the request of an affected local govern-  
20      ment that has not executed a host community agree-  
21      ment, the Governor may limit the amount of out-of-  
22      State municipal solid waste received annually for  
23      disposal at the landfill or incinerator concerned to  
24      the amount described in subparagraph (A). No such  
25      limit may conflict with provisions of a permit specifi-

1 cally authorizing the owner or operator to accept, at  
2 the facility, out-of-State municipal solid waste.

3 “(C) A limit or prohibition under this section  
4 shall be treated as conflicting and inconsistent with  
5 a permit or host community agreement if—

6 “(i) the permit or host community agree-  
7 ment establishes a higher limit; or

8 “(ii) the permit or host community agree-  
9 ment does not establish any limit.

10 “(2) LIMITATION ON GOVERNOR’S AUTHOR-  
11 ITY.—A Governor may not exercise the authority  
12 granted under this subsection in a manner that  
13 would require any owner or operator of a landfill or  
14 incinerator covered by the exceptions provided in  
15 subsection (e) to reduce the amount of out-of-State  
16 municipal solid waste received from any State for  
17 disposal at such landfill or incinerator to an annual  
18 quantity less than the amount received from such  
19 State for disposal at such landfill or incinerator dur-  
20 ing calendar year 1993.

21 “(3) UNIFORMITY.—Any limitation imposed by  
22 a Governor under paragraph (1)(A)—

23 “(A) shall be applicable throughout the  
24 State;

1           “(B) shall not directly or indirectly dis-  
2           criminate against any particular landfill or in-  
3           cinerator within the State; and

4           “(C) shall not directly or indirectly dis-  
5           criminate against any shipments of out-of-State  
6           municipal solid waste on the basis of place of  
7           origin.

8           “(d) RATCHET.—

9           “(1) IN GENERAL.—Unless it would result in a  
10          violation of, or be inconsistent with, a host commu-  
11          nity agreement or permit specifically authorizing the  
12          owner or operator of a landfill or incinerator to ac-  
13          cept out-of-State municipal solid waste at such land-  
14          fill or incinerator, any State that imported more  
15          than 750,000 tons of out-of-State municipal solid  
16          waste in 1993 may establish a limit under this para-  
17          graph on the amount of out-of-State municipal solid  
18          waste received for disposal at landfills and inciner-  
19          ators in the importing State as follows:

20               “(A) In calendar year 1998, 95 percent of  
21               the amount exported to the State in calendar  
22               year 1993.

23               “(B) In calendar years 1999 through  
24               2003, 95 percent of the amount exported to the  
25               state in the previous year.

1           “(C) In calendar year 2004, and each suc-  
2           ceeding year, the limit shall be 65 percent of  
3           the amount exported in 1993.

4           “(D) No exporting State shall be required  
5           under this subparagraph to reduce its exports  
6           to any importing State below the proportionate  
7           amount established herein.

8           “(2) ADDITIONAL EXPORT LIMITS.—

9           “(A) PROHIBITION.—No State may export  
10          to landfills or incinerators in any 1 State that  
11          are not covered by host community agreements  
12          or permits authorizing receipt of out-of-State  
13          municipal solid waste more than the following  
14          amounts of municipal solid waste:

15               “(i) In calendar year 1998, the great-  
16               er of 1,400,000 tons or 90 percent of the  
17               amount exported to the State in calendar  
18               year 1993.

19               “(ii) In calendar year 1999, the great-  
20               er of 1,300,000 tons or 90 percent of the  
21               amount exported to the State in calendar  
22               year 1998.

23               “(iii) In calendar year 2000, the  
24               greater of 1,200,000 tons or 90 percent of

1 the amount exported to the State in cal-  
2 endar year 1999.

3 “(iv) In calendar year 2001, the  
4 greater of 1,100,00 tons or 90 percent of  
5 the amount exported to the State in cal-  
6 endar year 2000.

7 “(v) In calendar year 2002, 1,000,000  
8 tons.

9 “(vi) In calendar year 2003, 750,000  
10 tons.

11 “(vii) In calendar year 2004 or any  
12 calendar year thereafter, 550,000 tons.

