

104TH CONGRESS
1ST SESSION

H. R. 1180

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, and to clarify the authority for certain municipal solid waste flow control arrangements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 1995

Mr. UPTON (for himself, Mr. BOUCHER, and Mr. BONIOR) introduced the following bill; which was referred to the Committee on Commerce

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, and to clarify the authority for certain municipal solid waste flow control arrangements, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “State and Local Gov-
5 ernment Interstate Waste Control Act of 1995”.

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

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

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

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

10 “(1) IN GENERAL.—(A) Except as provided in
11 subsections (c), (e), and (g), effective January 1,
12 1996, a landfill or incinerator in a State may not re-
13 ceive for disposal or incineration any out-of-State
14 municipal solid waste unless the owner or operator
15 of such landfill or incinerator obtains explicit author-
16 ization (as part of a host community agreement)
17 from the affected local government to receive the
18 waste.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 “(b) ANNUAL STATE REPORT.—

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

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

15 “(2) CONTENTS.—Each submission referred to
16 in this subsection shall be such as would result in
17 criminal penalties in case of false or misleading in-
18 formation. Such submission shall include the amount
19 of waste received, the State of origin, the identity of
20 the generator, the date of shipment, and the type of
21 out-of-State municipal solid waste.

22 “(3) LIST.—The Administrator shall publish a
23 list of States that the Administrator has determined
24 have exported out of State in any of the following

1 calendar years an amount of municipal solid waste
2 in excess of—

3 “(A) 3.5 million tons in 1996;

4 “(B) 3.0 million tons in 1997;

5 “(C) 3.0 million tons in 1998;

6 “(D) 2.5 million tons in 1999;

7 “(E) 2.5 million tons in 2000;

8 “(F) 1.5 million tons in 2001;

9 “(G) 1.0 million tons in 2002;

10 “(H) 1.0 million tons in 2003; and

11 “(I) 1.0 million tons in each calendar year

12 after 2003.

13 The list for any calendar year shall be published by
14 June 1 of the following calendar year.

15 “(4) SAVINGS PROVISION.—Nothin in this sub-
16 section shall be construed to preempt any State re-
17 quirement that requires more frequent reporting of
18 information.

19 “(c) FREEZE.—

20 “(1) ANNUAL AMOUNT.—(A) Beginning Janu-
21 ary 1, 1996, except as provided in paragraph (2)
22 and unless it would result in a violation of, or be in-
23 consistent with, a host community agreement or per-
24 mit specifically authorizing the owner or operator of
25 a landfill or incinerator to accept out-of-State mu-

1 nicipal solid waste at such landfill or incinerator,
2 and notwithstanding the absence of a request in
3 writing by the affected local government, a Gov-
4 ernor, in accordance with paragraph (3), may limit
5 the quantity of out-of-State municipal solid waste re-
6 ceived for disposal at each landfill or incinerator cov-
7 ered by the exceptions provided in subsection (e)
8 that is subject to the jurisdiction of the Governor, to
9 an annual amount equal to the quantity of out-of-
10 State municipal solid waste received for disposal at
11 such landfill or incinerator during calendar year
12 1993.

13 “(B) At the request of an affected local govern-
14 ment that has not executed a host community agree-
15 ment, the Governor may limit the amount of out-of-
16 State municipal solid waste received annually for
17 disposal at the landfill or incinerator concerned to
18 the amount described in subparagraph (A). No such
19 limit may conflict with provisions of a permit specifi-
20 cally authorizing the owner or operator to accept, at
21 the facility, out-of-State municipal solid waste.

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

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

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

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

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

18 “(A) shall be applicable throughout the
19 State;

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

23 “(C) shall not directly or indirectly dis-
24 criminate against any shipments of out-of-State

1 municipal solid waste on the basis of place of
2 origin.

3 “(d) RATCHET.—

4 “(1) IN GENERAL.—Unless it would result in a
5 violation of, or be inconsistent with, a host commu-
6 nity agreement or permit specifically authorizing the
7 owner or operator of a landfill or incinerator to ac-
8 cept out-of-State municipal solid waste at such land-
9 fill or incinerator, immediately upon the date of pub-
10 lication of the list required under subsection (b)(3),
11 and notwithstanding the absence of a request in
12 writing by the affected local government, a Gov-
13 ernor, in accordance with paragraph (4), may pro-
14 hibit the disposal of out-of-State municipal solid
15 waste, at any landfill or incinerator covered by the
16 exceptions in subsection (e) that is subject to the ju-
17 risdiction of the Governor, generated in any State
18 that is determined by the Administrator under sub-
19 section (b)(3) as having exported, to landfills or in-
20 cinerators not covered by host community agree-
21 ments or permits, in any of the following calendar
22 years an amount of municipal solid waste in excess
23 of the following:

24 “(A) 3.5 million tons in 1996.

25 “(B) 3.0 million tons in 1997.

1 “(C) 3.0 million tons in 1998.

2 “(D) 2.5 million tons in 1999.

3 “(E) 2.5 million tons in 2000.

