Twenty-five years ago, March 13, 1982, the Federal debt stood at $428,380,000,000 which reflects a debt increase of nearly $5 trillion—$4,933,655,571,060.06—during the past 25 years.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1415. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–1416. A communication from the Executive Director of the Northeast Interstate Low-Level Radioactive Waste Commission, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on Energy and Natural Resources.

EC–1417. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of Revenue Procedure 97-22, received on March 13, 1997; to the Committee on Finance.

EC–1418. A communication from the Chairman of the U.S. Parole Commission, Department of Justice, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC–1419. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, 109 rules including a rule entitled ''Establishment of Class E5 Airspace'' received on March 13, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1420. A communication from the Acting Deputy Assistant, Administrator for Ocean Services and Coastal Zone Management, Department of Commerce, transmitting, pursuant to law, a rule entitled ''Revision of Coastal Zone Management Program Regulations'' (RIN0648-AJ24) received on March 13, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1421. A communication from the President and Chief Scout Executive of the Boy Scouts of America, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on the Judiciary.

EC–1422. A communication from the Chairman of the U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1423. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting, pursuant to law, the report entitled ''1996 Judicial Business of the United States Courts''; to the Committee on the Judiciary.

EC–1424. A communication from the Director of Regulations Policy, Management Staff, Office of Policy, Food and Drug Administration, transmitting, pursuant to law, two rules including a rule entitled ''Indirect Food Additives'' received on March 13, 1997; to the Committee on Labor and Human Resources.

EC–1425. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of the statement of policy; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 104. A bill to amend the Nuclear Waste Policy Act of 1982.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BAUCUS:

S. 443. A bill to amend the Solid Waste Disposal Act to provide congressional authorization for restrictions on receipt of out-of-State municipal solid waste and for State control over transportation of municipal solid waste; to the Committee on Environment and Public Works.

By Mr. CHAFEE (for himself and Mr. DODD):

S. 444. A bill to amend the Internal Revenue Code to impose a tax on the manufacture and importation of tires, and for other purposes; to the Committee on Finance.

S. 445. A bill to amend the Solid Waste Disposal Act to encourage recycling of waste tires and to abate tire dumps and tire stockpiles, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DODD:

S. 446. A bill to amend the Federal Election Campaign Act of 1971 to improve the enforcement capabilities of the Federal Election Commission, and for other purposes; to the Committee on Rules and Administration.

By Mr. NICKLES (for himself, Mr. INHOFE, Mr. HATCH, Mr. LEAHY, and Mr. GRASSLEY):

S. 447. A bill to amend title 18, United States Code, to give further assurance to the right of victims of crime to attend and observe the trials of those accused of the crime, and for other purposes; read twice and placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS:

S. 443. A bill to amend the Solid Waste Disposal Act to provide congressional authorization for restrictions on receipt of out-of-State municipal solid waste and for State control over transportation of municipal solid waste; to the Committee on Environment and Public Works.

THE STATE AND LOCAL INTERSTATE WASTE CONTROL ACT OF 1997

Mr. BAUCUS. Mr. President, I rise to introduce the State and Local Interstate Waste Control Act of 1997. This bill will give our cities and States the authority they need to stop imports of trash coming from other States.

We have been working on this issue for 7 years. We have explored all options. We have held hearings, debated the issues. The Senate has passed interstate waste bills in each of the last four Congresses. It is time we put this issue behind us.

Anyone who has kept up with New York State's decision to close the Freshkils landfill knows why we must act and why we must act now. As my colleagues may be aware, the Freshkils landfill on Staten Island, which takes all of New York City's garbage, is closing.

What does that mean? That means 13,000 tons of garbage a day, almost 5 million tons a year, need a new home. It is hard to visualize how much garbage that is. What does it mean? It means about 1,200 trucks of garbage a day coming out of New York City, every one of them packed to the brim. Or, in other words, a convoy of trash trucks 12 miles long, 365 days a year—imagine that, a convoy of trash trucks 12 miles long each of 365 days a year coming out of New York City. That is what that means with the closure of Freshkils landfill on Staten Island because that garbage has to go someplace. Soon it will not go to Staten Island. Where is it going to go?

We have no idea where these trucks will go. One thing is clear. New York will have virtually no way to get rid of its trash when Freshkils does close in the year 2001. The entire State of New York can take only about 1,200 tons of New York City's trash each day and that means the rest, over 4 million tons a year, must go out of State.

What's worse, as far as I know, New York has not taken any steps to build or to grant permits to new in-State landfills. I guess it is far easier to send trash out of State than to fight the not-in-my-backyard opponents blocking new landfills and incinerators in New York State.

I do not want to single out New York. Many other great cities have similar troubles. Trash disposal is tough. But many States have taken the old adage ''it is better to give than to receive'' to the extreme. When it comes to trash, there is just too much giving and too much receiving, especially when those receiving the trash have no choice.

The fact is every city should take care of its own trash if possible. No city should be able to simply dump the problem on its neighbors. Yet that is precisely what could happen. Why? That is because today no State or town can stop shipments of garbage from other States. They do not have the authority.

A few years ago, Miles City, MT, my home State, faced the prospect of becoming a dumping ground for Minneapolis, MN, trash. The 5,000 citizens of Miles City had no say at all in whether a mega-fill landfill could go up in their backyards to take care of garbage from a city nearly 800 miles away in another State.

That is wrong. It is clearly wrong. It is unfair. Every town in America should have the right to say no. But today they do not have that right. And why is that? Every time a State law restricting out-of-State garbage imports has come up, they have been challenged in the courts. The courts have

overturned those State laws based on the commerce clause of the Constitution. So we need a national law to preserve this basic part of self-determination, that is, the right to decide whether or not a community wants to accept out-of-State garbage.

The bill I introduce today strikes a balance that will work for every community, for every State. It is very similar to the bill the Senate and House nearly passed about 3 years ago. The cornerstone of my bill is the new authority it gives to all States and communities to restrict municipal solid waste imports.

First, every Governor may freeze future imports of garbage at the level his or her State received in 1993.

Second, the bill makes it illegal to ship any new imports of municipal waste unless the local community specifically wants it.

Third, to reduce pressure on local communities, my bill gives large importing States like Pennsylvania and Ohio the right to lower their imports.

Finally, some communities have built regional landfills and we respect those agreements as well.

My bill is about returning decisionmaking back to the people, giving people in importing States what should be their birthright, a chance to determine their own destiny.

I ask unanimous consent a summary of my bill, along with the text of the bill, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 443

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 ''State and Local Government Interstate Waste Control Act of 1997''.

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

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

''SEC. 4011. INTERSTATE TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE.

''(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE WASTE.—

''(1) IN GENERAL.—(A) Except as provided in subsections (c), (e), and (i), effective January 1, 1998, a landfill or incinerator in a State may not receive for disposal or incineration any out-of-State municipal solid waste unless the owner or operator of such landfill or incinerator obtains explicit authorization (as part of a host community agreement) from the affected local government to receive the waste.

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

''(i) be granted by formal action at a meeting;

''(ii) be recorded in writing in the official record of the meeting; and

''(iii) remain in effect according to its terms.

''(C) An authorization granted pursuant to subparagraph (A) may specify terms and conditions, including an amount of out-of-State waste that an owner or operator may receive and the duration of the authorization.

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

''(2) INFORMATION.—Prior to seeking an authorization to receive out-of-State municipal solid waste pursuant to this subsection, the owner or operator of the facility seeking such authorization shall provide (and make readily available to the Governor, each contiguous local government and Indian tribe, and any other interested person for inspection and copying) the following information:

''(A) A brief description of the facility, including, with respect to both the facility and any planned expansion of the facility, the size, ultimate waste capacity, and the anticipated monthly and yearly quantities (expressed in terms of volume) of waste to be handled.

''(B) A map of the facility site indicating location in relation to the local road system and topography and hydrogeological features. The map shall indicate any buffer zones to be acquired by the owner or operator as well as all facility units.

''(C) A description of the then current environmental characteristics of the site, a description of ground water use in the area (including identification of private wells and public drinking water sources), and a discussion of alterations that may be necessitated by, or occur as a result of, the facility.

''(D) A description of environmental controls typically required to be used on the site (pursuant to permit requirements), including run on or run off management (or both), air pollution control devices, source separation procedures (if any), methane monitoring and control, landfill covers, liners or leachate collection systems, and monitoring programs. In addition, the description shall include a description of any waste residuals generated by the facility, including leachate or ash, and the planned management of the residuals.

''(E) A description of 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) Estimates of the personnel requirements of the facility, including information regarding the probable skill and education levels required for jobs at the facility. To the extent practicable, the information shall distinguish between employment statistics for preoperational and postoperational levels.

''(H) 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, the operator, and any subsidiary of the owner or operator, the disposition of enforcement proceedings taken with respect to the violations, and corrective action and rehabilitation measures taken as a result of the proceedings.

''(I) Any information that is required by State or Federal law to be provided with respect to gifts and contributions made by the owner or operator.

''(J) 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.

''(3) NOTIFICATION.—Prior to taking formal action with respect to granting authorization to receive out-of-State municipal solid waste pursuant to this subsection, an affected local government shall—

''(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 holding a hearing and again at least 15 days before holding the hearing, except where State law provides for an alternate form of public notification; and

''(C) provide an opportunity for public comment in accordance with State law, including at least 1 public hearing.

''(b) ANNUAL STATE REPORT.—

''(1) 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. Within 120 days after enactment of this section and on June 1 of each year thereafter each such 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.

''(2) CONTENTS.—Each submission referred to in this subsection shall be such as would result in criminal penalties in case of false or misleading information. Such submission shall include the amount of waste received, the State of origin, the date of 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.

