

111TH CONGRESS
1ST SESSION

H. R. 274

To impose certain limitations on the receipt of out-of-State municipal solid waste, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2009

Mr. WITTMAN introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To impose certain limitations on the receipt of out-of-State municipal solid waste, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Solid Waste Interstate
5 Transportation Act of 2009”.

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

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

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

3 “(a) PRESUMPTIVE BAN ON RECEIPT OF OUT-OF-
 4 STATE WASTE.—No landfill or incinerator may receive
 5 any out-of-State municipal solid waste for disposal or in-
 6 cination unless the waste is received pursuant to—

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

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

10 “(b) EXISTING HOST COMMUNITY AGREEMENTS.—
 11 Except as provided in subsection (e), (f), or (g), out-of-
 12 State municipal solid waste may be received at a landfill
 13 or incinerator for disposal or incineration pursuant to a
 14 host community agreement entered into before the enact-
 15 ment of this section if—

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

19 “(2) the owner or operator complies with all of
 20 the terms and conditions of the host community
 21 agreement.

22 The owner or operator shall provide a copy of the host
 23 community agreement, within 90 days after the enactment
 24 of this section, to the State and affected local government
 25 and make such a copy available for inspection by the pub-
 26 lic in the affected local community.

1 “(c) NEW HOST COMMUNITY AGREEMENTS.—

2 “(1) EXEMPTION FROM BAN.—Except as pro-
3 vided in subsection (e), out-of-State municipal solid
4 waste may be received at a landfill or incinerator for
5 disposal or incineration pursuant to a host commu-
6 nity agreement entered into or amended on or after
7 the enactment of this section (in this section re-
8 ferred to as a ‘new host community agreement’) if
9 the agreement specifically authorizes the receipt of
10 such waste and meets the requirements of para-
11 graphs (2) through (6) of this subsection.

12 “(2) REQUIREMENTS FOR AUTHORIZATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 “(B) publish notice of the action in a
4 newspaper of general circulation in the affected
5 area at least 15 days before holding a hearing
6 under subparagraph (C), except where State
7 law provides for an alternate form of public no-
8 tification;

9 “(C) provide an opportunity for public
10 comment, including at least 1 public hearing;
11 and

12 “(D) make publicly available the entire
13 text of the new host community agreement.

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

21 “(6) PUBLIC AVAILABILITY.—The owner or op-
22 erator of a facility authorized to receive out-of-State
23 municipal solid waste pursuant to a new host com-
24 munity agreement under this subsection shall ensure
25 that copies of the entire text of such agreement are

1 readily available to the public and are provided with-
2 in 5 days after a request from any person. Such
3 owner or operator may recover reasonable costs of
4 providing each copy.

5 “(7) AUTHORITY.—

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

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

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

19 “(1) EXEMPTION FROM BAN.—Except as pro-
20 vided in subsection (e), out-of-State municipal solid
21 waste received at a landfill or incinerator shall be ex-
22 empt from the presumptive ban contained in sub-
23 section (a) if the owner or operator of the landfill or
24 incinerator provides to the State in which the landfill

1 or incinerator is located and to the affected local
2 government either of the following:

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

17 “(B) CONTRACT.—Information estab-
18 lishing that the owner or operator of the landfill
19 or incinerator has entered into a binding con-
20 tract before January 1, 2009, that commits to
21 the delivery to and receipt at the landfill or in-
22 cinerator of a specific quantity of out-of-State
23 municipal solid waste and that the owner or op-
24 erator of the landfill or incinerator has per-
25 mitted capacity actually available on the date of

1 enactment of this section for receipt of the spe-
2 cific quantity of out-of-State municipal solid
3 waste committed to in the contract. This sub-
4 paragraph shall be effective only for the longer
5 of—

6 “(i) the life of the contract (not in-
7 cluding any renewal, novation, or extension
8 thereof); or

9 “(ii) a period of 3 years after the date
10 of enactment of this section,

11 and only with respect to the amount of the obli-
12 gation in the contract.

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

22 “(3) DENIED OR REVOKED PERMITS.—A land-
23 fill or incinerator may not receive for disposal or in-
24 cineration out-of-State municipal solid waste pursu-
25 ant to an exemption under paragraph (1) if the op-

1 erating permit for the landfill or incinerator (or re-
2 newal thereof) was denied or revoked by the appro-
3 priate State agency before the date of enactment of
4 this section, unless such permit or license (or re-
5 newal) has been reinstated as of such date of enact-
6 ment.

