

new waste stream from nearby counties which have not previously flow controlled to the Harrisburg facility. It would appear to me that the existence of outstanding bonds and the unfunded mandate on Harrisburg under the Clean Air Act would justify the extension of flow control authority to the counties that would want to send waste to the Harrisburg facility in the future.

Would the distinguished chairman be willing to look closely at this issue as this legislation goes forward?

Mr. SMITH. Mr. President, as the Senator from Pennsylvania knows, this legislation provides flow control authority which is predicated on meeting debt obligations. The issuance of new debt at a facility that has operated since 1972 and that would require expanded flow control authority is not one that the committee has had the opportunity to examine in any detail at this time. I would be glad to work with the Senator from Pennsylvania as the bill goes forward and to determine whether the Harrisburg facility is or should be covered by this legislation.

Mr. SPECTER. I thank my colleague from New Hampshire.

Mr. CHAFEE. Mr. President, I share all of the views set forth by the distinguished Senator from Indiana. We have all been struggling with this issue for many years, nobody as hard as he has and with more tenacity. As he indicated, we are this close. I think he said we are in the bottom of the ninth. I hope we complete the game, and I know we will. Then, of course, comes what the House does and then the conference with the House. But all of that we will pursue with great vigor.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15.

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAMS).

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the bill having been read the third, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 94, nays 6, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—94

Abraham	Bingaman	Burns
Akaka	Bond	Byrd
Ashcroft	Bradley	Campbell
Baucus	Breaux	Chafee
Bennett	Bryan	Coats
Biden	Bumpers	Cochran

Cohen	Helms	Nickles
Conrad	Hollings	Nunn
Coverdell	Hutchison	Packwood
Craig	Inhofe	Pell
D'Amato	Inouye	Pressler
Daschle	Jeffords	Pryor
DeWine	Johnston	Reid
Dodd	Kassebaum	Robb
Dole	Kempthorne	Rockefeller
Domenici	Kennedy	Roth
Dorgan	Kerrey	Santorum
Exon	Kerry	Sarbanes
Faircloth	Kohl	Shelby
Feingold	Lautenberg	Simon
Ford	Leahy	Simpson
Frist	Levin	Smith
Glenn	Lieberman	Snowe
Graham	Lott	Specter
Gramm	Lugar	Stevens
Grams	Mack	Thomas
Grassley	McCaain	Thompson
Gregg	McConnell	Thurmond
Harkin	Mikulski	Warner
Hatch	Moseley-Braun	Wellstone
Hatfield	Moynihan	
Heflin	Murkowski	

NAYS—6

Boxer	Feinstein	Kyl
Brown	Gorton	Murray

So the bill (S. 534), as amended, was passed, as follows:

S. 534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Transportation of Municipal Solid Waste Act of 1995".

TITLE I—INTERSTATE WASTE

SEC. 101. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

(a) AMENDMENT.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"SEC. 4011. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

"(a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) Except as provided in paragraph (4), immediately upon the date of enactment of this section if requested in writing by an affected local government, a Governor may prohibit the disposal of out-of-State municipal solid waste in any landfill or incinerator that is not covered by the exceptions provided in subsection (b) and that is subject to the jurisdiction of the Governor and the affected local government.

"(2) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(C) and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may limit the quantity of out-of-State municipal solid waste received for disposal at each landfill or incinerator covered by the exceptions provided in subsection (b) that is subject to the jurisdiction of the Governor, to an annual amount equal to or greater than the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

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

"(i) In calendar year 1996, 95 percent of the amount exported to the State in calendar year 1993.

"(ii) In calendar years 1997 through 2002, 95 percent of the amount exported to the State in the previous year.

"(iii) In calendar year 2003, and each succeeding year, the limit shall be 65 percent of the amount exported in 1993.

"(iv) No exporting State shall be required under this subparagraph to reduce its exports to any importing State below the proportionate amount established herein.

"(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste more than the following amounts of municipal solid waste:

"(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

"(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

"(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

"(IV) In calendar year 1999, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

"(V) In calendar year 2000, 1,000,000 tons.

"(VI) In calendar year 2001, 750,000 tons.

"(VII) In calendar year 2002 or any calendar year thereafter, 550,000 tons.

"(ii) The Governor of an importing State may take action to restrict levels of imports to reflect the appropriate level of out-of-State municipal solid waste imports if—

"(I) the Governor of the importing State has notified the Governor of the exporting State and the Administrator, 12 months prior to taking any such action, of the importing State's intention to impose the requirements of this section;

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

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

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

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

"(B) Except as provided in paragraph (3), a Governor may not exercise the authority granted under this section in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (b) to reduce the amount of out-of-State municipal solid waste received from any State for disposal at such landfill or incinerator to an annual quantity less than the amount received from such State for disposal at such landfill or incinerator during calendar year 1993.

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

"(A) shall be applicable throughout the State;

"(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

"(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of place of origin and all such limitations shall

be applied to all States in violation of paragraph (3).

“(6) ANNUAL STATE REPORT.—

“(A) IN GENERAL.—Within 90 days after enactment of this section and on April 1 of each year thereafter the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the affected local government and to the Governor of the State in which the landfill or incinerator is located, information specifying the amount and State of origin of out-of-State municipal solid waste received for disposal during the preceding calendar year, and the amount of waste that was received pursuant to host community agreements or permits authorizing receipt of out-of-State municipal solid waste. Within 120 days after enactment of this section and on May 1 of each year thereafter each State shall publish and make available to the Administrator, the Governor of the State of origin and 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 calendar year.