''(3) 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 July 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 State pursuant to this section, not 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.

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

''(c) FREEZE.—

''(1) ANNUAL AMOUNT.—(A) Beginning January 1, 1998, except as provided in paragraph (2) and unless it would result in a violation of, or be inconsistent with, a host community agreement or permit specifically authorizing the owner or operator of a landfill or incinerator to accept out-of-State municipal solid waste at such landfill or incinerator, and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (3), 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 (e) that is subject to the jurisdiction of the Governor, to an annual amount equal to the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

''(B) At the request of an affected local government that has not executed a host community agreement, the Governor may limit the amount of out-of-State municipal solid waste received annually for disposal at the landfill or incinerator concerned to the amount described in subparagraph (A). No such limit may conflict with provisions of a permit specifically authorizing the owner or operator to accept, at the facility, out-of-State municipal solid waste.

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

''(i) the permit or host community agreement establishes a higher limit; or

''(ii) the permit or host community agreement does not establish any limit.

''(2) LIMITATION ON GOVERNOR'S AUTHORITY.—A Governor may not exercise the authority granted under this subsection in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (e) 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.

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

''(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.

''(d) RATCHET.—

''(1) IN GENERAL.—Unless it would result in a violation of, or be inconsistent with, a host community agreement or permit specifically authorizing the owner or operator of a landfill or incinerator to accept out-of-State municipal solid waste at such landfill or incinerator, 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:

''(A) In calendar year 1998, 95 percent of the amount exported to the State in calendar year 1993.

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

''(C) In calendar year 2004, and each succeeding year, the limit shall be 65 percent of the amount exported in 1993.

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

''(2) ADDITIONAL EXPORT LIMITS.—

''(A) PROHIBITION.—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 1998, 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 1999, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

''(iii) In calendar year 2000, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1999.

''(iv) In calendar year 2001, the greater of 1,100,00 tons or 90 percent of the amount exported to the State in calendar year 2000.

''(v) In calendar year 2002, 1,000,000 tons.

''(vi) In calendar year 2003, 750,000 tons.

''(vii) In calendar year 2004 or any calendar year thereafter, 550,000 tons.

''(B) ACTION BY GOVERNOR.—The Governor of an importing State may restrict levels of imports of municipal solid waste into that State to reflect the levels specified in subparagraph (A) if—

''(i) the Governor of the importing State has notified the Governor of the exporting State and the Administrator 12 months prior to enforcement 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 the enforcement of this section; and

''(iii) the restrictions imposed by the Governor of the importing State are uniform at all facilities within the State receiving municipal solid waste from the exporting State.

''(3) DURATION.—The authority provided by paragraph (1) or (2) or both shall apply for as long as a State exceeds the levels allowable under paragraph (1) or (2), as the case may be.

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

''(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, in the case of States in violation of paragraph (1) or (2).

''(e) AUTHORIZATION NOT REQUIRED FOR CERTAIN FACILITIES.—

''(1) IN GENERAL.—The prohibition on the disposal of out-of-State municipal solid waste in subsection (a) shall not apply to landfills and incinerators that—

''(A) were in operation on the date of enactment of this section and received during calendar year 1993 documented shipments of out-of-State municipal solid waste, or

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

''(2) AVAILABILITY OF DOCUMENTATION.—The owner or operator of a landfill or incinerator that is exempt under paragraph (1) of this subsection from the requirements of subsection (a) shall provide to the State and affected local government, and make available for inspection by the public in the affected local community, a copy of the host community agreement or permit referenced in paragraph (1). The owner or operator may omit from such copy or other documentation any proprietary information, but shall ensure that at least the following information is apparent: the volume of out-of-State municipal solid waste received, the place of origin of the waste, and the duration of any relevant contract.

''(3) DENIED OR REVOKED PERMITS.—A landfill or incinerator may not receive for disposal or incineration out-of-State municipal solid waste in the absence of a host community agreement if the operating permit or license for the landfill or incinerator (or renewal thereof) was denied or revoked by the appropriate State agency before the date of enactment of this section unless such permit or license (or renewal) has been reinstated as of such date of enactment.

''(4) WASTE WITHIN BI-STATE METROPOLITAN STATISTICAL AREAS.—The owner or operator of a landfill or incinerator in a State may receive out-of-State municipal solid waste without obtaining authorization under subsection (a) from the affected local government if the out-of-State waste is generated within, and the landfill or incinerator is located within, the same bi-State level A metropolitan statistical area (as defined by the Office of Management and Budget and as listed by the Office of Management and Budget as of the date of enactment of this section) that contains two contiguous major cities each of which is in a different State.

''(f) NEEDS DETERMINATION.—Any comprehensive solid waste management plan adopted by an affected local government pursuant to Federal or State law may take into account local and regional needs for solid waste disposal capacity. Any implementation of such plan through the State permitting process may take into account local and regional needs for solid waste disposal capacity only in a manner that is not inconsistent with the provisions of this section.

''(g) 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 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.

''(h) 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.

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

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

''(2) to authorize or result in the violation or failure to perform the terms of a written, legally binding contract entered into before enactment of this section during the life of the contract as determined under State law; or

''(3) 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 with 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.

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

''(1) AFFECTED LOCAL GOVERNMENT.—(A) For any landfill or incinerator, the term 'affected local government' means—

''(i) 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 the landfill or incinerator is located or proposed to be located; or

''(ii) if there is no such body created by State law—

''(I) the elected officials of the city, town, township, borough, county, or parish selected by the Governor and exercising primary responsibility over municipal solid waste management or the land or the use of land in the jurisdiction in which the facility is located or is proposed to be located; or

''(II) if a Governor fails to make a selection under subclause (I), and publish a notice regarding the selection, within 90 days after the date of enactment of this section, 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.

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

''(B) Notwithstanding subparagraph (A), for purposes of host community agreements entered into before the date of enactment of this section (or before the date of publication of notice, in the case of subparagraph (A)(ii)), the term shall mean either the public body described in clause (i) or the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility for municipal solid waste management or the land or the use of land on which the facility is located or proposed to be located.

''(C) Two or more Governors of adjoining States may use the authority provided in section 1005(b) to enter into an agreement under which contiguous units of local government located in each of the adjoining States may act jointly as the affected local government for purposes of providing authorization under subsection (a) for municipal solid waste generated in 1 of the jurisdictions described in subparagraph (A) and received for disposal or incineration in another.

''(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 municipal solid waste is also included.

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

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

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

''(C) Recyclable materials that have been separated, at the source of the waste, from waste otherwise destined for disposal or that have been managed separately from waste destined for disposal.

''(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 the generator of the waste, or is located on property owned by a company with which the generator is affiliated.

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

''(F) Sewage sludge and residuals from any sewage treatment plant, including any sewage treatment plant required to be constructed in the State of Massachusetts pursuant to any court order issued against the Massachusetts Water Resources Authority.

''(G) Combustion ash generated by resource recovery facilities or municipal incinerators, or waste from manufacturing or processing (including pollution control) operations not essentially the same as waste normally generated by households.

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

''(I) Any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

''(4) OUT-OF-STATE MUNICIPAL SOLID WASTE.—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 not consistent 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.

''(5) SPECIFICALLY AUTHORIZED; SPECIFICALLY AUTHORIZES.—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 or locations outside the State.''.

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

''Sec. 4011. Interstate transportation and disposal of municipal solid waste.''.

SUMMARY OF STATE AND LOCAL GOVERNMENT INTERSTATE WASTE CONTROL ACT OF 1997

The State and Local Government Interstate Waste Control Act of 1997 provides the following new legal authority to every State to restrict out-of-State municipal solid waste.

Import Ban. Municipal solid waste imports are banned at landfills or incinerators that did not receive out-of-State municipal solid waste in 1993 unless the affected local community, as defined by the Governor or State law, agrees to accept the waste.

Import Freeze. A Governor may cap municipal solid waste imports at all landfills and incinerators at their 1993 import levels.

Export State Rachet. No state may export municipal solid waste to a landfill or an incinerator in any single state in excess of the following amounts: in 1998, 1.4 million tons or 90% of the amount exported to the state in 1993; in 1999, 1.3 million tons or 90% of the amount exported to the state in 1998; in 2000, 1.2 million tons or 90% of the amount exported to the state in 1999; in 2001, 1.1 million tons, or 90% of the amount exported to the state in 2000; in 2002, 1 million tons; in 2003, 750,000 tons; and in 2004 and each year thereafter, 550,000 tons.

Import State Ratchet. A Governor of any State that imported more than 750,000 tons of out-of-State municipal solid waste in 1993

may reduce the amount of imports to the following levels: in 1998, 95% of the amount exported to the State in 1993; in years 1999 through 2003, 95% of the amount exported to the State in the previous year; in 2004 and each year thereafter, 65% of the amount exported in 1993.

Protection of Host Community Ageements. The bill prohibits a Governor from limiting or prohibiting municipal solid waste imports to landfills or incinerators that have a host community agreement (as defined in the bill). Such agreements must expressly authorize the receipt of out-of-State municipal solid waste.

Needs Determination. The bill allows a State plan to take into account local and regional needs for solid waste disposal capacity through State permitting provided that it is implemented in a manner that is not inconsistent with the provisions of the bill.

Cost Recovery Surcharge. States that imposed a differential fee on the disposal of out-of-State municipal solid waste, on or before April 3, 1994, are allowed to impose a fee of no more than $1 per ton of municipal solid waste, as long as the differential fee is utilized to fund solid waste management programs administered by the State.

By Mr. CHAFEE (for himself and Mr. DODD):

S. 444. A bill to amend the Internal Revenue Code to impose a tax on the manufacture and importation of tires, and for other purposes; to the Committee on Finance.