13 “(B) ACTION BY GOVERNOR.—The Gov-  
14 ernor of an importing State may restrict levels  
15 of imports of municipal solid waste into that  
16 State to reflect the levels specified in subpara-  
17 graph (A) if—

18 “(i) the Governor of the importing  
19 State has notified the Governor of the ex-  
20 porting State and the Administrator 12  
21 months prior to enforcement of the import-  
22 ing State’s intention to impose the require-  
23 ments of this section;

24 “(ii) the Governor of the importing  
25 State has notified the Governor of the ex-

1           porting State and the Administrator of the  
 2           violation by the exporting State of this sec-  
 3           tion at least 90 days prior to the enforce-  
 4           ment of this section; and

5           “(iii) the restrictions imposed by the  
 6           Governor of the importing State are uni-  
 7           form at all facilities within the State re-  
 8           ceiving municipal solid waste from the ex-  
 9           porting State.

10          “(3) DURATION.—The authority provided by  
 11          paragraph (1) or (2) or both shall apply for as long  
 12          as a State exceeds the levels allowable under para-  
 13          graph (1) or (2), as the case may be.

14          “(4) UNIFORMITY.—Any restriction imposed by  
 15          a State under paragraph (1) or (2)—

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

18               “(B) shall not directly or indirectly dis-  
 19               criminate against any particular landfill or in-  
 20               cinerator within the State; and

21               “(C) shall not directly or indirectly dis-  
 22               criminate against any shipments of out-of-State  
 23               municipal solid waste on the basis of place of  
 24               origin, in the case of States in violation of para-  
 25               graph (1) or (2).

1       “(e) AUTHORIZATION NOT REQUIRED FOR CERTAIN  
2 FACILITIES.—

3               “(1) IN GENERAL.—The prohibition on the dis-  
4 posal of out-of-State municipal solid waste in sub-  
5 section (a) shall not apply to landfills and inciner-  
6 ators that—

7                       “(A) were in operation on the date of en-  
8 actment of this section and received during cal-  
9 endar year 1993 documented shipments of out-  
10 of-State municipal solid waste, or

11                      “(B) before the date of enactment of this  
12 section, the owner or operator entered into a  
13 host community agreement or received a permit  
14 specifically authorizing the owner or operator to  
15 accept at the landfill or incinerator municipal  
16 solid waste generated outside the State in which  
17 it is or will be located.

18               “(2) AVAILABILITY OF DOCUMENTATION.—The  
19 owner or operator of a landfill or incinerator that is  
20 exempt under paragraph (1) of this subsection from  
21 the requirements of subsection (a) shall provide to  
22 the State and affected local government, and make  
23 available for inspection by the public in the affected  
24 local community, a copy of the host community  
25 agreement or permit referenced in paragraph (1).

1       The owner or operator may omit from such copy or  
2       other documentation any proprietary information,  
3       but shall ensure that at least the following informa-  
4       tion is apparent: the volume of out-of-State municipi-  
5       pal solid waste received, the place of origin of the  
6       waste, and the duration of any relevant contract.

7               “(3) DENIED OR REVOKED PERMITS.—A land-  
8       fill or incinerator may not receive for disposal or in-  
9       cineration out-of-State municipal solid waste in the  
10      absence of a host community agreement if the oper-  
11      ating permit or license for the landfill or incinerator  
12      (or renewal thereof) was denied or revoked by the  
13      appropriate State agency before the date of enact-  
14      ment of this section unless such permit or license (or  
15      renewal) has been reinstated as of such date of en-  
16      actment.

17              “(4) WASTE WITHIN BI-STATE METROPOLITAN  
18      STATISTICAL AREAS.—The owner or operator of a  
19      landfill or incinerator in a State may receive out-of-  
20      State municipal solid waste without obtaining au-  
21      thorization under subsection (a) from the affected  
22      local government if the out-of-State waste is gen-  
23      erated within, and the landfill or incinerator is lo-  
24      cated within, the same bi-State level A metropolitan  
25      statistical area (as defined by the Office of Manage-



1       ment and Budget and as listed by the Office of  
 2       Management and Budget as of the date of enact-  
 3       ment of this section) that contains two contiguous  
 4       major cities each of which is in a different State.