“(B) CONTENTS.—Each submission referred to in this section shall be such as would result in criminal penalties in case of false or misleading information. Such information shall include the amount of waste received, the State of origin, the identity of the generator, the date of the shipment, and the type of out-of-State municipal solid waste. States making submissions referred to in this section to the Administrator shall notice these submissions for public review and comment at the State level before submitting them to the Administrator.

“(C) LIST.—The Administrator shall publish a list of importing States and the out-of-State municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste. The list for any calendar year shall be published by June 1 of the following calendar year.

For purposes of developing the list required in this section, the Administrator shall be responsible for collating and publishing only that information provided to the Administrator by States pursuant to this section. The Administrator shall not be required to gather additional data over and above that provided by the States pursuant to this section, nor to verify data provided by the States pursuant to this section, nor to arbitrate or otherwise entertain or resolve disputes between States or other parties concerning interstate movements of municipal solid waste. Any actions by the Administrator under this section shall be final and not subject to judicial review.

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

“(7) Any affected local government that intends to submit a request under paragraph (1) or take formal action to enter into a host community agreement after the date of enactment of this subsection shall, prior to taking such action—

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

“(B) publish notice of the action in a newspaper of general circulation at least 30 days before taking such action;

“(C) provide an opportunity for public comment; and

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

“(8) Any owner or operator seeking a host community agreement after the date of enactment of this subsection shall provide to

the affected local government the following information, which shall be made available to the public from the affected local government:

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

“(B) A map of the facility site that indicates the location of the facility in relation to the local road system and topographical and hydrological features and any buffer zones and facility units to be acquired by the owner or operator of the facility.

“(C) A description of the existing environmental conditions at the site, and any violations of applicable laws or regulations.

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

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

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

“(G) Any information that is required by State or Federal law to be provided with respect to any violations of environmental laws (including regulations) by the owner and operator, the disposition of enforcement proceedings taken with respect to the violations, and corrective measures taken as a result of the proceedings.

“(H) Any information that is required by State or Federal law to be provided with respect to compliance by the owner or operator with the State solid waste management plan.

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

“(A) received during calendar year 1993 documented shipments of out-of-State municipal solid waste; and

“(B)(i) in the case of landfills, are in compliance with all applicable Federal and State laws and regulations relating to operation, design and location standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action; or

“(ii) in the case of incinerators, are in compliance with the applicable requirements of section 129 of the Clean Air Act (42 U.S.C. 7429) and applicable State laws and regulations relating to facility design and operations.

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

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

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

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

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

“(C) for which a legally binding commitment between the owner or operator and another party has been made for its use for disposal or incineration of municipal solid waste generated within the region (identified under section 4006(a)) in which the local government is located.

“(d) COST RECOVERY SURCHARGE.—

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

“(2) APPLICABILITY.—The authority to impose a cost recovery surcharge under this subsection applies to any State that on or before April 3, 1994, imposed and collected a special fee on the processing or disposal of out-of-State municipal solid waste pursuant to a State law.

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

“(4) AMOUNT OF SURCHARGE.—The amount of the cost recovery surcharge may be no greater than the amount necessary to recover those costs determined in conformance with paragraph (6) and in no event may exceed \$1.00 per ton of waste.

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

“(6) CONDITIONS.—(A) Subject to subparagraphs (B) and (C), a State covered by this subsection may impose and collect a cost recovery surcharge on the processing or disposal within the State of out-of-State municipal solid waste if—

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

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

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

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

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

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

“(A) The term ‘costs’ means the costs incurred by the State for the implementation of its laws governing the processing or disposal of municipal solid waste, limited to the issuance of new permits and renewal of or modification of permits, inspection and compliance monitoring, enforcement, and costs

associated with technical assistance, data management, and collection of fees.

“(B) The term ‘processing’ means any activity to reduce the volume of solid waste or alter its chemical, biological or physical state, through processes such as thermal treatment, bailing, composting, crushing, shredding, separation, or compaction.

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

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

“(2) to affect the authority of any State or local government to protect public health and the environment through laws, regulations, and permits, including the authority to limit the total amount of municipal solid waste that landfill or incinerator owners or operators within the jurisdiction of a State may accept during a prescribed period: *Provided* That such limitations do not discriminate between in-State and out-of-State municipal solid waste, except to the extent authorized by this section.

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

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

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

“(ii) the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility over municipal solid waste management or the use of land in the jurisdiction in which the facility is located or is proposed to be located.

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

“(ii) If a Governor fails to make and publish notice of such a designation, the affected local government shall be the elected officials of the city, town, township, borough, county, parish, or other public body created pursuant to State law with primary jurisdiction over the land or the use of land on which the facility is located or is proposed to be located.

“(C) For purposes of host community agreements entered into before the date of publication of the notice, the term means either a public body described in subparagraph (A)(i) or the elected officials of any of the public bodies described in subparagraph (A)(ii).