TAX LEGISLATION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 444

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

SECTION 1. EXCISE TAX ON MANUFACTURE AND IMPORTATION OF TIRES.

(a) In General.—Chapter 38 of the Internal Revenue Code of 1986 (relating to environmental taxes) is amended by adding at the end the following:

"Subchapter E—Tax on Tires

''Sec. 4691. Imposition of tax.

"SEC. 4691. IMPOSITION OF TAX.

''(a) GENERAL RULE.—There is imposed a tax on the manufacture or importation of tires of any type, including solid and pneumatic tires.

''(b) AMOUNT OF TAX.—The amounts of the tax imposed by subsection (a) shall be 50 cents per tire.

''(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the manufacturer or importer of the tire not later than 30 days after the end of each calendar quarter for each tire manufactured or imported during such quarter.

''(d) TIRES ON IMPORTED ARTICLES.—For purposes of subsection (a), if an article imported into the United States is equipped with tires, the importer of the article shall be treated as the importer of the tires with which such article is equipped.

''(e) EFFECTIVE DATE.—The tax imposed by this section shall apply to tires manufactured or imported after December 31, 1997, and before January 1, 2003.''.

''(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 38 of such Code is amended by adding after the item relating to subchapter D the following:

''Subchapter E. Tax on tires.''.

SEC. 2. ESTABLISHMENT OF TIRE RECYCLING, ABATEMENT, AND DISPOSAL TRUST FUND.

''(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to the establishment of trust funds) is amended by adding after section 951 the following:

"SEC. 9512. WASTE TIRE RECYCLING, ABATEMENT, AND DISPOSAL TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ''Waste Tire Recycling, Abatement, and Disposal Trust Fund'' consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There are appropriated to the Waste Tire Recycling, Abatement, and Disposal Trust Fund amounts equivalent to—

''(1) taxes received in the Treasury under section 4691 (relating to an assessment on motor vehicles tires); and

''(2) amounts received in the Treasury and collected under section 4011 of the Solid Waste Disposal Act.

''(c) EXPENDITURES.—Amounts in the Waste Tire Recycling, Abatement, and Disposal Trust Fund shall be available, as provided in appropriation Acts, only for the purpose of making expenditures to carry out the purposes of section 4011 of the Solid Waste Disposal Act.

''(d) AUTHORITY TO BORROW.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Waste Tire Recycling, Abatement, and Disposal Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of section 4011(k) of the Solid Waste Disposal Act.

''(2) LIMITATION ON AGGREGATE ADVANCES.—The maximum aggregate amount of repayable advances to the Waste Tire Recycling, Abatement, and Disposal Trust Fund which is outstanding at any one time shall not exceed an amount equal to the amount which the Secretary estimates will be equal to the sum of the amounts received from the tax imposed by section 4691 during any 2-year period.

''(3) REPAYMENT OF ADVANCES.—

''(A) IN GENERAL.—Advances made to the Waste Tire Recycling, Abatement, and Disposal Trust Fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Waste Tire Recycling, Abatement, and Disposal Trust Fund.

''(B) DATE FOR TERMINATION AND ADVANCES.—No advance shall be paid to the Trust Fund after December 31, 2001 and all advances to the Trust Fund shall be repaid on or before such date.

''(C) INTEREST RATE ON ADVANCES.—Interest on advances made to the Trust Fund shall be at a rate determined by the Secretary to be equal to the current market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding, and shall be compounded annually.''.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9511 the following:

''Sec. 9511. Waste Tire Recycling, Abatement, and Disposal Trust Fund.''.

By Mr. CHAFEE (for himself and Mr. DODD):

S. 445. A bill to amend the Solid Waste Disposal Act to encourage recycling of waste tires and abate tire dumps and tire stockpiles, and for other purposs; to the Committee on Environment and Public Works.

THE WASTE TIRE RECYCLING, ABATEMENT, AND DISPOSAL ACT OF 1997

Mr. CHAFEE. Mr. President, today I rise to introduce the Waste Tire Recycling, Abatement, and Disposal Act of 1997. This is really a reintroduction of legislation I first offered in 1991 to address a very serious environmental hazard.

What is that hazard I am talking about? It is the very real threat posed by improper disposal and stockpiling of used tires. Unfortunately, the threat posed by improper management of used, scrap tires is as great or greater than when I first introduced this legislation some 6 years ago.

The scope of the waste tire problem is enormous. Americans generate approximately—think of this—250 million scrap tires per year. That is a tire per person in the United States of America that is disposed of. Over time, approximately 3 billion—not million, 3 billion—of these tires have accumulated in the surface stockpiles throughout our country.

These used tires pose real threats to the health and welfare of communities. They are places where water is collected, thus mosquitoes breed, some of them encephalitis-carrying mosquitoes. They provide a home for rodents. They are bad news.

The threats proposed by piles of tires are great also. Few things are worse as far as fires go than to have a pile of rubber tires catch on fire. These can start from lightning or they can start from acts of vandalism. Burning tire piles produce a dense toxic smoke and also produce the oil byproducts that have gone into the making of the tires, and thus we have toxic hydrocarbon compounds. The hydrocarbons so released can soil the air, can soil the soil and, more important, can contaminate surface water and ground water. Often the piles of tires and the fires that result can burn for months and cost millions of dollars to attempt to extinguish. Putting out the fire may just be the tip of the iceberg as there have been released enough toxic substances that, as I say, go into the ground water and cause tremendous problems.

In my State of Rhode Island, the threat from tire piles is not just an abstraction. Smithfield, RI, is the reluctant host of a tire dump that reportedly is the second largest in the United States. Estimates of the size vary, but the so-called Davis tire pile is thought by our Department of Environmental Management to contain 10 million scrapped tires. This tire pile is close to our reservoir. It is only 4 miles from the principal source of drinking water in our State, the Scituate Reservoir. A major fire at the site could foul the reservoir through a fallout from dense soot and by contamination of the ground water aquifers.

Nationwide, waste tires are still accumulating in large stockpiles. Why?

What happens? Where is the end of this? Well, why have the tire piles grown? There are several reasons.

First, landfills are reluctant to accept scrap tires.

Second, the nature of modern steel-belted radial tires makes it very difficult to recycle these into new ones. Once upon a time, old tires were retreaded, as we all know. You cannot do that with radial tires.

The third reason is that the other markets for the beneficial reuse of this material have been slow to emerge. Scrap tires have some value. They contain a lot of Btu's, more Btu's per pound than most grades of coal and can be burned to produce electricity. Many folks operating tire dumps are hoping for higher energy prices so that there will be a windfall for these scrapped tires. However, there is significant opposition to new waste combustion facilities across our country. There is a reluctance to have these waste combustion facilities in one's community. So combustion seems now a less likely option to solve the tire problem.

And finally, where there are beneficial uses for scrap tires, the processors like what they call clean tires, ones that do not have dirt or rocks or gravel in them.

The waste tire management program that is contained in my legislation has three purposes. What am I trying to do? First, to assure that scrap tires are managed in a way that reduces the risk of fires and spread of disease.

Second, the bill would require the elimination of waste tire dumps within 4 years after enactment. It requires that the 3 billion tires in stockpiles across our country be recycled or burned or shredded or buried by the end of the year 2006.

And finally, the management program is intended to encourage markets for recycled material from tires.

Now, all of this would take place as an amendment to the Resource Conservation and Recovery Act, so-called RCRA, with which we are familiar in this body and is already legislation for the Nation. The traditional partnership program between EPA and RCRA through the States will lead to implementation of this program. In other words, it is a partnership between EPA and the States. The bill encourages States to adopt a program to safely manage existing tire piles. The bill authorizes grants to States to develop and implement State programs to manage these piles of tires.

The bill will limit disease and fire problems. The fire threat will be reduced by including specifications for the size and spacing of these tire piles into smaller, more manageable units, separate them out so that if a fire does start, it does not spread to the entire dump of tires. It also requires provisions that waste tire dumps like the Davis site in my State are closed and the scrap tires shredded and recycled and safely disposed of within 4 years of enactment. So this could take place as soon as the year 2001. Other scrap tire stockpiles that are operating legally under a State permit will have until the year 2006, as I mentioned.

So all this is accomplished by imposing a 50-cent tax per tire, truck and passenger, on those manufactured or imported into the United States. It just applies to new tires. I want to inform my colleagues that this legislation, once enacted, will solve several solid waste management problems. So I urge my colleagues to join in the support of this.

As I noted earlier, Rhode Island is host to a site with approximately 10 million of these tires. It has been called the most serious environmental threat to our State. Even after some 250,000 have been removed in order to get at a Superfund site that is underneath these tires, a toxic waste disposal site that was then subsequently covered over by these tires, and even after the State removed some 1.2 million more tires, there still will be 8 million tires left in this Davis site. The threat posed by that is a very real one to my State, as I previously pointed out. So I urge my colleagues to join me in supporting this legislation. It can prevent environmental disasters from taking place. As chairman of the Committee on Environment and Public Works, I will exert every effort to see that these bills become law.

I thank the Chair and thank the distinguished Senator from Connecticut. He is very familiar with this because they have somewhat the same problem, perhaps not in the same magnitude as we have in our State, and they have a tire-shredding program in Oxford, CT.

So, Mr. President, I send to the desk two bills to accomplish my goal. One includes the tax, the other includes the cleanup efforts. Accompanying this is a summary of these bills.

Mr. DODD. Mr. President, before the chairman of the committee leaves the floor, I have been listening to his statement. I do not know how many others you have as cosponsors, but I would like to be listed as one.

Mr. CHAFEE. We are delighted.