5       “(f) NEEDS DETERMINATION.—Any comprehensive  
 6       solid waste management plan adopted by an affected local  
 7       government pursuant to Federal or State law may take  
 8       into account local and regional needs for solid waste dis-  
 9       posal capacity. Any implementation of such plan through  
 10      the State permitting process may take into account local  
 11      and regional needs for solid waste disposal capacity only  
 12      in a manner that is not inconsistent with the provisions  
 13      of this section.

14      “(g) COST RECOVERY SURCHARGE.—

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

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

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

7           “(4) AMOUNT OF SURCHARGE.—The amount of  
 8           the cost recovery surcharge may be no greater than  
 9           the amount necessary to recover those costs deter-  
 10          mined in conformance with paragraph (6) and in no  
 11          event may exceed \$1 per ton of waste.

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

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

23                 “(i) the State demonstrates a cost to the  
 24                 State arising from the processing or disposal

1           within the State of a volume of municipal solid  
2           waste from a source outside the State;

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

8           “(iii) the surcharge is compensatory and is  
9           not discriminatory.

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

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

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

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

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

16           “(h) IMPLEMENTATION AND ENFORCEMENT.—Any  
17           State may adopt such laws and regulations, not inconsis-  
18           tent with this section, as are necessary to implement and  
19           enforce this section, including provisions for penalties.

20           “(i) SAVINGS CLAUSE.—Nothing in this section shall  
21           be interpreted or construed—

22           “(1) to have any effect on State law relating to  
23           contracts;

24           “(2) to authorize or result in the violation or  
25           failure to perform the terms of a written, legally

1 binding contract entered into before enactment of  
 2 this section during the life of the contract as deter-  
 3 mined under State law; or

4 “(3) to affect the authority of any State or local  
 5 government to protect public health and the environ-  
 6 ment through laws, regulations, and permits, includ-  
 7 ing the authority to limit the total amount of munic-  
 8 ipal solid waste that landfill or incinerator owners or  
 9 operators with the jurisdiction of a State may accept  
 10 during a prescribed period: *Provided*, That such limi-  
 11 tations do not discriminate between in-State and  
 12 out-of-State municipal solid waste, except to the ex-  
 13 tent authorized by this section.

14 “(j) DEFINITIONS.—As used in this section:

15 “(1) AFFECTED LOCAL GOVERNMENT.—(A)  
 16 For any landfill or incinerator, the term ‘affected  
 17 local government’ means—

18 “(i) the public body authorized by State  
 19 law to plan for the management of municipal  
 20 solid waste, a majority of the members of which  
 21 are elected officials, for the area in which the  
 22 landfill or incinerator is located or proposed to  
 23 be located; or

24 “(ii) if there is no such body created by  
 25 State law—

1           “(I) the elected officials of the city,  
2           town, township, borough, county, or parish  
3           selected by the Governor and exercising  
4           primary responsibility over municipal solid  
5           waste management or the land or the use  
6           of land in the jurisdiction in which the fa-  
7           cility is located or is proposed to be lo-  
8           cated; or

9           “(II) if a Governor fails to make a se-  
10          lection under subclause (I), and publish a  
11          notice regarding the selection, within 90  
12          days after the date of enactment of this  
13          section, the elected officials of the city,  
14          town, township, borough, county, parish, or  
15          other public body created pursuant to  
16          State law with primary jurisdiction over  
17          the land or the use of land on which the  
18          facility is located or is proposed to be lo-  
19          cated.

20          The Governor shall publish a notice regarding the  
21          selection described in clause (ii).

22          “(B) Notwithstanding subparagraph (A), for  
23          purposes of host community agreements entered into  
24          before the date of enactment of this section (or be-  
25          fore the date of publication of notice, in the case of

1       subparagraph (A)(ii)), the term shall mean either  
2       the public body described in clause (i) or the elected  
3       officials of the city, town, township, borough, county,  
4       or parish exercising primary responsibility for mu-  
5       nicipal solid waste management or the land or the  
6       use of land on which the facility is located or pro-  
7       posed to be located.