“(2) HOST COMMUNITY AGREEMENT.—The term ‘host community agreement’ means a written, legally binding document or documents executed by duly authorized officials of the affected local government that specifically authorizes a landfill or incinerator to receive municipal solid waste generated out of State, but does not include any agreement to pay host community fees for receipt of waste unless additional express authorization to receive out-of-State waste is also included.

“(3) The term ‘out-of-State municipal solid waste’ means, with respect to any State, municipal solid waste generated outside of the State. Unless the President determines it is inconsistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal solid waste generated outside of the United States. Notwithstanding any other provision of law, generators of municipal solid waste outside the United States shall possess no greater right of access to disposal facilities in a State than United

States generators of municipal solid waste outside of that State.

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

“(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, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

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

“(D) any solid waste that is—

“(i) generated by an industrial facility; and

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

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

“(F) any industrial waste that is not identical to municipal solid waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

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

“(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

“(5) The term ‘compliance’ means a pattern or practice of adhering to and satisfying standards and requirements promulgated by the Federal or a State government for the purpose of preventing significant harm to human health and the environment. Actions undertaken in accordance with compliance schedules for remediation established by Federal or State enforcement authorities shall be considered compliance for purposes of this section.

“(6) The terms ‘specifically authorized’ and ‘specifically authorizes’ refer to an explicit authorization, contained in a host community agreement or permit, to import waste from outside the State. Such authorization may include a reference to a fixed radius surrounding the landfill or incinerator that includes an area outside the State or a reference to any place of origin, reference to specific places outside the State, or use of such phrases as ‘regardless of origin’ or ‘outside the State’. The language for such authorization may vary as long as it clearly and affirmatively states the approval or consent of the affected local government or State for receipt of municipal solid waste from sources outside the State.

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

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid

Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle D the following new item:

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

SEC. 102. NEEDS DETERMINATION.

The Governor of a State may accept, deny or modify an application for a municipal solid waste management facility permit if—

(1) it is done in a manner that is not inconsistent with the provisions of this section;

(2) a State law enacted in 1990 and a regulation adopted by the governor in 1991 specifically requires the permit applicant to demonstrate that there is a local or regional need within the State for the facility; and

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

TITLE II—FLOW CONTROL

SEC. 201. SHORT TITLE.

This title may be cited as the “Municipal Solid Waste Flow Control Act of 1995”.

SEC. 202. STATE AND LOCAL GOVERNMENT CONTROL OF MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIAL.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.), as amended by section 101, is amended by adding after section 4011 the following new section:

“SEC. 4012. STATE AND LOCAL GOVERNMENT CONTROL OF MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIAL.

“(a) DEFINITIONS.—In this section:

“(1) DESIGNATE; DESIGNATION.—The terms ‘designate’ and ‘designation’ refer to an authorization by a State, political subdivision, or public service authority, and the act of a State, political subdivision, or public service authority in requiring or contractually committing, that all or any portion of the municipal solid waste or recyclable material that is generated within the boundaries of the State, political subdivision, or public service authority be delivered to waste management facilities or facilities for recyclable material or a public service authority identified by the State, political subdivision, or public service authority.

“(2) FLOW CONTROL AUTHORITY.—The term ‘flow control authority’ means the authority to control the movement of municipal solid waste or voluntarily relinquished recyclable material and direct such solid waste or voluntarily relinquished recyclable material to a designated waste management facility or facility for recyclable material.

“(3) MUNICIPAL SOLID WASTE.—The term ‘municipal solid waste’ means—

“(A) solid waste generated by the general public or from a residential, commercial, institutional, or industrial source, consisting of paper, wood, yard waste, plastics, leather, rubber, and other combustible material and noncombustible material such as metal and glass, including residue remaining after recyclable material has been separated from waste destined for disposal, and including waste material removed from a septic tank, septage pit, or cesspool (other than from portable toilets); but

“(B) does not include—

“(i) waste identified or listed as a hazardous waste under section 3001 of this Act or waste regulated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

“(ii) waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604, 9606) or any corrective action taken under this Act;

"(iii) medical waste listed in section 11002;
 "(iv) industrial waste generated by manufacturing or industrial processes, including waste generated during scrap processing and scrap recycling;

"(v) recyclable material; or
 "(vi) sludge.

"(4) PUBLIC SERVICE AUTHORITY.—The term 'public service authority' means—

"(A) an authority or authorities created pursuant to State legislation to provide individually or in combination solid waste management services to political subdivisions;

"(B) other body created pursuant to State law; or

"(C) an authority that was issued a certificate of incorporation by a State corporation commission established by a State constitution.

"(5) PUT OR PAY AGREEMENT.—(A) The term 'put or pay agreement' means an agreement that obligates or otherwise requires a State or political subdivision to—

"(i) deliver a minimum quantity of municipal solid waste to a waste management facility; and

"(ii) pay for that minimum quantity of municipal solid waste even if the stated minimum quantity of municipal solid waste is not delivered within a required period of time.

"(B) For purposes of the authority conferred by subsections (b) and (c), the term 'legally binding provision of the State or political subdivision' includes a put or pay agreement that designates waste to a waste management facility that was in operation on or before December 31, 1988 and that requires an aggregate tonnage to be delivered to the facility during each operating year by the political subdivisions which have entered put or pay agreements designating that waste management facility.