Mr. DODD. This is one of the most serious problems we face, not only when there is stockpiling, but in other areas. I think most Americans, when they go by and see ponds drained down, know that one of the things that always show up is tires. It is a real pollution problem, beyond just the collection in one site.

I think the Senator from Rhode Island has offered a very creative and worthwhile suggestion that all of America will benefit from, so I commend him for the effort.

Mr. CHAFEE. I will ask that the distinguished Senator from Connecticut be added as a cosponsor.

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

Mr. CHAFEE. Mr. President, I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 445

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 ''Waste Tire Recycling, Abatement, and Disposal Act of 1997''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States generates approximately 250,000,000 waste tires each year with over 3,000,000,000 waste tires stored or dumped in aboveground piles across the United States;

(2) current waste tire collection and disposal practices present a substantial threat to human health and the environment;

(3) waste tire piles are a breeding habitat for disease-carrying mosquitoes, rodents, and other pests and may be ignited causing potentially catastrophic fires;

(4) there are substantial opportunities for recycling and reuse of waste tires and tire-derived products, including tire retreading, asphalt pavement containing recycled rubber, rubber products, and fuel;

(5) although several States have established waste tire recycling programs and disposal requirements to protect human health and the environment, the efforts of individual States are often frustrated by the lack of comparable programs in neighboring States; and

(6) additional financial resources are necessary to encourage waste tire recycling and proper disposal and the abatement of existing waste tire dumps.

SEC. 3. WASTE TIRE RECYCLING, ABATEMENT, AND DISPOSAL.

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

''SEC. 4011. WASTE TIRE RECYCLING, ABATEMENT, AND DISPOSAL.

''(a) PURPOSES.—The purposes of this section are—

''(1) to encourage waste tire recycling;

''(2) to prevent disease and fires that may be associated with waste tire dumps and waste tire stockpiles;

''(3) to ensure that—

''(A) all waste tire dumps in the United States are closed and abated not later than 4 years after the date of enactment of this Act; and

''(B) all waste tire stockpiles are abated by not later than December 31, 2005; and

''(4) to otherwise regulate commerce in waste tires to protect human health and the environment.

''(b) DEFINITIONS.—In this section:

''(1) ABATE AND ABATEMENT.—The terms 'abate' and 'abatement' mean—

''(A) to remove waste tires from a waste tire dump or waste tire stockpile by processing or properly disposing of the tires on an enforceable schedule ensuring compliance with the prohibitions of subsection (c); or

''(B) action taken pursuant to subsection (i) or equivalent authority under a State program to process or properly dispose of waste tires.

''(2) ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER.—The term 'asphalt pavement containing recycled rubber' has the meaning given the term in section 1038(e) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 109 note; 105 Stat. 1990).

''(3) COLLECTION SITE.—The term 'collection site' means a facility, installation, building, or site (including all of the contiguous area under the control of a person or

persons controlled by the same person) used for the storage or disposal of more than 400 waste tires but not including shredded tire material that has been properly disposed.

''(4) MARINE OR AGRICULTURAL PURPOSE.—The term 'marine or agricultural purpose' means the use of waste tires—

''(A) as bumpers on vessels or agricultural equipment;

''(B) as a ballast to maintain covers or structures on an agricultural site; or

''(C) for other marine or agricultural purposes specified by rule by the Administrator.

''(5) PROCESS.—The term 'process' means to produce or manufacture usable materials (including fuels) with real economic value from waste tires.

''(6) PROPERLY DISPOSED.—The term 'properly disposed' means the placement of shredded tire material as a solid waste into a landfill meeting the revised criteria established pursuant to section 4010(c).

''(7) RECYCLE.—The term 'recycle' means to process waste tires to produce usable materials other than fuels.

''(8) SHREDDED TIRE MATERIAL.—The term 'shredded tire material' means tire material resulting from tire shredding that produces pieces 4 square inches or less in size that do not hold water when stored in piles.

''(9) TIRE.—The term 'tire' means any pneumatic or solid tire, including a tire manufactured for use on any type of motor vehicle, construction or other off-road equipment, aircraft, or industrial machinery.

''(10) TIRE COLLECTOR.—The term 'tire collector' means a person that owns or operates a collection site.

''(11) TIRE DUMP.—The term 'tire dump' means a tire collection site without a collector or processor permit that is maintained, operated, used, or allowed to be used for the disposal, storing, or depositing of waste tires.

''(12) TIRE HAULER.—The term 'tire hauler' means a person engaged in picking up or transporting waste tires to a storage or disposal facility.

''(13) TIRE PROCESSOR.—The term 'tire processor' means a person that processes waste tires to produce or manufacture usable materials or to recover energy.

''(14) TIRE STOCKPILE.—The term 'tire stockpile' means a waste tire collection site operating pursuant to a permit issued by the Administrator or by a State with a program approved under subsection (f) at which shredded tire material from 50 or more waste tires is stored for future processing or disposal.

''(15) WASTE TIRE.—The term 'waste tire' means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect and includes shredded tire material.

''(16) WASTE TIRE RECYCLING, ABATEMENT, AND DISPOSAL TRUST FUND.—The term 'Waste Tire Recycling, Abatement, and Disposal Trust Fund' means the Waste Tire Recycling, Abatement, and Disposal Trust Fund established under section 9512 of the Internal Revenue Code of 1986.

''(c) PROHIBITIONS.—

''(1) DISPOSAL OF WHOLE WASTE TIRES ON LAND OR IN LANDFILLS.—

''(A) IN GENERAL.—Effective beginning 1 year after the date of enactment of this section, it shall be unlawful to dispose of a waste tire (other than shredded tire material) on land or in a landfill.

''(B) MODIFICATION OF CRITERIA.—Not later than 1 year after the date of enactment of this Act, the Administrator shall modify the criteria established pursuant to section 4010(c) to reflect the prohibition established under subparagraph (A).

''(2) RECEIPT OF WASTE TIRES AT COLLECTION SITES.—Effective beginning 1 year after the date of enactment of this section, it shall be unlawful to receive any waste tire (not including shredded tire material) at any collection site unless, not later than 7 days after receipt, the waste tire is processed, converted to shredded tire material, or transferred to a business engaged in tire retreading.

''(3) WASTE TIRE PILES.—Effective beginning 1 year after the date of enactment of this section, it shall be unlawful to operate a collection site except in compliance with the following conditions applicable to a waste tire pile:

''(A) A waste tire pile shall be not more than 20 feet in height and, at the base, be not more than 50 feet in width and 200 feet in length.

''(B) A separation of not less than 50 feet shall be maintained between waste tire piles.

''(C) A waste tire pile shall be not less than 200 feet from the perimeter of the property and not less than 200 feet from any building.

''(D) Until shredded, waste tires in a pile shall be maintained to minimize mosquito breeding by cover or chemical treatment.

''(E) A waste tire pile shall be accessible to fire fighting equipment and any approach road to the pile shall be maintained in good condition.

''(F) A waste tire pile exceeding 2,500 waste tires shall be surrounded by a berm sufficient to contain any liquid that may be discharged as the result of a fire or fire fighting efforts.

''(G) A waste tire pile exceeding 2,500 waste tires shall be completely enclosed behind fencing.

''(H) A tire collector maintaining a collection site containing more than 2,500 waste tires shall prepare and maintain an emergency plan to respond to any fire or other event that may release pollutants or contaminants from the site.

''(I) Such other conditions as the Administrator may by rule require to protect human health and the environment, including compliance with National Fire Prevention Association 231–D standard for storage of rubber tires or similar fire prevention code to the extent the code is consistent with this section.

''(4) MAXIMUM NUMBER OF WASTE TIRES STORED.—Effective beginning 4 years after the date of enactment of this section, it shall be unlawful to store more than 1,500 waste tires for more than 7 days at a collection site other than as shredded tire material in waste tire stockpiles, except as provided under subsection (d).

''(5) STATE PROGRAMS.—Effective beginning 1 year after the effective date of a State program approved or established by the Administrator under this section, it shall be unlawful for any person to engage in any of the following actions except in compliance with a permit issued by the State under a program approved under subsection (f) or by the Administrator:

''(A) Transfer control over any waste tire for transportation to a collection site to any person other than a person operating under a permit as a tire hauler.

''(B) Operate or maintain any waste tire dump or deliver to or receive a waste tire for storage or disposal at a waste tire dump.

''(C) Deliver a waste tire to, or receive a waste tire at, any collection site that does not qualify as a waste tire stockpile.

''(D) Operate or maintain a waste tire stockpile or deliver to or receive a waste tire for storage or disposal at a waste tire stockpile.

''(6) SHREDDED TIRE MATERIAL.—

''(A) IN GENERAL.—Beginning January 1, 2006, subject to subparagraph (B), it shall be unlawful for any person—

''(i) to operate or maintain a waste tire stockpile containing shredded tire material from more than 2,500 waste tires; or

''(ii) in the case of a tire processor, to operate or maintain a waste tire stockpile containing more than 30 days supply of shredded tire material to be used as a feedstock within the process.

''(B) DISPOSAL IN MONOFILL FOR LATER RECOVERY.—Subparagraph (A) shall not prohibit the proper disposal of shredded tire material in a monofill for later recovery.

''(d) EXEMPTIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Administrator may by regulation exempt any of the following persons from any or all of the requirements of this section if the exemption is consistent with this Act and no threat of an adverse affect on human health or the environment will result from the exemption:

''(A) A tire retailer storing less than 2,500 waste tires at any collection site where new tires are sold or installed.

''(B) A tire retreader storing less than 2,500 waste tires or a quantity of waste tires equal to the number to be retreaded over a 30-day period, whichever is greater, at any collection site where tires are retreated.