7 “(e) REQUIRED COMPLIANCE.—Exemptions under
8 subsections (b), (c), and (d) shall not apply to a landfill
9 or incinerator during any period with respect to which the
10 State in which the facility is located has administratively
11 determined that the facility is not in compliance with ap-
12 plicable Federal, State, or local laws and regulations relat-
13 ing to—

14 “(1) facility operation, design, and construction;

15 “(2) in the case of landfills, facility location
16 standards, leachate collection standards, ground-
17 water monitoring standards, runoff controls, emis-
18 sion controls, landfill cover and dust suppression re-
19 quirements, environmental controls, and standards
20 for financial assurance and for closure and
21 postclosure and corrective action; and

22 “(3) the applicable requirements of the Clean
23 Air Act and this Act.

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

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

3 “(A) LIMIT FOR ALL FACILITIES IN THE
4 STATE.—A State may limit the amount of out-
5 of-State municipal solid waste received annually
6 at each landfill or incinerator in the State to
7 the limitation amount described in paragraph
8 (2), except as provided in this subsection. No
9 such limit may conflict—

10 “(i) with provisions of a permit spe-
11 cifically authorizing the owner or operator
12 to accept, at the facility, out-of-State mu-
13 nicipal solid waste; or

14 “(ii) with a host community agree-
15 ment entered into between the owner or
16 operator of any such landfill or incinerator
17 and the affected local government that, be-
18 fore January 1, 2009, specifically author-
19 izes the landfill or incinerator to receive
20 out-of-State municipal solid waste.

21 “(B) CONFLICT.—If a facility received less
22 than 100,000 tons of out-of-State municipal
23 solid waste during the previous year, a limit re-
24 ferred to in subparagraph (A) shall be treated
25 as conflicting with—

1 “(i) a permit if the permit establishes
2 a higher limit or does not establish any
3 limit on the amount of out-of-State munic-
4 ipal solid waste which may be received an-
5 nually at the facility; and

6 “(ii) a host community agreement if
7 the host community agreement establishes
8 a higher limit or does not establish any
9 limit on the amount of out-of-State munic-
10 ipal solid waste which may be received an-
11 nually at the facility, but only to the extent
12 that the landfill or incinerator, at the time
13 the host community agreement was entered
14 into, had specifically permitted capacity to
15 receive the solid waste authorized by the
16 host community agreement.

17 “(C) LIMIT FOR PARTICULAR FACILI-
18 TIES.—An affected local government that has
19 not executed a host community agreement with
20 a particular landfill or incinerator may limit the
21 amount of out-of-State municipal solid waste
22 received annually at the landfill or incinerator
23 concerned to the limitation amount described in
24 paragraph (2). No such limit may conflict with
25 provisions of a permit specifically authorizing

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

3 “(D) EFFECT ON OTHER LAWS.—Nothing
4 in this subsection shall be interpreted or con-
5 strued to supersede any State law relating to
6 contracts.

7 “(2) LIMITATION AMOUNT.—For any landfill or
8 incinerator that commenced receiving documented
9 out-of-State municipal solid waste before the date of
10 enactment of this section, the limitation amount re-
11 ferred to in paragraph (1) for any year shall be
12 equal to the amount of out-of-State municipal solid
13 waste received at the landfill or incinerator con-
14 cerned during calendar year 1993, or, in the case of
15 a State which did not require documentation of the
16 sort required by this paragraph to be kept for cal-
17 endar year 1993, the first subsequent calendar year
18 for which the State required such documentation.
19 The documentation referred to in this paragraph
20 shall be such as would result in civil or criminal pen-
21 alties under State law in case of false or misleading
22 information. Such documentation shall include the
23 amount of waste received in 1993, or such other
24 baseline year as is provided for in this paragraph,

1 and may include place of origin, identity of the gen-
2 erator, date of shipment, and type of waste.