"(C) The entering into of a put or pay agreement shall be considered to be a designation (as defined in subsection (a)(1)) for all purposes of this title.

"(6) RECYCLABLE MATERIAL.—The term 'recyclable material' means material that has been separated from waste otherwise destined for disposal (at the source of the waste or at a processing facility) or has been managed separately from waste destined for disposal, for the purpose of recycling, reclamation, composting of organic material such as food and yard waste, or reuse (other than for the purpose of incineration).

"(7) WASTE MANAGEMENT FACILITY.—The term 'waste management facility' means a facility that collects, separates, stores, transports, transfers, treats, processes, combusts, or disposes of municipal solid waste.

"(b) AUTHORITY.—

"(1) IN GENERAL.—Each State, political subdivision of a State, and public service authority may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction by directing the municipal solid waste or recyclable material to a waste management facility or facility for recyclable material, if such flow control authority—

"(A)(i) had been exercised prior to May 15, 1994, and was being implemented on May 15, 1994, pursuant to a law, ordinance, regulation, or other legally binding provision of the State or political subdivision; or

"(ii) had been exercised prior to May 15, 1994, but implementation of such law, ordinance, regulation, or other legally binding provision of the State or political subdivision was prevented by an injunction, temporary restraining order, or other court action, or was suspended by the voluntary decision of the State or political subdivision because of the existence of such court action;

"(B) has been implemented by designating before May 15, 1994, the particular waste management facilities or public service authority to which the municipal solid waste or recyclable material is to be delivered, which facilities were in operation as of May 15, 1994, or were in operation prior to May 15, 1994 and were temporarily inoperative on May 15, 1994.

"(2) LIMITATION.—The authority of this section extends only to the specific classes or categories of municipal solid waste to which flow control authority requiring a movement to a waste management facility was actually applied on or before May 15, 1994 (or, in the case of a State, political subdivision, or public service authority that qualifies under subsection (c), to the specific classes or categories of municipal solid waste for which the State, political subdivision, or public service authority prior to May 15, 1994, had committed to the designation of a waste management facility).

"(3) LACK OF CLEAR IDENTIFICATION.—With regard to facilities granted flow control authority under subsection (c), if the specific classes or categories of municipal solid waste are not clearly identified, the authority of this section shall apply only to municipal solid waste generated by households.

"(4) DURATION OF AUTHORITY.—With respect to each designated waste management facility, the authority of this section shall be effective until the later of—

"(A) the end of the remaining life of a contract between the State, political subdivision, or public service authority and any other person regarding the movement or delivery of municipal solid waste or voluntarily relinquished recyclable material to a designated facility (as in effect May 15, 1994);

"(B) completion of the schedule for payment of the capital costs of the facility concerned (as in effect May 15, 1994); or

"(C) the end of the remaining useful life of the facility (as in existence on the date of enactment of this section), as that remaining life may be extended by—

"(i) retrofitting of equipment or the making of other significant modifications to meet applicable environmental requirements or safety requirements;

"(ii) routine repair or scheduled replacement of equipment or components that does not add to the capacity of a waste management facility; or

"(iii) expansion of the facility on land that is—

"(I) legally or equitably owned, or under option to purchase or lease, by the owner or operator of the facility; and

"(II) covered by the permit for the facility (as in effect May 15, 1994).

"(5) ADDITIONAL AUTHORITY.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph applies to a State or political subdivision of a State that, on or before January 1, 1984—

"(i) adopted regulations under State law that required the transportation to, and management or disposal at, waste management facilities in the State, of—

"(I) all solid waste from residential, commercial, institutional, or industrial sources (as defined under State law); and

"(II) recyclable material voluntarily relinquished by the owner or generator of the recyclable material; and

"(ii) as of January 1, 1984, had implemented those regulations in the case of every political subdivision of the State.

"(B) AUTHORITY.—Notwithstanding anything to the contrary in this section (including subsection (m)), a State or political subdivision of a State described in subparagraph (A) may continue to exercise flow control authority (including designation of waste management facilities in the State that meet the

requirements of subsection (c)) for all classes and categories of solid waste that were subject to flow control on January 1, 1984.

"(6) FLOW CONTROL ORDINANCE.—Notwithstanding anything to the contrary in this section, but subject to subsection (m), any political subdivision which adopted a flow control ordinance in November 1991, and designated facilities to receive municipal solid waste prior to April 1, 1992, may exercise flow control authority until the end of the remaining life of all contracts between the political subdivision and any other persons regarding the movement or delivery of municipal solid waste or voluntarily relinquished recyclable material to a designated facility (as in effect May 15, 1994). Such authority shall extend only to the specific classes or categories of municipal solid waste to which flow control authority was actually applied on or before May 15, 1994. The authority under this subsection shall be exercised in accordance with section 4012(b)(4).

"(c) COMMITMENT TO CONSTRUCTION.—

"(1) IN GENERAL.—Notwithstanding subsection (b)(1) (A) and (B), any political subdivision of a State may exercise flow control authority under subsection (b), if—

"(A)(i) the law, ordinance, regulation, or other legally binding provision specifically provides for flow control authority for municipal solid waste generated within its boundaries; and

"(ii) such authority was exercised prior to May 15, 1995, and was being implemented on May 15, 1994.