''(C) A business that removes tires from vehicles and that stores less than 2,500 waste tires at any collection site where the removals occur.

''(D) A solid waste disposal facility storing less than 2,500 waste tires for future processing or disposal that—

''(i) are otherwise in compliance with the revised criteria promulgated pursuant to section 4010(c) pursuant to subsection (c)(1)(B); and

''(ii) have already received a permit under a State solid waste program imposing conditions and requirements to protect human health and the environment that are comparable to the conditions and requirements imposed by this section.

''(E) A person storing or using waste tires for a marine or agricultural purpose if the waste tires are used for the purpose not later than 180 days after the date the tire is removed from use.

''(2) ALTERNATIVE REQUIREMENTS.—The Administrator may—

''(A) impose alternative requirements for an exemption or partial exemption under paragraph (1), including requirements for fire prevention and disease control;

''(B) include the requirements in the guidance published under subsection (f)(2); and

''(C) impose the requirements on a person described in any of subparagraphs (A) through (D) of paragraph (1) as a condition for the exemption or partial exemption.

''(e) NOTIFICATION OF ADMINISTRATOR OR STATE AGENCY.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, each tire hauler, tire collector, and tire processor shall notify the Administrator, or the State agency designated pursuant to this section, of—

''(A) the name and business address of the tire hauler, tire collector, or tire processor;

''(B) the name and business address of the person or persons owning any property on which a tire collection site is located;

''(C) the location and a physical description of each collection site maintained by a tire collector;

''(D) the name of the person to contact in the event of an emergency involving waste tires located at each collection site;

''(E) an estimate of the number of waste tires that are present at each collection site;

''(F) an estimate by a tire collector or tire processor of the average number of waste tires that are received at each collection site maintained by the collector or processor

each month and the sources from which waste tires are received;

''(G) an estimate by a tire hauler of the average number of waste tires that are delivered to each collection site each month;

''(H) a description of methods used at each collection site to shred, process, recycle, or dispose of waste tires;

''(I) a description of the fire prevention and disease control methods employed at each collection site;

''(J)(i) a certification signed by the owner or operator of each collection site that provides an assurance of compliance with paragraphs (2) and (3) of subsection (c) by the applicable dates; or

''(ii) if compliance with those paragraphs cannot be certified, an assurance that the collection site will be closed, and will be abated, not later than 1 year after the date of enactment of this section;

''(K) a statement that demonstrates the financial capacity of the tire collector, or the owner or operator of each collection site, to abate waste tires at the site and to respond to any fire or other event that may result in the release of a pollutant or contaminant from the site in an amount of not less than $1.00 for each tire stored, deposited, or otherwise located at the facility, other than a tire that has been properly disposed of at the site; and

''(L) such other information as the Administrator may require.

''(2) NOTIFICATION FORM.—

''(A) PUBLICATION.—Not later than 90 days after the date of enactment of this section, the Administrator shall—

''(i) publish a notification form or forms that will be used by tire haulers, tire collectors, and tire processors to comply with paragraph (1); and

''(ii) designate the State agencies that will receive the form or forms.

''(B) PAPERWORK REDUCTION.—Development and publication of the form shall not be subject to chapter 35 of title 44, United States Code.

''(C) COOPERATION WITH GOVERNORS.—Designation of State agencies to receive notification forms shall be carried out in cooperation with the Governor of each State.

''(f) STATE PROGRAMS.—

''(1) IN GENERAL.—Beginning 1 year after the date of enactment of this section, the Governor of a State may apply to the Administrator to implement a waste tire recycling, abatement, and disposal program under this subsection.

''(2) EPA GUIDANCE.—Not later than 1 year after the date of enactment of this section, the Administrator shall publish guidance establishing the minimum elements of a program to be administered under this section by a State agency that include the requirements of paragraphs (3), (4), and (5) and—

''(A) adequate authority to ensure compliance with and enforce the prohibitions established under subsection (c) and each of the other requirements of this Act applicable to a tire hauler, tire collector, or tire processor;

''(B) authority to abate any waste tire dump or waste tire stockpile within the State that is comparable to the authority granted the Administrator under subsection (i) and a plan to ensure that the dumps and stockpiles are abated by not later than the dates applicable under subsection (c);

''(C) a requirement that each tire hauler, tire collector, or tire processor operate pursuant to a permit issued by the State;

''(D) adequate authority to ensure that the fees imposed by paragraph (4) are collected by the State on the sale of new tires and by tire haulers, tire collectors, and tire processors on commerce in waste tires;

''(E) adequate personnel and funding to administer the program; and

''(F) such other requirements as the Administrator may prescribe.

''(3) PERMIT REQUIREMENTS.—The guidance published pursuant to paragraph (2) shall, with respect to a permit, provide, at a minimum, for—

''(A) a requirement that the State agency administering the program and issuing a permit have adequate authority to—

''(i) issue a permit that applies to, and ensure compliance by, all persons required to have a permit under this section, with applicable standards, regulations, or requirements;

''(ii) issue a permit for a fixed term of not to exceed 5 years;

''(iii) ensure that a permit require compliance with the prohibitions of subsection (c);

''(iv) terminate, modify, or revoke a permit for cause;

''(v) enforce a permit and the requirement to obtain a permit (including authority to recover a civil penalty in a maximum amount of not less than $10,000 per day for each violation) and to seek appropriate criminal penalties; and

''(vi) grant limited extensions of the term of a permit on a timely and complete application for renewal, pending final action on the renewal application by the State agency;

''(B) a requirement that the permitting authority establish and implement adequate procedures for processing permit applications expeditiously, and for public notice, including offering an opportunity for public comment and a hearing, on any permit application;

''(C) a requirement that the State conduct an inspection at each waste tire collection site before a permit is issued to operate the site as a waste tire stockpile;

''(D) a requirement that all permit applications, abatement plans, permits, and monitoring or compliance reports shall be made available to the public;

''(E) a requirement under State law that each person subject to the requirement to obtain a permit under the State program pay an annual fee, or the equivalent over some other period, that is sufficient to cover all reasonable costs of developing, administering, and enforcing the State permit program;

''(F) a requirement that—

''(i) each permit issued to a tire collector or processor for the operation of a waste tire stockpile include a numerical limitation on the waste tires that can be stored, processed, or disposed at the site; and

''(ii) the tire collector demonstrates financial responsibility for processing or abating all tires that may be accumulated up to the limit in the permit; and

''(G) a requirement that each permit for a waste tire stockpile contain a schedule for the abatement of all waste tires managed, stored, disposed, or otherwise deposited at the stockpile as expeditiously as practicable but not later than December 31, 2005, and containing annual incremental reductions in the quantity of waste tires stored at the site providing that 50 percent of the abatement shall be accomplished by not later than December 31, 2002.

''(4) FEES ON PURCHASE AND DISPOSAL.—

''(A) IN GENERAL.—The guidance published pursuant to paragraph (2) shall with respect to fees provide, at a minimum, for—

''(i) a requirement that the State impose a fee of not less than 50 cents on the sale of each new tire until such time as all waste tire dumps and waste tire stockpiles in the State have been abated;

''(ii) a requirement that a tipping fee of not less than $1 for each waste tire removed from a motor vehicle be paid by the owner or operator of the vehicle to the person or business removing the tire;

''(iii) a requirement that any tire hauler collecting tires from any person (including a business that removes tires and collects the fee required by subparagraph (B) or any other person including a household or commercial disposal site) charge a fee of not less than $1 for each waste tire collected; and

''(iv) a requirement that any tire collector or tire processor receiving waste tires charge the tire hauler, or any other person depositing tires at the collection site or processing site owned by the tire collector or tire processor, a fee of not less than $1 for each waste tire deposited at the site.

''(B) ADJUSTMENT OF FEES.—

''(i) IN GENERAL.—The Administrator—

''(I) shall from time to time, but not less often than once every 3 years, review the fees required in State programs pursuant to clauses (ii), (iii), and (iv) of subparagraph (A); and

''(II) may adjust the amount of the fees to reflect the economics of tire processing and recycling.

''(ii) INCORPORATION BY STATES.—If the Administrator adjusts the amount of a fee to be collected pursuant to clause (ii), (iii), or (iv) of subparagraph (A), not later than 1 year after the Administrator makes the adjustment, each State with an approved waste tire recycling, abatement, and disposal program shall revise its program to incorporate the adjustment.

''(C) ALTERNATIVE FEES.—A State may impose an alternative fee to the fee required by subparagraph (A)(i) (including a fee on a motor vehicle registration or transfer) if the State demonstrates to the Administrator that the alternative fee will provide resources sufficient to ensure abatement of all waste tire dumps and waste tire stockpiles in the State by not later than the dates required under subsection (c).

''(5) USES OF STATE REVENUE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the guidance published pursuant to paragraph (2) shall require that any revenues received by a State from the fee required by subparagraph (A)(i) or (C) of paragraph (4) be placed into a special fund and that appropriations from the fund be used only to—

''(i) abate waste tire dumps and waste tire stockpiles;

''(ii) make grants or loans, or enter into cooperative agreements with tire processors, to support recycling of waste tires;

''(iii) offset any additional cost associated with the procurement of asphalt pavement containing recycled rubber used in road construction by the State or a local government entity or in the procurement of other products made from recycled tires; or

''(iv) operate or provide grants to facilities that ensure compliance with the prohibitions of subsection (c) and the proper disposal of waste tires.

''(B) ADMINISTRATIVE EXPENSES.—Not more than 15 percent of the funds collected pursuant to subparagraph (A)(i) or (C) of paragraph (4) shall be used for administrative expenses of the State program.