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

8 “(g) LIMITATIONS ON PROSPECTIVE WASTE
9 FLOWS.—

10 “(1) STATE AUTHORITY TO DENY PERMITS.—A
11 State may provide by law that the State will deny
12 or refuse to renew, and a State that does not pro-
13 vide for renewal of permits may provide by law that
14 the State will, upon State review of the permit or
15 application for amendment to the permit, revoke all
16 or part of or refuse to amend, a permit for the con-
17 struction, expansion, increase in capacity, transfer of
18 ownership, or operation of a landfill or incinerator,
19 or for a major modification to an existing landfill or
20 incinerator, if—

21 “(A) the State has approved a State or
22 local comprehensive municipal solid waste man-
23 agement plan developed under Federal or State
24 law; and

1 “(B) the denial, refusal to renew or
2 amend, or revocation is based on a determina-
3 tion, pursuant to a State law authorizing the
4 denial, refusal to renew or amend, or revoca-
5 tion, that there is not a local or regional need
6 for the landfill or incinerator in the State.

7 “(2) PERCENTAGE LIMIT.—

8 “(A) IN GENERAL.—A State may provide
9 by law that a State permit issued or renewed
10 after the date of enactment of this section, and,
11 in the case of a State that does not provide for
12 renewal of permits, a State permit amended or
13 reviewed by the State, for the construction, ex-
14 pansion, increase in capacity, transfer of owner-
15 ship, or operation of a municipal solid waste
16 landfill or incinerator shall include a require-
17 ment that not more than a specified percentage
18 of the total amount of municipal solid waste re-
19 ceived annually at the landfill or incinerator
20 may be out-of-State municipal solid waste. A
21 percentage limitation established by a State
22 under this subparagraph shall not be less than
23 20 percent.

24 “(B) HOST COMMUNITY AGREEMENT.—
25 Notwithstanding subparagraphs (A) and (C), a

1 landfill or incinerator acting pursuant to a host
2 community agreement entered into prior to
3 January 1, 2009, that specifically authorizes
4 the landfill or incinerator to receive a specific
5 quantity of out-of-State municipal solid waste
6 annually may receive the specific quantity au-
7 thorized under the host community agreement,
8 but only to the extent that the landfill or incin-
9 erator, at the time the host community agree-
10 ment was entered into, had specifically per-
11 mitted capacity to receive the solid waste au-
12 thorized by the host community agreement.

13 “(C) NONDISCRIMINATION.—An annual
14 percentage limitation referred to in subpara-
15 graph (A)—

16 “(i) shall be uniform for all municipal
17 solid waste landfills and incinerators in the
18 State; and

19 “(ii) may not discriminate against
20 out-of-State municipal solid waste accord-
21 ing to the State of origin.

22 “(h) AUTHORITY OF STATE TO RESTRICT OUT-OF-
23 STATE MUNICIPAL SOLID WASTE BASED ON RECYCLING
24 PROGRAMS.—

25 “(1) AUTHORITY.—

1 “(A) LIMITATION.—A State may limit the
2 amount of out-of-State municipal solid waste
3 received annually at each landfill or incinerator
4 in the State to the amount of out-of-State mu-
5 nicipal solid waste received at the landfill or in-
6 cinerator concerned during calendar year 1995
7 if the State has enacted a comprehensive, state-
8 wide recycling program. No such limit may con-
9 flict—

10 “(i) with provisions of a permit spe-
11 cifically authorizing the owner or operator
12 to accept, at the facility, out-of-State mu-
13 nicipal solid waste; or

14 “(ii) with a host community agree-
15 ment entered into between the owner or
16 operator of any such landfill or incinerator
17 and the affected local government.

18 “(B) CONFLICT.—A limit referred to in
19 subparagraph (A) shall be treated as conflicting
20 with—

21 “(i) a permit if the permit establishes
22 a higher limit or does not establish any
23 limit on the amount of out-of-State munic-
24 ipal solid waste which may be received an-
25 nually at the facility; and

1 “(ii) a host community agreement if
2 the host community agreement establishes
3 a higher limit or does not establish any
4 limit on the amount of out-of-State munic-
5 ipal solid waste which may be received an-
6 nually at the facility, but only to the extent
7 that the landfill or incinerator, at the time
8 the host community agreement was entered
9 into, had specifically permitted capacity to
10 receive the solid waste authorized by the
11 host community agreement.

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

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

20 “(4) DEFINITION.—As used in this subsection,
21 the term ‘comprehensive, statewide recycling pro-
22 gram’ means a law of statewide applicability that re-
23 quires the generators of municipal solid waste to
24 separate all of the following materials for recycling

1 as a condition of disposing of the waste at landfills
2 or incinerators in the State:

3 “(A) Aluminum containers.

4 “(B) Corrugated paper or other container
5 board.

6 “(C) Glass containers.