"(B) prior to May 15, 1994, the political subdivision committed to the designation of the particular waste management facilities or public service authority to which municipal solid waste is to be transported or at which municipal solid waste is to be disposed of under that law, ordinance, regulation, plan, or legally binding provision.

"(2) FACTORS DEMONSTRATING COMMITMENT.—A commitment to the designation of waste management facilities or public service authority is demonstrated by 1 or more of the following factors:

"(A) CONSTRUCTION PERMITS.—All permits required for the substantial construction of the facility were obtained prior to May 15, 1994.

"(B) CONTRACTS.—All contracts for the substantial construction of the facility were in effect prior to May 15, 1994.

"(C) REVENUE BONDS.—Prior to May 15, 1994, revenue bonds were presented for sale to specifically provide revenue for the construction of the facility.

"(D) CONSTRUCTION AND OPERATING PERMITS.—The State or political subdivision submitted to the appropriate regulatory agency or agencies, on or before May 15, 1994, substantially complete permit applications for the construction and operation of the facility.

"(d) FORMATION OF SOLID WASTE MANAGEMENT DISTRICT TO PURCHASE AND OPERATE EXISTING FACILITY.—Notwithstanding subsection (b)(1) (A) and (B), a solid waste management district that was formed by a number of political subdivisions for the purpose of purchasing and operating a facility owned by 1 of the political subdivisions may exercise flow control authority under subsection (b) if—

"(1) the facility was fully licensed and in operation prior to May 15, 1994;

"(2) prior to April 1, 1994, substantial negotiations and preparation of documents for the formation of the district and purchase of the facility were completed;

"(3) prior to May 15, 1994, at least 80 percent of the political subdivisions that were

to participate in the solid waste management district had adopted ordinances committing the political subdivisions to participation and the remaining political subdivisions adopted such ordinances within 2 months after that date; and

“(3) the financing was completed, the acquisition was made, and the facility was placed under operation by the solid waste management district by September 21, 1994.

“(e) CONSTRUCTED AND OPERATED.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if—

“(1) prior to May 15, 1994, the political subdivision—

“(A) contracted with a public service authority or with its operator to deliver or cause to be delivered to the public service authority substantially all of the disposable municipal solid waste that is generated or collected by or is within or under the control of the political subdivision, in order to support revenue bonds issued by and in the name of the public service authority or on its behalf by a State entity for waste management facilities; or

“(B) entered into contracts with a public service authority or its operator to deliver or cause to be delivered to the public service authority substantially all of the disposable municipal solid waste that is generated or collected by or within the control of the political subdivision, which imposed flow control pursuant to a law, ordinance, regulation, or other legally binding provision and where outstanding revenue bonds were issued in the name of public service authorities for waste management facilities; and

“(2) prior to May 15, 1994, the public service authority—

“(A) issued the revenue bonds or had issued on its behalf by a State entity for the construction of municipal solid waste facilities to which the political subdivision's municipal solid waste is transferred or disposed; and

“(B) commenced operation of the facilities. The authority under this subsection shall be exercised in accordance with section 4012(b)(4).

“(f) STATE-MANDATED DISPOSAL SERVICES.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

“(1) was responsible under State law for providing for the operation of solid waste facilities to serve the disposal needs of all incorporated and unincorporated areas of the county;

“(2) is required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent;

“(3) has been authorized by State statute to exercise flow control authority and had implemented the authority through the adoption or execution of a law, ordinance, regulation, contract, or other legally binding provision;

“(4) had incurred, or caused a public service authority to incur, significant financial expenditures to comply with State law and to repay outstanding bonds that were issued specifically for the construction of solid waste management facilities to which the political subdivision's waste is to be delivered; and

“(5) the authority under this subsection shall be exercised in accordance with section 4012(b)(4).

“(g) STATE SOLID WASTE DISTRICT AUTHORITY.—A solid waste district or a political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if—

“(1) the solid waste district, political subdivision or municipality within said district is currently required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent by the year 2005, and uses revenues generated by the exercise of flow control authority strictly to implement programs to manage municipal solid waste, other than development of incineration; and

“(2) prior to May 15, 1994, the solid waste district, political subdivision or municipality within said district—

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

“(B) was authorized by State statute (enacted prior to January 1, 1992) to exercise flow control authority, and subsequently adopted or sought to exercise the authority through a law, ordinance, regulation, regulatory proceeding, contract, franchise, or other legally binding provision; and

“(C) was required by State statute (enacted prior to January 1, 1992) to develop and implement a solid waste management plan consistent with the State solid waste management plan, and the district solid waste management plan was approved by the appropriate State agency prior to September 15, 1994.

(h) STATE-AUTHORIZED SERVICES AND LOCAL PLAN ADOPTION.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

(1) had been authorized by State statute which specifically named the political subdivision to exercise flow control authority and had implemented the authority through a law, ordinance, regulation, contract, or other legally binding provision; and

(2) had adopted a local solid waste management plan pursuant to State statute and was required by State statute to adopt such plan in order to submit a complete permit application to construct a new solid waste management facility proposed in such plan; and

(3) had presented for sale a revenue or general obligation bond to provide for the site selection, permitting, or acquisition for construction of new facilities identified and proposed in its local solid waste management plan; and

(4) includes a municipality or municipalities required by State law to adopt a local law or ordinance to require that solid waste which has been left for collection shall be separated into recyclable, reusable or other components for which economic markets exist; and

(5) is in a State that has aggressively pursued closure of substandard municipal landfills, both by regulatory action and under statute designed to protect deep flow recharge areas in counties where potable water supplies are derived from sole source aquifers.