''(6) APPLICATIONS.—

''(A) IN GENERAL.—Each State shall include in its program submission to the Administrator under this subsection a summary that includes—

''(i) the information collected pursuant to the notifications required by subsection (e); and

''(ii) to the maximum extent practicable, information on orphan tire collection sites for which no owner or operator submitted a notification form.

''(C) REPORT.—Not later than 3 years after the date of enactment of this section, the Administrator shall transmit to Congress a

report on waste tire generation, management, collection, storage, recycling, and disposal based on the information included in State applications.

''(7) APPROVAL OR DISAPPROVAL OF STATE PROGRAMS.—

''(A) IN GENERAL.—A State program submitted under this section shall be deemed approved, unless disapproved by the Administrator.

''(B) GROUNDS FOR DISAPPROVAL.—The Administrator shall disapprove any program submitted by a State, if the Administrator determines that—

''(i) the authorities contained in the program are not adequate to ensure compliance by tire haulers, tire collectors, and tire processors within the State with the requirements of this section;

''(ii) adequate authority does not exist, or adequate resources are not available, to implement the program;

''(iii) the program does not provide adequate assurance that all waste tire dumps and waste tire stockpiles will be abated by the dates required under subsection (c); or

''(iv) the program is not otherwise in compliance with the guidance issued by the Administrator under paragraph (2) or is not likely to satisfy, in whole or in part, the purposes of this section.

''(C) NECESSARY REVISIONS OR MODIFICATIONS.—If the Administrator disapproves a State program, the Administrator shall notify the State of any revision or modification that is necessary to obtain approval.

''(D) RESUBMISSION.—The State may revise and resubmit the program for review and approval pursuant to this subsection.

''(E) NONCOMPLIANCE.—

''(i) IN GENERAL.—If the Administrator determines that a State is not administering a program in accordance with the guidance published under paragraph (2) or the requirements of this section, the Administrator shall—

''(I) notify the State of the determination (including the reasons for the determination); and

''(II) if action that will ensure prompt compliance is not taken within 180 days after notification, disapprove the program.

''(ii) NOTIFICATION REQUIRED BEFORE DISAPPROVAL.—The Administrator shall not disapprove any program under this subparagraph unless the Administrator has notified the State of the disapproval (including the reasons for the disapproval) and made the disapproval (and reasons) public.

''(iii) FEDERAL PROGRAM.—At the time of disapproving a State program under this subparagraph, the Administrator shall establish a Federal program applicable in the State pursuant to subsection (h).

''(8) ENFORCEMENT.—This subsection shall not prevent the Administrator from enforcing any requirement of this section.

''(9) GRANTS AND TECHNICAL ASSISTANCE.—

''(A) GRANTS.—The Administrator may make a grant to a State from the Waste Tire Recycling, Abatement, and Disposal Trust Fund to develop and implement a waste tire recycling, abatement, and disposal program under this section.

''(B) ASSISTANCE.—The Administrator may provide assistance to a State or local government agency, or to other persons on a cost recovery basis, with respect to techniques for waste tire recycling, processing, and abatement.

''(g) STATE AUTHORITY.—Nothing in this section shall prevent a State or political subdivision from imposing an additional or more stringent requirement on—

''(1) a tire hauler, tire collector, or tire processor;

''(2) the management, storage, processing, recycling, abatement, or disposal of waste tires; or

''(3) a waste tire collection site.

''(h) FEDERAL PROGRAM.—

''(1) IN GENERAL.—If a State has not submitted a waste tire recycling, abatement, and disposal program or is not adequately administering and enforcing such a program in accordance with this section, the Administrator shall establish, administer, and enforce a waste tire recycling, abatement, and disposal program for the State to ensure compliance with this section.

''(2) DATE OF ESTABLISHMENT.—

''(A) NO STATE PROGRAM.—If a State has not submitted a waste tire recycling, abatement, and disposal program by the date that is 3 years after the date of enactment of this section, the Administrator shall establish a program under paragraph (1) on that date.

''(B) WITHDRAWN APPROVAL.—The Administrator shall establish a program under paragraph (1) for a State for which approval is withdrawn under subsection (f)(7) on the date of disapproval.

''(3) PERMITS AND FEES.—

''(A) IN GENERAL.—The Administrator may issue a permit or collect a fee in lieu of a State pursuant to paragraphs (3) and (4) of subsection (f).

''(B) USE OF FUNDS.—Any amounts collected by the Administrator under subparagraph (A) shall be placed in the Waste Tire Recycling, Abatement, and Disposal Trust Fund for use under subsection (k).

''(i) ABATEMENT AND RESPONSE AUTHORITIES.—

''(1) IN GENERAL.—To ensure compliance with subsection (c), the Administrator may—

''(A) order the owner or operator of a waste tire dump, waste tire stockpile, or other collection site or any person that has transported waste tires to a waste tire dump, waste tire stockpile, or other collection site to abate the dump, stockpile, or site, including issuing an enforceable schedule for removal of waste tires from the dump, stockpile, or site; and

''(B) undertake action to abate a tire collection site using funds from the Waste Tire Recycling, Abatement, and Disposal Trust Fund.

''(2) CIVIL ACTION.—The Administrator may bring an action on behalf of the United States in the appropriate district court against the owner or operator of a waste tire dump, waste tire stockpile, or waste tire collection site or any other person that has transported waste tires to a waste tire dump, waste tire stockpile, or waste tire collection site to immediately restrain the person from operating, maintaining, or depositing waste tires at the dump, stockpile, or site or to take such other action as is necessary to protect human health or the environment.

''(3) ADDITIONAL ACTION.—If bringing an action under paragraph (2) is not sufficient to ensure prompt protection of human health or the environment, the Administrator may issue such orders as are necessary to protect human health and the environment.

''(4) NOTIFICATION.—Prior to taking any action under this subsection, the Administrator shall notify the appropriate State and local governments of the action proposed to be taken.

''(5) VIOLATIONS.—Any person that, without sufficient cause, willfully violates, or fails or refuses to comply with, an order of the Administrator under paragraph (3) may, in an action brought in the appropriate United States district court to enforce the order, be fined not more than $25,000 for each day during which the violation occurs or the failure to comply continues.

''(6) LIABILITY FOR ABATEMENT COSTS.—

''(A) IN GENERAL.—If the Administrator takes an abatement action under paragraph (1) for a waste tire collection site, the owner or operator of the site or any other person that has transported tires to the site shall be liable to the Administrator in the appropriate United States district court for all reasonable costs incurred in the abatement.

''(B) USE OF FUNDS.—Any funds recovered under subparagraph (A) shall be deposited in the Waste Tire Recycling, Abatement, and Disposal Trust Fund.

''(j) PUBLIC LANDS.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of this section, after notice and opportunity for public comment, the Secretary of the Interior, the Administrator of the General Services Administration, and the head of each other Federal department, agency, or instrumentality that owns land on which a tire collection site is located shall, in consultation with the Administrator of the Environmental Protection Agency, prepare and commence to implement a plan to abate waste tire dumps and waste tire stockpiles that are located on land owned by the United States.

''(2) TIME LIMIT.—A plan under paragraph (1) shall ensure that any waste tires in waste tire dumps and waste tire stockpiles shall be properly disposed, recycled, or transferred to the operators of tire processing facilities as expeditiously as practicable and not later than December 31, 2002.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior, the Administrator of the General Services Administration, and the head of each other Federal department, agency, or instrumentality that owns land on which a tire collection site is located from the Waste Tire, Recycling, Abatement, and Disposal Trust Fund such sums as are necessary to carry out this subsection.

''(k) USE OF TRUST FUND APPROPRIATIONS.—

''(1) STATE GRANTS.—The Administrator may make a grant to a State to develop and implement a State program under subsection (f) and to carry out this section.

''(2) SHREDDING CAPACITY.—

''(A) IN GENERAL.—In making a grant under paragraph (1), the Administrator shall give highest priority to ensuring that adequate capacity is available to convert any waste tires newly removed from motor vehicles to shredded tire material beginning not later than 1 year after the date of enactment of this section.

''(B) EMERGENCY GRANTS.—The Administrator may make an emergency grant to a State, using the borrowing authority of the Waste Tire Recycling, Abatement, and Disposal Trust Fund, to ensure the shredding capacity described in subparagraph (A).

''(3) ABATEMENT ON PUBLIC LANDS.—The Secretary of the Treasury may transfer, subject to appropriations, amounts from the Waste Tire Recycling, Abatement, and Disposal Trust Fund to the Secretary of the Interior, the Administrator of the General Services Administration, or the head of any other Federal department, agency, or instrumentality that owns land on which a waste tire collection site is located to abate the collection site.

''(4) FEDERAL PROCUREMENT.—The Secretary of the Treasury may transfer, subject to appropriations, amounts from the Waste Tire Recycling, Abatement, and Disposal Trust Fund to the Secretary of Transportation or to the head of any other Federal department, agency, or instrumentality engaged in road building to offset any additional cost associated with the procurement of asphalt pavement containing recycled rubber for road construction, surfacing, or resurfacing.

''(5) FEDERAL PROGRAMS AND ABATEMENT ACTIONS.—There is authorized to be appropriated from the Waste Tire Recycling, Abatement, and Disposal Trust Fund to the Administrator such funds as are necessary to—

''(A) implement and enforce any Federal program established under subsection (h); and

''(B) take any abatement action pursuant to subsection (i).

''(6) RESEARCH.—

''(A) GRANTS AND CONTRACTS.—The Administrator may use funds appropriated from the Waste Tire Recycling, Abatement, and Disposal Trust Fund to make a grant or enter into a contract or cooperative agreement with a person to conduct research and development on—

''(i) waste tire processing and recycling technologies; or

''(ii) the use, performance, and marketability of products made from crumb rubber or other materials produced from waste tire processing.