7 “(D) Magazines or other material printed
8 on similar paper.

9 “(E) Newspapers or other material printed
10 on newsprint.

11 “(F) Office paper.

12 “(G) Plastic containers.

13 “(H) Steel containers.

14 “(I) Containers for carbonated or malt
15 beverages that are primarily made of a com-
16 bination of steel and aluminum.

17 “(i) COST RECOVERY SURCHARGE.—

18 “(1) AUTHORITY.—A State may impose and
19 collect a cost recovery charge on the processing,
20 combustion, or disposal in a landfill or incinerator of
21 out-of-State municipal solid waste in the State in ac-
22 cordance with this subsection.

23 “(2) AMOUNT OF SURCHARGE.—The amount of
24 the cost recovery surcharge may be no greater than
25 the amount necessary to recover those costs deter-

1 mined in conformance with paragraph (4) and in no
2 event may exceed \$3.00 per ton of waste.

3 “(3) USE OF SURCHARGE COLLECTED.—All
4 cost recovery surcharges collected by a State shall be
5 used to fund those solid waste management pro-
6 grams administered by the State or its political sub-
7 division that incur costs for which the surcharge is
8 collected.

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

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

19 “(ii) the surcharge is based on those costs
20 demonstrated under clause (i) that, if not paid
21 for through the surcharge, would otherwise
22 have to be paid or subsidized by the State or
23 its political subdivisions; 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 in connection with
6 the generation, transportation, treatment, proc-
7 essing, combustion, or disposal of solid waste. Any
8 provision in a host community agreement that places
9 responsibility for payment or reimbursement for fees
10 under this subsection on the host community is here-
11 by declared null and void.

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

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

17 “(A) The term ‘costs’ means the costs in-
18 curred by the State for the implementation of
19 its laws governing the processing, combustion,
20 or disposal of municipal solid waste, limited to
21 the issuance of new permits and renewal of or
22 modification of permits, inspection and compli-
23 ance monitoring, enforcement, and costs associ-
24 ated with technical assistance, data manage-
25 ment, and collection of 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 “(j) INSPECTIONS.—A State may require that a
8 State-employed or authorized inspector be onsite during
9 any or all hours of operation at any facility that receives
10 out-of-State municipal solid waste. Such inspectors shall
11 be authorized to ensure the enforcement of Federal, State,
12 and local laws and regulations relating to the receipt of
13 out-of-State municipal solid waste, and to ensure that out-
14 of-State municipal solid waste received at a transfer facil-
15 ity or other interim holding facility remains identifiable
16 as out-of-State municipal solid waste when transferred to
17 a landfill or incinerator. The State may require reimburse-
18 ment from the facility for reasonable costs of providing
19 such inspectors.

20 “(k) IMPLEMENTATION AND ENFORCEMENT.—Any
21 State may adopt such laws and regulations, not incon-
22 sistent with this section, as are necessary to implement
23 and enforce this section, including provisions for penalties.

24 “(l) EFFECT ON INTERSTATE COMMERCE.—No State
25 or local government action taken as authorized by this sec-

tion, including the establishment of a limit pursuant to subsection (f) or the enactment or execution of a law or regulation described in subsection (c)(7), (g), (h), (i), or (k), shall be considered to impose an undue burden on interstate commerce or to otherwise impair, restrain, or discriminate against interstate commerce.

“(m) ANNUAL STATE REPORT.—Each year the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the Governor of the State in which the landfill or incinerator is located information specifying the amount of out-of-State municipal solid waste received for disposal during the preceding year, its place of origin, the identity of the generator, the date of shipments, and the type of waste received. Each year each such State shall publish and make available to the public a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding year.

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

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

“(A) the public body authorized by State law to plan for the management of municipal solid waste, a majority of the members of which are elected officials, for the area in which a

1 landfill or incinerator is located or proposed to
2 be located;

3 “(B) if there is no such body authorized by
4 State law, the elected officials of the city, town,
5 township, borough, county, or parish exercising
6 primary responsibility over municipal solid
7 waste management or the use of land in the ju-
8 risdiction in which a landfill or incinerator is lo-
9 cated or proposed to be located; or

10 “(C) contiguous units of local government
11 located in each of 2 or more adjoining States
12 acting jointly as an affected local government,
13 pursuant to the authority provided in section
14 1005(b), for purposes of providing authoriza-
15 tion under subsection (b), (c), or (d) for munic-
16 ipal solid waste generated in the jurisdiction of
17 one of those units of local government and re-
18 ceived for disposal or incineration in the juris-
19 diction of another.