“(i) RETAINED AUTHORITY.—

“(1) REQUEST.—On the request of a generator of municipal solid waste affected by this section, a State or political subdivision may authorize the diversion of all or a portion of the solid waste generated by the generator making the request to an alternative solid waste treatment or disposal facility, if the purpose of the request is to provide a higher

level of protection for human health and the environment or reduce potential future liability of the generator under Federal or State law for the management of such waste, unless the State or political subdivision determines that the facility to which the municipal solid waste is proposed to be diverted does not provide a higher level of protection for human health and the environment or does not reduce the potential future liability of the generator under Federal or State law for the management of such waste.

“(2) CONTENTS.—A request under paragraph (1) shall include information on the environmental suitability of the proposed alternative treatment or disposal facility and method, compared to that of the designated facility and method.

“(j) LIMITATIONS ON REVENUE.—A State or political subdivision may exercise flow control authority under subsection (b), (c), (d), or (e) only if the State or political subdivision certifies that the use of any of its revenues derived from the exercise of that authority will be used for solid waste management services or related landfill reclamation.

“(k) REASONABLE REGULATION OF COMMERCE.—A law, ordinance, regulation, or other legally binding provision or official act of a State or political subdivision, as described in subsection (b), (c), (d), or (e), that implements flow control authority in compliance with this section shall be considered to be a reasonable regulation of commerce retroactive to its date of enactment or effective date and shall not be considered to be an undue burden on or otherwise considered as impairing, restraining, or discriminating against interstate commerce.

“(l) EFFECT ON EXISTING LAWS AND CONTRACTS.—

“(1) ENVIRONMENTAL LAWS.—Nothing in this section shall be construed to have any effect on any other law relating to the protection of human health and the environment or the management of municipal solid waste or recyclable material.

“(2) STATE LAW.—Nothing in this section shall be construed to authorize a political subdivision of a State to exercise the flow control authority granted by this section in a manner that is inconsistent with State law.

“(3) OWNERSHIP OF RECYCLABLE MATERIAL.—Nothing in this section—

“(A) authorizes a State or political subdivision of a State to require a generator or owner of recyclable material to transfer recyclable material to the State or political subdivision; or

“(B) prohibits a generator or owner of recyclable material from selling, purchasing, accepting, conveying, or transporting recyclable material for the purpose of transformation or remanufacture into usable or marketable material, unless the generator or owner voluntarily made the recyclable material available to the State or political subdivision and relinquished any right to, or ownership of, the recyclable material.

“(m) REPEAL.—(1) Notwithstanding any provision of this title, authority to flow control by directing municipal solid waste or recyclable materials to a waste management facility shall terminate on the date that is 30 years after the date of enactment of this Act.

“(2) This section and the item relating to this section in the table of contents for subtitle D of the Solid Waste Disposal Act are repealed effective as of the date that is 30 years after the date of enactment of this Act.

“(n) TITLE NOT APPLICABLE TO LISTED FACILITIES.—Notwithstanding any other provision of this title, the authority to exercise

flow control shall not apply to any facility that—

“(1) on the date of enactment of this Act, is listed on the National Priorities List under the Comprehensive Environmental, Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.); or

“(2) as of May 15, 1994, was the subject of a pending proposal by the Administrator of the Environmental Protection Agency to be listed on the National Priorities List.”.

SEC. 203. TABLE OF CONTENTS AMENDMENT.

The table of contents for subtitle D in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901), as amended by section 101(b), is amended by adding after the item relating to section 4011 the following new item:

“Sec. 4012. State and local government control of movement of municipal solid waste and recyclable material.”.

TITLE III—GROUND WATER MONITORING

SEC. 301. GROUND WATER MONITORING.

(a) AMENDMENT OF SOLID WASTE DISPOSAL ACT.—Section 4010(c) of the Solid Waste Disposal Act (42 U.S.C. 6949a(c)) is amended—

(1) by striking “CRITERIA.—Not later” and inserting the following: “CRITERIA.—

“(1) IN GENERAL.—Not later”; and

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

“(2) ADDITIONAL REVISIONS.—Subject to paragraph (2), the requirements of the criteria described in paragraph (1) relating to ground water monitoring shall not apply to an owner or operator of a new municipal solid waste landfill unit, an existing municipal solid waste landfill unit, or a lateral expansion of a municipal solid waste landfill unit, that disposes of less than 20 tons of municipal solid waste daily, based on an annual average, if—

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

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

“(i) a community that experiences an annual interruption of at least 3 consecutive months of surface transportation that prevents access to a regional waste management facility; or

“(ii) a community that has no practicable waste management alternative and the landfill unit is located in an area that annually receives less than or equal to 25 inches of precipitation.

“(3) PROTECTION OF GROUND WATER RESOURCES.—

“(A) MONITORING REQUIREMENT.—A State may require ground water monitoring of a solid waste landfill unit that would otherwise be exempt under paragraph (2) if necessary to protect ground water resources and ensure compliance with a State ground water protection plan, where applicable.