''(B) RESEARCH PROGRAM.—

''(i) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation, shall conduct a program of research to determine—

''(I) the public health and environmental risks associated with the production and use of asphalt pavement containing recycled rubber;

''(II) the performance of asphalt pavement containing recycled rubber under various climate and use conditions; and

''(III) the degree to which asphalt pavement containing recycled rubber can be recycled.

''(ii) DATE OF COMPLETION.—The Administrator shall complete the research program under clause (i) not later than 3 years after the date of enactment of this section.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Waste Tire Recycling, Abatement, and Disposal Trust Fund such sums as are necessary to carry out this subsection.

''(l) ENFORCEMENT.—

''(1) COMPLIANCE ORDERS.—

''(A) ISSUANCE.—

''(i) IN GENERAL.—If (on the basis of any information) the Administrator determines that a person has violated, or is in violation of, any requirement or prohibition in effect under this section (including any requirement or prohibition in effect under regulations promulgated to carry out this section), the Administrator may—

''(I) issue an order assessing a civil penalty for any past or current violation, or requiring compliance immediately or within a specified time period, or both; or

''(II) commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

''(ii) NATURE OF VIOLATION.—Any order issued pursuant to clause (i)(I) shall state with reasonable specificity the nature of the violation.

''(B) PENALTIES.—

''(i) IN GENERAL.—Any penalty assessed in an order under this subsection shall not exceed $25,000 per day of noncompliance for each violation of a requirement or prohibition in effect under this section.

''(ii) FACTORS.—In assessing the penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

''(C) PUBLIC HEARINGS.—

''(i) IN GENERAL.—Any order issued under this paragraph shall become final unless, not later than 30 days after the issuance of the order, the persons named in the order request a public hearing.

''(ii) HEARING REQUIRED.—On receipt of the request, the Administrator shall promptly conduct a public hearing.

''(iii) ADMINISTRATION.—In connection with any proceeding under this paragraph, the Administrator may issue subpoenas for the production of relevant papers, books, and documents, and may promulgate rules for discovery.

''(D) NONCOMPLIANCE.—In the case of a final order under this paragraph requiring compliance with any requirement of this section (including a regulation), if a violator, without sufficient cause, fails to take corrective action within the time specified in the order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order.

''(2) CRIMINAL PENALTIES.—

''(A) IN GENERAL.—Any person that—

''(i) knowingly violates the requirements of this section (including a regulation); or

''(ii) knowingly omits material information or makes any false material statement or representation in any record, report, or other document filed, maintained, or used for purposes of compliance with this section (including a regulation);

shall, on conviction, be subject to a fine of not more than $50,000 for each day of violation or imprisonment for not to exceed 2 years, or both.

''(B) REPEAT OFFENSES.—If the conviction is for a violation committed after a first conviction of the person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

''(3) CIVIL PENALTIES.—

''(A) IN GENERAL.—Any person that violates any requirement of this section (including a regulation) shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation.

''(B) SEPARATE VIOLATIONS.—For purposes of subparagraph (A), each day of the violation shall constitute a separate violation.''.

SEC. 4. ADDITIONAL PROCUREMENT GUIDELINES.

Section 6002(e) of the Solid Waste Disposal Act (42 U.S.C. 6963(e)) is amended by inserting after ''October 1, 1985.'' the following: ''Not later than December 31, 1999, the Administrator shall prepare final guidelines for rubber products (including asphalt pavement) containing crumb rubber derived by processing waste tires.''.

SEC. 5. CONFORMING AMENDMENT.

The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. 6901) is amended by adding at the end of the items relating to subtitle D the following:

''Sec. 4011. Waste tire recycling, abatement, and disposal.''.

SUMMARY OF THE WASTE TIRE RECYCLING, ABATEMENT, AND DISPOSAL ACT OF 1997

Section 1 is the title of the bill: the Waste Tire Recycling, Abatement and Disposal Act of 1997.

Section 2 contains Congressional findings including: 1) 250 million tires are disposed each year and 3 billion have accumulated in tire piles; 2) current storage and disposal practices are threat to human health and the environment; and 3) there are opportunities to recycle tires.

Section 3 amends the Solid Waste Disposal Act (RCRA) adding a new section to subtitle D with several elements:

Purposes: 1) to encourage tire recycling; 2) to prevent disease and fires; 3) to require abatement (reduction in size of stockpiles to not more than 2500 tires in any pile) by the year 2006; and 4) to regulate commerce in scrap tires.

Definitions: The most important include: 1) a tire collection site is anything more than 400 tires; 2) shredding means to process tires to a size that won't hold water; 3) recycle does not include burning; 4) abate means to reduce the size of a tire pile to not more than 2500 shredded tires; and 5) properly disposed means shredded and placed in a landfill meeting subtitle D criteria.

Prohibitions: 1) disposal of whole tires in landfills is banned one year after enactment; 2) beginning one year after enactment, tires newly removed from a vehicle must be shredded or processed within 7 days; 3) also beginning one year after enactment, fire and disease prevention standards including maximum pile size and minimum spacing requirements are imposed on tire collection sites; 4) beginning four years after enactment all tires in existing piles must be shredded; 5) a year after state programs are adopted (which will generally be three years after enactment) all tire haulers and collectors must operate under state-issued permits; and 6) after the year 2006 tire piles bigger than 2500 tires are prohibited.

Exemptions: 1) retailers storing not more than 1500 tires at one site; 2) retreaders storing a 30-day supply of casings; 3) service stations and others who remove tires storing not more than 1500 tires at one site; 4) landfills storing not more than 2500 tires for processing or disposal; 5) marine and agricultural uses if used within 6 months.

Registration: All tire haulers, tire collectors and tire processors are required to notify state agencies within six months of enactment providing information on waste tire stockpiles and collection practices.

State Programs: EPA is to provide guidance within 12 months. Any State can apply to run a program which meets guidance. State programs must require permits for haulers, collectors and processors. States must collect fees of at least 50 cents for each new tire sold and use revenue to manage programs. States must have a plan providing for the abatement of all tire stockpiles. States must inspect sites before permits are granted. Tire collectors must show financial responsibility for abatement of tires stored (a bond in the amount of approximately $1 per tire allowed to be stored under permit). Permits must contain abatement schedules assuring that all tire piles are abated by year 2006. States must have authority to order abatement of tire piles. A tipping fee of $1 per tire is also to be charged to vehicle owner upon removal of used tire.

EPA Program: EPA is to establish program for each state which does not have one by the date three years after enactment. EPA's program would be identical to a State program.

Abatement Authority: EPA is given authority to order the abatement of a tire pile. EPA also is given authority to cleanup a tire pile and recover costs from the owner of the site.

Public Lands: The head of each federal agency owning land on which a tire stockpile is located is to develop an abatement plan.

Enforcement: EPA is given enforcement authority equivalent to that available under subtitle C of RCRA to take action against any person violating these new provisions.

Section 4 requires EPA to publish a federal procurement guideline for asphalt pavement containing recycled rubber not later than December 31, 1999.

Section 5 includes conforming amendments to RCRA.

SUMMARY OF TAX AMENDMENTS

Section 1 imposes a federal tax of 50 cents per tire on the sale of new tires. The tax

would collect approximately $120 million per year and extends for a period of five years.

Section 2 creates a trust fund to receive the revenues from the new federal tire tax. The trust fund could be used to: (1) make grants to the states; (2) establish shredding capacity for newly removed tires; (3) abate tire piles on federal lands; (4) purchase asphalt pavement containing recycled rubber for federal projects; (5) finance abatement at orphan tire collection sites; and (6) conduct research on tire recycling technologies.

By Mr. NICKLES (for himself, Mr. INHOFE, Mr. HATCH, Mr. LEAHY, and Mr. GRASSLEY):

S. 447. A bill to amend title 18, United States Code, to give further assurance to the right of victims of crime to attend and observe the trials of those accused of the crime, and for other purposes; read twice and placed on the calendar.

THE VICTIMS' RIGHTS CLARIFICATION ACT OF 1997

Mr. NICKLES. Mr. President, I rise today on behalf of victims of the Oklahoma City bombing and their families, as well as other victims of crime, to introduce the Victims Rights Clarification Act of 1997. The purpose of this legislation is to clarify the rights of victims of crime to attend and observe the trials of the accused and testify at the sentencing hearing. I want to express my sincere thanks to Senators HATCH, LEAHY, INHOFE, GRASSLEY, and KENNEDY for their hard work in crafting this bipartisan legislation.

During my tenure in the Senate, I have worked to ensure victims of crime have equal standing under the law with those who have violated the public trust. Progress has been made. The Victims' Bill of Rights, approved by Congress in 1990, guarantees that victims of crime may be present at public court proceedings, providing that a victim's attendance does not materially affect his or her testimony. In 1996, as part of the antiterrorism Bill, I included a provision based on my Crime Victim Restitution Act, which entitles victims of crime to receive full financial compensation directly from the criminal in the form of mandatory restitution.

Too often, however, the rights of victims are sacrificed or forgotten. The Victims Rights Clarification Act of 1997 clarifies the intent of Congress with respect to the rights of victims to be present at trial and be heard during the sentencing phase of the proceedings. This piece of legislation further demonstrates the bipartisan will of Congress to protect the rights of victims, as well as the accused.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 447

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 ''Victims' Rights Clarification Act of 1997''.

SEC. 2. RIGHTS OF VICTIMS TO ATTEND AND OBSERVE TRIAL.