20 “(2) HOST COMMUNITY AGREEMENT.—The
21 term ‘host community agreement’ means a written,
22 legally binding agreement, lawfully entered into be-
23 tween an owner or operator of a landfill or inciner-
24 ator and an affected local government that specifi-

1 cally authorizes the landfill or incinerator to receive
 2 out-of-State municipal solid waste.

3 “(3) MUNICIPAL SOLID WASTE.—

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

7 “(i) all waste materials discarded for
 8 disposal by households, including single
 9 and multifamily residences, and hotels and
 10 motels;

11 “(ii) sewage sludge and residuals from
 12 any sewage treatment plant;

13 “(iii) combustion ash generated by re-
 14 source recovery facilities or municipal in-
 15 cinerators;

16 “(iv) petroleum contaminated soil; and

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

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

23 “(II) were collected and disposed
 24 of with other municipal solid waste
 25 described in clause (i) or subclause (I)

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

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

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

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

24 “(ii) Any solid waste, including con-
25 taminated soil (other than petroleum con-

1 taminated soil) and debris, resulting
2 from—

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

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

12 “(III) a corrective action taken
13 under this Act.

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

19 “(iv) Scrap rubber to be used as a
20 fuel source.

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

25 “(vi) Any solid waste that is—

1 “(I) generated by an industrial
2 facility; and

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

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

19 “(viii) Waste from manufacturing or
20 processing (including pollution control) op-
21 erations not essentially the same as waste
22 normally generated by households.

23 “(4) OUT-OF-STATE MUNICIPAL SOLID
24 WASTE.—The term ‘out-of-State municipal solid
25 waste’ means, with respect to any State, municipal

1 solid waste generated outside of the State. The term
2 includes municipal solid waste generated outside of
3 the United States and includes municipal solid waste
4 generated outside of the State that has passed
5 through a transfer facility or other interim holding
6 facility inside the State.

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

15 “(6) SPECIFICALLY AUTHORIZES.—(A) Except
16 as provided in subparagraph (B), the term ‘specifi-
17 cally authorizes’ refers to an explicit authorization,
18 contained in a host community agreement or permit,
19 to import municipal solid waste from outside the
20 State. Such authorization may include a reference to
21 a fixed radius surrounding the landfill or incinerator
22 which includes an area outside the State or a ref-
23 erence to ‘any place of origin’, reference to specific
24 places outside the State, or use of such phrases as
25 ‘regardless of origin’ or ‘outside the State’.

1 “(B) If a landfill or incinerator received
 2 100,000 tons of out-of-State municipal solid waste
 3 or more during the previous year, when applied to
 4 such landfill or incinerator the term ‘specifically au-
 5 thorizes’ refers to an explicit authorization, con-
 6 tained in a host community agreement or permit, to
 7 import specific volumes or other specific quantities
 8 of municipal solid waste from outside the State.

9 “(C) The language for a specific authorization
 10 under this paragraph must clearly and affirmatively
 11 state the approval or consent of the affected local
 12 government or State for receipt of municipal solid
 13 waste from sources or locations outside the State
 14 from which the owner or operator of a landfill or in-
 15 cinerator proposes to import it. The term shall not
 16 include general references to the receipt of waste
 17 from outside the jurisdiction of the affected local
 18 government.”.

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

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

23 (c) INCIDENT REPORTS.—Not later than one year
 24 after the date of the enactment of this Act and annually
 25 for the next two years, the General Accounting Office shall

1 submit a report to the Committee on Energy and Com-
2 merce of the House of Representatives and the Committee
3 on Environment and Public Works of the Senate that con-
4 tains the following information:

5 (1) Available information for each State that
6 imports municipal solid waste detailing any incidents
7 or circumstances where waste materials that are not
8 authorized by permit to be disposed of at a landfill
9 or incinerator have been discovered in the imported
10 municipal solid waste during the transportation,
11 processing, or disposal of such waste. Such unau-
12 thorized waste materials can include hazardous
13 waste, medical waste, radioactive waste, and indus-
14 trial waste.

15 (2) For each incident or circumstance identified
16 under paragraph (1), an indication of the method or
17 circumstances of detection, and the identity of the
18 source of the waste, the transporter, and the dis-
19 posal facility.

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

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