“(B) METHODS.—If a State requires ground water monitoring of a solid waste landfill unit under subparagraph (A), the State may allow the use of a method other than the use of ground water monitoring wells to detect a release of contamination from the unit.

“(C) CORRECTIVE ACTION.—If a State finds a release from a solid waste landfill unit, the State shall require corrective action as appropriate.

“(4) ALASKA NATIVE VILLAGES.—Upon certification by the Governor of the State of Alaska that application of the requirements of the criteria described in paragraph (1) to a solid waste landfill unit of a Native village (as defined in section 3 of the Alaska Native Claims Settlement Act (16 U.S.C. 1602)) or unit that is located in or near a small, remote Alaska village would be infeasible, or would not be cost-effective, or is otherwise inappropriate because of the remote location

of the unit, the State may exempt the unit from some or all of those requirements. This subsection shall apply only to solid waste landfill units that dispose of less than 20 tons of municipal solid waste daily, based on an annual average.

“(5) NO-MIGRATION EXEMPTION.—

“(A) IN GENERAL.—Ground water monitoring requirements may be suspended by the Director of an approved State for a landfill operator if the operator demonstrates that there is no potential for migration of hazardous constituents from the unit to the uppermost aquifer during the active life of the unit and the post-closure care period.

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

“(i) be certified by a qualified groundwater scientist and approved by the Director of an approved State.

“(C) GUIDANCE.—Not later than 6 months after the date of enactment of this paragraph, the Administrator shall issue a guidance document to facilitate small community use of the no migration exemption under this paragraph.

“(6) FURTHER REVISIONS OF GUIDELINES AND CRITERIA.—Not later than April 9, 1997, the Administrator shall promulgate revisions to the guidelines and criteria promulgated under this subchapter to allow States to promulgate alternate design, operating, landfill gas monitoring, financial assurance, and closure requirements for landfills which receive 20 tons or less of municipal solid waste per day based on an annual average: *Provided* That such alternate requirements are sufficient to protect human health and the environment.”.

(b) REINSTATEMENT OF REGULATORY EXEMPTION.—It is the intent of section 4010(c)(2) of the Solid Waste Disposal Act, as added by subsection (a), to immediately reinstate subpart E of part 258 of title 40, Code of Federal Regulations, as added by the final rule published at 56 Federal Register 50798 on October 9, 1991.

TITLE IV—STATE OR REGIONAL SOLID WASTE PLANS

SEC. 401. FINDING.

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

(1) by striking the period at the end of paragraph (4) and inserting “; and”; and

(2) by adding at the end the following:

“(5) that the Nation's improved standard of living has resulted in an increase in the amount of solid waste generated per capita, and the Nation has not given adequate consideration to solid waste reduction strategies.”.

SEC. 402. OBJECTIVE OF SOLID WASTE DISPOSAL ACT.

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

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

(2) by striking the period at the end of paragraph (11) and inserting “; and”; and

(3) by adding at the end the following:

“(12) promoting local and regional planning for—

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

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

SEC. 403. NATIONAL POLICY.

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

SEC. 404. OBJECTIVE OF SUBTITLE D OF SOLID WASTE DISPOSAL ACT.

Section 4001 of the Solid Waste Disposal Act (42 U.S.C. 6941) is amended by inserting “promote local and regional planning for effective solid waste collection and disposal and for reducing the amount of solid waste

generated per capita through the use of solid waste reduction strategies, and” after “objectives of this subtitle are to”.

SEC. 405. DISCRETIONARY STATE PLAN PROVISIONS.

Section 4003 of the Solid Waste Disposal Act (42 U.S.C. 6943) is amended by adding at the end the following:

“(e) DISCRETIONARY PLAN PROVISIONS RELATING TO SOLID WASTE REDUCTION GOALS, LOCAL AND REGIONAL PLANS, AND ISSUANCE OF SOLID WASTE MANAGEMENT PERMITS.—Except as provided in section 4011(a)(4), a State plan submitted under this subtitle may include, at the option of the State, provisions for—

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

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

SEC. 406. PROCEDURE FOR DEVELOPMENT AND IMPLEMENTATION OF STATE PLANS.

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

TITLE V—GENERAL PROVISIONS

SEC. 501. BORDER STUDIES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) MAQUILADORA.—The term “maquiladora” means an industry located in Mexico along the border between the United States and Mexico.

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

(b) IN GENERAL.—

(1) STUDY OF SOLID WASTE MANAGEMENT ISSUES ASSOCIATED WITH NORTH AMERICAN FREE TRADE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator is authorized to conduct a study of solid waste management issues associated with increased border use resulting from the implementation of the North American Free Trade Agreement.

(2) STUDY OF SOLID WASTE MANAGEMENT ISSUES ASSOCIATED WITH UNITED STATES-CANADA FREE-TRADE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator may conduct a similar study focused on border traffic of solid waste resulting from the implementation of the United States-Canada Free-Trade Agreement, with respect to the border region between the United States and Canada.

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

(1) A study of planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border involved.

(2) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(3) In the case of the study described in subsection (b)(1), research concerning methods of tracking of the transportation of—

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

(B) waste from maquiladoras to a final destination.