(a) IN GENERAL.—

(1) RIGHTS OF VICTIMS TO ATTEND AND OBSERVE TRIAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

''§ 3510. Rights of victims to attend and observe trial

''(a) IN GENERAL.—Notwithstanding any statute, rule, or other provision of law, in any trial of a defendant accused of an offense, a United States district court shall not order the exclusion of any victim of the offense from the trial on the basis that the victim may, during the sentencing phase of the proceedings—

''(1) make a victim impact statement or present any victim impact information in relation to the sentence to be imposed on the defendant; or

''(2) testify as to the effect of the offense on the victim or the family of the victim.

''(b) DEFINITION OF VICTIM.—In this section, the term 'victim' has the same meaning as in section 503(e)(2) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(e)(2)).''.

(2) CLEARICAL AMENDMENT.—The analysis for chapter 223 of title 18, United States Code, is amended by adding at the end the following:

''3510. Rights of victims to attend and observe trial.''.

(b) ADMISSIBILITY OF CERTAIN EVIDENCE.—Section 3593(c) of title 18, United States Code, is amended by inserting after ''misleading the jury.'' the following: ''For purposes of the preceding sentence, the fact that a victim (as that term is defined in section 503(e)(2) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(e)(2))) attended or observed the trial in accordance with applicable statutes, rules, or other provisions of law, shall not be construed to create a danger of unfair prejudice, confusing the issues, or misleading the jury.''.

(c) EFFECT ON PENDING CASES.—The amendments made by this section shall apply in any case that is pending on the date of the enactment of this Act.

Mr. LEAHY. Mr. President, I join as an original cosponsor of the Victims' Rights Clarification Act of 1997.

One of the most important rights that we can safeguard for crime victims is the right to be heard in connection with sentencing decisions for the perpetrators of the crimes that changed their lives. When I was privileged to serve as State's attorney for Chittenden County, I tried to inform crime victims of the status of cases and to involve them, not only as witnesses at trial, but during the sentencing proceedings as well. Lawyers call this a right of allocution. To victims, it is a right to be heard. A similarly important right for victims is the right to witness the trial of the accused.

Congress has addressed a victims' right of allocution and right to witness trials several times in recent years. In 1990, Congress passed the Victims' Rights and Restitution Act, commonly known as the victims bill of rights. This legislation expressly provides that crime victims shall have the right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

In the Violent Crime Control and Law Enforcement Act of 1994, Congress included several provisions granting victims the right of attendance at trials and allocution in sentencing hearings. For instance, the legislation provides for a specific right of allocution by amending rule 32 of the Federal Rules of Criminal Procedure, thereby requiring Federal judges at the sentencing for a crime of violence or sexual assault to address the victim personally if the victim is present at sentencing and to determine if the victim wishes to make a statement or presentation. The legislation also authorizes courts to hear victim impact testimony at capital sentencing proceedings, and requires courts to determine if the victim wishes to make a statement or present any information in relation to the sentence.

Finally, last year, Congress enacted the Televised Proceedings for Crime Victims Act as part of the Antiterrorism and Effective Death Penalty Act of 1996. Responding to the difficulties created for victims of the Oklahoma City bombing when the trial was moved to Denver, the statute was designed to provide a closed circuit feed back to the victims and their families in Oklahoma City.

The Supreme Court has also ruled that victim impact statements are permissible in death penalty cases. In the 1991 case Payne versus Tennessee, the Supreme Court said that a sentencing jury in a capital case may consider victim impact evidence relating to the victim's personal characteristics and the emotional impact of the murder on the victim's family. The Court made clear that it is an affront to the civilized members of the human race to say that at sentencing in a capital case, a parade of witnesses may praise the background, character, and good deeds of the defendant, but nothing may be said that bears upon the character of, or the harm imposed upon, the victims.

Although Congress and the Supreme Court has made progress over the last 20 years in recognizing crime victims' rights, we still have more to do, especially with regards to a victim's right of allocation and right to witness trials. Although I spoke of the need to do more with regards to these issues last year when Congress enacted the Justice for Victims of Terrorism Act, this need was highlighted by the recent district and appellate court rulings on motions in the Oklahoma City bombing cases. The courts ruled that the victims are categorically excluded from both watching the trial and providing victim impact statements. Thus the victims are faced with the excruciating dilemma of having to choose between attending the trial and testifying at the sentencing proceedings. If they sit outside the courtroom during the trial, they may never learn the details of how the justice system responded to this horrible crime. On the other hand, if they attend the trial, they will never be able to tell the jury the full extent of the suffering the crime has caused to them and to their families.

The law as it is, has been written by Congress and interpreted by the Supreme Court does not thrust this painful choice upon the victims. However, the recent district and appellate court rulings on motions reveal the need to clarify existing law. In this regard, let me specify what the Victims' Rights Clarification Act of 1997 would and would not do.

The law would:

Clarify that a court shall not exclude a victim from witnessing a trial on the basis that the victim may, during the sentencing phase of the proceedings, make a victim impact statement.

Clarify that a court shall not prohibit a victim from making a victim impact statement solely because the victim had witnessed the trial.

Just as importantly, the law would not:

Eliminate a judge's discretion to exclude a victim's testimony that creates unfair prejudice, confuses the issues, or misleads the jury.

Attempt to strip a defendant of his or her constitutional rights.

Overturn any final judicial rulings.

The defendants in the Oklahoma City bombing case have argued to the court that, despite the victims' rights laws, the court has the responsibility to safeguard against any identifiable risk that emotion could overwhelm reason when the victims provide their victim impact testimony. According to the defendants, the only way that the court can meet this responsibility is to provide the victims with the Hobson's choice of witnessing the trial or providing victim impact statements. However, to paraphrase Justice O'Connor's eloquent statement in the Payne versus Tennessee case, the possibility that evidence may in some cases be unduly inflammatory does not justify a prophylactic, constitutionally based rule that this evidence may never be admitted.

It is for this reason that I am joining my cosponsors to clarify what rights victims in this country should and do have. There is more that needs to be done in this regard, but with this bipartisan legislation, we are taking an important and timely step in the right direction.

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. THURMOND, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 101

At the request of Mrs. BOXER, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 101, a bill to amend the Public Health Service Act to provide for the training of health professions students with respect to the identification and referral of victims of domestic violence.

S. 139

At the request of Mr. FAIRCLOTH, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 139, a bill to amend titles II and XVIII of the Social Security Act to prohibit the use of Social Security and Medicare trust funds for certain expenditures relating to union representatives at the Social Security Administration and the Department of Health and Human Services.

S. 235

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 235, a bill to amend the Internal Revenue Code of 1986 to encourage economic development through the creation of additional empowerment zones and enterprise communities and to encourage the cleanup of contaminated brownfield sites.

S. 317

At the request of Mr. CRAIG, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 317, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.

S. 370

At the request of Mr. GRASSLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 370, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners and clinical nurse specialists to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 371

At the request of Mr. GRASSLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 371, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage areas, and for other purposes.

ADDITIONAL STATEMENTS

NUCLEAR WASTE POLICY ACT OF 1997

● Mr. DORGAN. Mr. President, yesterday the Senate Energy Committee voted to approve the Nuclear Waste Policy Act of 1997, S. 104, which would establish the construction of an interim facility to store spent nuclear fuel and high-level nuclear waste produced by the electric industry and by the military.

As a member of the Energy Committee, I voted against S. 104 for two reasons. First, I think today's markup of this legislation was premature. Only 2 days ago the Senate voted to confirm the new head of the Energy Department, Secretary Federico Peña. Clearly Mr. Peña hasn't had an opportunity to fully examine this complex issue. He will need some additional time to study S. 104 and offer his views and recommendations about it. Second, I still have some concerns about whether this bill will facilitate or frustrate getting approval for a permanent disposal site of our Nation's spent nuclear fuel.

Having said this, I want my colleagues to understand that I think that this is an issue that needs immediate attention. The administration and Congress must sit down to negotiate a final solution to this problem as soon as possible. I hope some compromise can be reached that will allow me to vote for this legislation on the Senate floor.●

AMERICAN INDIAN TRANSPORTATION IMPROVEMENT ACT OF 1997

Mr. JOHNSON. Mr. President, I want to express my strong support for the American Indian Transportation Improvement Act introduced by Senator DOMENICI. I am an original cosponsor of this bill because I feel strongly that the BIA and other Federal agencies must prioritize programs which develop infrastructure on reservations, and that the Congress must match those commitments with adequate funding. I know first hand the desperate need for road improvement and repair on South Dakota's Indian reservations, and I believe increased funding for road infrastructure must be a national priority.

There are nine federally recognized tribes in South Dakota, whose members collectively make up one of the largest Native American populations in any State. At the same time, South Dakota has 3 of the 10 poorest counties in the Nation, all of which are within reservation boundaries. Unemployment on these extremely rural reservations averages above 50 percent. Yet economic depression on rural Indian reservations is not unique to my State. I strongly believe that road infrastructure is an integral and most basic component to economic development for Indian and non-Indian communities alike.

Senator DOMENICI's initiative increases funding for reservation roads through the existing Indian Reservation Roads [IRR] Program. This program returns a portion of the gasoline tax, paid by every Indian who buys gasoline, to Indian tribes for the design and construction of BIA roads. This bill also expands opportunities under the IRR Program and related ISTEA programs to improve the transportation system on our Nation's Indian reservations, including bridge construction, transit systems, highway enhancements, scenic byways, and Indian technical centers.

In South Dakota, BIA proposed funding for 1997 is 24 percent lower than 1996. Yet abysmal road conditions continue to worsen. There are nearly 8,000 miles of roads in my State, 1,156 miles of which are on reservations. Of these roads, 80 percent are in need of complete replacement. Another 10 percent