4 “(F) 1.5 million tons in 2001.

5 “(G) 1.5 million tons in 2002.

6 “(H) 1.0 million tons in 2003.

7 “(I) 1.0 million tons in each calendar year
8 after 2003.

9 “(2) ADDITIONAL EXPORT LIMITS.—

10 “(A) PROHIBITION.—No State may export
11 to any one State more than the following
12 amounts of municipal solid waste in any of the
13 following calendar years:

14 “(i) 1.0 million tons, or 90 percent of
15 the 1993 levels exported to the State,
16 whichever is greater, in 1996.

17 “(ii) .9 million tons, or 90 percent of
18 the 1996 levels exported to the State,
19 whichever is greater, in 1997.

20 “(iii) .8 million tons, or 90 percent of
21 the 1997 levels exported to a State, which-
22 ever is greater, in 1998.

23 “(iv) .7 million tons, or 90 percent of
24 the 1998 levels exported to a State, which-
25 ever is greater, in 1999.

1 “(v) .6 million tons in 2000.

2 “(vi) .5 million tons in 2001.

3 “(vii) .5 million tons in any year after
4 2001, to landfills or incinerators not cov-
5 ered by host community agreements or
6 permits authorizing receipt of out-of-State
7 municipal solid waste.

8 “(B) ACTION BY GOVERNOR.—The Gov-
9 ernor of an importing State may restrict levels
10 of imports of municipal solid waste into that
11 State to reflect the levels specified in subpara-
12 graph (A) if—

13 “(i) The Governor of the importing
14 State has notified the Governor of the re-
15 porting State and the Administrator twelve
16 months prior to enforcement of the import-
17 ing State’s intention to impose the require-
18 ments of this section;

19 “(ii) the Governor of the importing
20 State has notified the Governor of the ex-
21 porting State and the Administrator of the
22 violation by the exporting State of this sec-
23 tion at least ninety days prior to the en-
24 forcement of this section; and

1 “(iii) the restrictions imposed by the
2 Governor of the importing State are uni-
3 form at all facilities within the State re-
4 ceiving municipal solid waste from the ex-
5 porting State.

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

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

12 “(A) shall be applicable throughout the
13 State;

14 “(B) shall not directly or indirectly dis-
15 criminate against any particular landfill or in-
16 cinerator within the State; and

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

22 “(e) AUTHORIZATION NOT REQUIRED FOR CERTAIN
23 FACILITIES.—

24 “(1) IN GENERAL.—The prohibition of the dis-
25 posal of out-of-State municipal solid waste in sub-

1 section (a) shall not apply to landfills and inciner-
2 ators that—

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

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

14 “(2) AVAILABILITY OF DOCUMENTATION.—The
15 owner or operator of a landfill or incinerator that is
16 exempt under paragraph (1) of this subsection from
17 the requirements of subsection (a) shall provide to
18 the State and affected local government, and make
19 available for inspection by the public in the affected
20 local community, a copy of the host community
21 agreement or permit referenced in paragraph (1).
22 The owner or operator may omit from such copy or
23 other documentation any proprietary information,
24 but shall ensure that at least the following informa-
25 tion is apparent: the volume of out-of-State municipi-

1 pal solid waste received, the place of origin of the
2 waste, and the duration of any relevant contract.

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

13 “(4) WASTE WITHIN BI-STATE METROPOLITAN
14 STATISTICAL AREAS.—The owner or operator of a
15 landfill or incinerator in a State may receive out-of-
16 State municipal solid waste without obtaining au-
17 thorization under subsection (a) from the affected
18 local government if the out-of-State waste is gen-
19 erated within, and the landfill or incinerator is lo-
20 cated within, the same bi-State level A metropolitan
21 statistical area (as defined by the Office of Manage-
22 ment and Budget and as listed by the Office of
23 Management and Budget as of the date of enact-
24 ment of this section) that contains two contiguous
25 major cities each of which is in a different State.

1 “(f) IMPLEMENTATION AND ENFORCEMENT.—Any
2 State may adopt such laws and regulations, not inconsis-
3 ent with this section, as are necessary to implement and
4 enforce this section, including provisions for penalties.

5 “(g) SAVINGS CLAUSE.—Nothing in this section shall
6 be interpreted or construed to have any effect on State
7 law relating to contracts or to authorize or result in the
8 violation or failure to perform the terms of a written, le-
9 gally binding contract entered into before enactment of
10 this section during the life of the contract as determined
11 under State law.

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

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

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

22 “(ii) if there is no such body created by
23 State law or if a majority of the authorized
24 public body’s members are not elected officials
25 the elected officials of the city, town, or town-

1 ship, borough, county, or parish exercising pri-
2 mary responsibility for the use of the land on
3 which the facility is located or is proposed to be
4 located, except that for purposes of host com-
5 munity agreements entered into before the date
6 of enactment of this section, the term shall
7 mean either the public body described in sub-
8 paragraph (A) or the elected officials of the
9 city, town, township, borough, county, or parish
10 exercising primary responsibility for the use of
11 the land on which the facility is located or pro-
12 posed to be located. No host community agree-
13 ment that is entered into by the elected officials
14 described in clause (ii) may be overturned by an
15 act of a public body described in clause (i) if
16 such body is created by State law after the exe-
17 cution of such host community agreement.