(4) In the case of the study described in subsection (b)(1), a determination of the need

for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for 1992-1994 of the Integrated Environmental Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(5) A review of the adequacy of existing emergency response networks in the border region involved, including the adequacy of training, equipment, and personnel.

(6) An analysis of solid waste management practices in the border region involved, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(d) SOURCES OF INFORMATION.—In conducting a study under this section, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(1) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and, in the case of the study described in subsection (b)(1), census data prepared by the Government of Mexico.

(2) In the case of the study described in subsection (b)(1), information from the United States Customs Service of the Department of the Treasury concerning solid waste transported across the border between the United States and Mexico, and the method of transportation of the waste.

(3) In the case of the study described in subsection (b)(1), information concerning the type and volume of materials used in maquiladoras.

(4)(A) Immigration data prepared by the Immigration and Naturalization Service of the Department of Justice.

(B) In the case of the study described in subsection (b)(1), immigration data prepared by the Government of Mexico.

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

(6) A listing of each site in the border region involved where solid waste is treated, stored, or disposed of.

(7) In the case of the study described in subsection (b)(1), a profile of the industries in the region of the border between the United States and Mexico.

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

(1) With respect to reviewing the study described in subsection (b)(1), States and political subdivisions of States (including municipalities and counties) in the region of the border between the United States and Mexico.

(2) The heads of other Federal agencies (including the Secretary of the Interior, the Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of Commerce) and with respect to reviewing the study described in subsection (b)(1), equivalent officials of the Government of Mexico.

(f) REPORTS TO CONGRESS.—On completion of the studies under this section, the Administrator shall, not later than 2 years after the date of enactment of this Act, submit to the appropriate committees of Congress reports that summarize the findings of the studies and propose methods by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(g) BORDER STUDY DELAY.—The conduct of the study described in subsection (b)(2) shall not delay or otherwise affect completion of the study described in subsection (b)(1).

(h) FUNDING.—If any funding needed to conduct the studies required by this section is

not otherwise available, the President may transfer to the Administrator, for use in conducting the studies, any funds that have been appropriated to the President under section 533 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3473) that are in excess of the amount needed to carry out that section. States that wish to participate in study will be asked to contribute to the costs of the study. The terms of the cost share shall be negotiated between the Environmental Protection Agency and the State."

SEC. 502. STUDY OF INTERSTATE HAZARDOUS WASTE TRANSPORT.

(a) DEFINITION OF HAZARDOUS WASTE.—In this section, the term "hazardous waste" has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) STUDY.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall conduct a study, and report to Congress on the results of the study, to determine—

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

(2) the ultimate disposition of the transported waste.

SEC. 503. STUDY OF INTERSTATE SLUDGE TRANSPORT.

(a) DEFINITIONS.—In this section:

(1) SEWAGE SLUDGE.—The term "sewage sludge"—

(A) means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works; and

(B) includes—

(i) domestic septage;

(ii) scum or a solid removed in a primary, secondary, or advanced wastewater treatment process; and

(iii) material derived from sewage sludge (as otherwise defined in this paragraph); but

(C) does not include—

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

(ii) grit or screenings generated during preliminary treatment of domestic sewage in a treatment works.

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

(b) STUDY.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall conduct a study, and report to Congress on the results of the study, to determine—

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

(2) the ultimate disposition of the transported sludge.

Mr. DOLE. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

ALASKA POWER ADMINISTRATION ASSET SALE AND TERMINATION ACT

The PRESIDING OFFICER. The Senate will now resume the pending business, S. 395, which the clerk will report.

A bill (S. 395) to authorize and direct the Secretary of Energy to sell the Alaska Power Marketing Administration, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Murkowski amendment No. 1078, to authorize exports of Alaskan North Slope crude oil.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I appreciate the Chair calling up the pending legislation. I have been in conversations with the Senator from Washington with regard to concerns that she has expressed, and I am told that there are some amendments that the Senator from Washington is interested in pursuing. I have not had an opportunity to review the amendments, but I intend to take this opportunity as soon as possible and have our staffs attempt to resolve the concerns of the Senator from Washington, and it would be my intent to attempt to do this with dispatch.

Mr. President, currently the staffs are pursuing an evaluation. I want to ask the Chair the pending business before the Senate.

The PRESIDING OFFICER. The pending business is S. 395 and the Senator's amendment No. 1078.

Mr. MURKOWSKI. Have the yeas and nays been ordered?

The PRESIDING OFFICER. Not on the amendment.

Mr. MURKOWSKI. I thank the Chair. I wonder if the Senator from Washington would entertain, for a moment, an opportunity, so that we may try to accommodate the amendments, and if there is any objection if I suggest the absence of a quorum, and after we have had a chance to talk, ask that the quorum call be rescinded so that we may move into the bill.

I think there is one other Senator who is coming who wishes to speak with regard to an amendment that is pending on our side. I do not see that Senator here at this time. So rather than to take up this time that could be used in negotiating the amendments of the Senator from Washington, if there is no objection, I will suggest the absence of a quorum.

Mrs. MURRAY. I will not object. I want it to be noted that there are several Senators I need to check with, but we can go ahead and go into a quorum call and discuss this.

Mr. MURKOWSKI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I further ask unanimous consent that I be able to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.