8               “(C) Two or more Governors of adjoining  
9       States may use the authority provided in section  
10      1005(b) to enter into an agreement under which  
11      contiguous units of local government located in each  
12      of the adjoining States may act jointly as the af-  
13      fected local government for purposes of providing  
14      authorization under subsection (a) for municipal  
15      solid waste generated in 1 of the jurisdictions de-  
16      scribed in subparagraph (A) and received for dis-  
17      posal or incineration in another.

18              “(2) HOST COMMUNITY AGREEMENT.—The  
19      term ‘host community agreement’ means a written,  
20      legally binding document or documents executed by  
21      duly authorized officials of the affected local govern-  
22      ment that specifically authorizes a landfill or inciner-  
23      ator to receive municipal solid waste generated out-  
24      of-State, but does not include any agreement to pay  
25      host community fees for receipt of waste unless ad-

ditional express authorization to receive out-of-State municipal solid waste is also included.

“(3) MUNICIPAL SOLID WASTE.—The term ‘municipal solid waste’ means refuse (and refuse-derived fuel) generated by the general public, from a residential source, or from a commercial, institutional, or industrial source (or any combination thereof) to the extent such waste is essentially the same as waste normally generated by households or was collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services, and regardless of when generated, would be considered conditionally exempt small quantity generator waste under section 3001(d), such as paper, food, wood, yard wastes, plastics, leather, rubber, appliances, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term ‘municipal solid waste’ does not include any of the following:

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

“(B) Any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Com-



1           pensation, and Liability Act of 1980 (42 U.S.C.  
2           9604 or 9606) or a corrective action taken  
3           under this Act.

4           “(C) Recyclable materials that have been  
5           separated, at the source of the waste, from  
6           waste otherwise destined for disposal or that  
7           have been managed separately from waste des-  
8           tined for disposal.

9           “(D) Any solid waste that is—

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

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

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

22           “(F) Sewage sludge and residuals from  
23           any sewage treatment plant, including any sew-  
24           age treatment plant required to be constructed  
25           in the State of Massachusetts pursuant to any

1 court order issued against the Massachusetts  
2 Water Resources Authority.

3 “(G) Combustion ash generated by re-  
4 source recovery facilities or municipal inciner-  
5 ators, or waste from manufacturing or process-  
6 ing (including pollution control) operations not  
7 essentially the same as waste normally gen-  
8 erated by households.

9 “(H) Any medical waste that is segregated  
10 from or not mixed with municipal solid waste  
11 (as otherwise defined in this paragraph).

12 “(I) Any material or product returned  
13 from a dispenser or distributor to the manufac-  
14 turer for credit, evaluation, or possible reuse.

15 “(4) OUT-OF-STATE MUNICIPAL SOLID  
16 WASTE.—The term ‘out-of-State municipal solid  
17 waste’ means, with respect to any State, municipal  
18 solid waste generated outside of the State. Unless  
19 the President determines it is not consistent with  
20 the North American Free Trade Agreement and the  
21 General Agreement on Tariffs and Trade, the term  
22 shall include municipal solid waste generated outside  
23 of the United States.

24 “(5) SPECIFICALLY AUTHORIZED; SPECIFI-  
25 CALLY AUTHORIZES.—The terms ‘specifically au-

1       thorized’ and ‘specifically authorizes’ refer to an ex-  
 2       plicit authorization, contained in a host community  
 3       agreement or permit, to import waste from outside  
 4       the State. Such authorization may include a ref-  
 5       erence to a fixed radius surrounding the landfill or  
 6       incinerator that includes an area outside the State  
 7       or a reference to ‘any place of origin’, reference to  
 8       specific places outside the State, or use of such  
 9       phrases as ‘regardless of origin’ or ‘outside the  
 10      State’. The language for such authorization may  
 11      vary as long as it clearly and affirmatively states the  
 12      approval or consent of the affected local government  
 13      or State for receipt of municipal solid waste from  
 14      sources or locations outside the State.”.

15      (b) TABLE OF CONTENTS.—The table of contents in  
 16      section 1001 of the Solid Waste Disposal Act (42 U.S.C.  
 17      prec. 6901) is amended by adding after the item relating  
 18      to section 4010 the following:

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