18 “(B) Two or more Governors of adjoining
19 States may use the authority provided in section
20 1005(b) to enter into an agreement under which
21 contiguous units of local government located in each
22 of the adjoining States may act jointly as the af-
23 fected local government for purposes of providing
24 authorization under subsection (a) for municipal
25 solid waste generated in one of the jurisdictions de-

1 scribed in subparagraph (A) and received for dis-
2 posal or incineration in another.

3 “(2) HOST COMMUNITY AGREEMENT.—The
4 term ‘host community agreement’ means a written,
5 legally binding document or documents executed by
6 duly authorized officials of the affected local govern-
7 ment that specifically authorizes a landfill or inciner-
8 ator to receive municipal solid waste generated out-
9 of-State.

10 “(3) MUNICIPAL SOLID WASTE.—The term
11 ‘municipal solid waste’ means refuse (and refuse-de-
12 rived fuel) discarded from a residential source, or
13 from a commercial, institutional, or industrial source
14 (or any combination thereof) to the extent such
15 waste is essentially the same as waste normally dis-
16 carded by households or was collected and disposed
17 of with other municipal solid waste as part of nor-
18 mal municipal solid waste collection services, and re-
19 gardless of when discarded, would be considered con-
20 ditionally exempt small quantity generator waste
21 under section 1001(d), such as paper, food, wood,
22 yard wastes, plastics, leather, rubber, appliances, or
23 other combustible or noncombustible materials such
24 as metal or glass (or any combination thereof). The

1 term ‘municipal solid waste’ does not include any of
2 the following:

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

5 “(B) Any solid waste, including contami-
6 nated soil and debris, resulting from a response
7 action taken under section 104 or 106 of the
8 Comprehensive Environmental Response, Com-
9 pensation, and Liability Act of 1980 (42 U.S.C.
10 9604 or 9606) or a corrective action taken
11 under this Act.

12 “(C) Recyclable materials that have been
13 separated, at the source of the waste, from
14 waste otherwise destined for disposal or that
15 have been managed separately from waste des-
16 tined for disposal.

17 “(D) Any solid waste that is—

18 “(i) generated by an industrial facil-
19 ity; and

20 “(ii) transported for the purpose of
21 treatment, storage, or disposal to a facility
22 that is owned or operated by the generator
23 of the waste, or is located on property
24 owned by the generator of the waste, or is

1 located on property owned by a company
2 with which the generator is affiliated.

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

6 “(F) Except as specifically set out in sec-
7 tion 4011, (a), sewage sludge and residuals
8 from any sewage treatment plan, including any
9 sewage treatment plant required to be con-
10 structed in the state of Massachusetts pursuant
11 to any court order issued against the Massachu-
12 setts Water Resources Authority.

13 “(G) Combustion ash generated by re-
14 source recovery facilities or municipal inciner-
15 ators, or waste from manufacturing or process-
16 ing (including pollution control) operations not
17 essentially the same as waste normally gen-
18 erated by households.

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

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

1 “(4) OUT-OF-STATE MUNICIPAL SOLID
2 WASTE.—The term ‘out-of-State municipal solid
3 waste’ means, with respect to any State, municipal
4 solid waste generated outside of the State. The term
5 shall include municipal solid waste generated outside
6 of the United States.

7 “(5) SPECIFICALLY AUTHORIZED, SPECIFI-
8 CALLY AUTHORIZES.—The terms ‘specifically au-
9 thorized’ and ‘specifically authorizes’ means an ex-
10 plicit authorization, contained in a host community
11 agreement or permit, to import waste from outside
12 the State. Such authorization may include a ref-
13 erence to a fixed radius surrounding the landfill or
14 incinerator that includes an area outside the State
15 or a reference to ‘any place of origin’, reference to
16 specific places outside the State, or use of such
17 phrases a ‘regardless of origin’ or ‘outside the
18 State’. The language for such authorization may
19 vary as long as it clearly and affirmatively states the
20 approval or consent of the affected local government
21 or State for receipt of municipal solid waste from
22 sources or locations outside the State.”.

1 **SEC. 3. ADDITIONAL RESTRICTIONS.**

2 (a) Subtitle D of the Solid Waste Disposal Act (42
3 U.S.C. 6941 et seq.) is amended by adding after section
4 4010 the following new section:

5 **“SEC. 4011. INTERSTATE DISPOSAL OF SEWAGE SLUDGE.**

6 “(a) Notwithstanding any other provision of this act,
7 agricultural land or surface mine sites in a State may not
8 receive for disposal any out-of-State sewage sludge or re-
9 siduals from any sewage treatment plant unless the owner
10 of the agricultural land or surface mine site obtains ex-
11 plicit authorization (as a part of a host community agree-
12 ment) from the affected local government to receive the
13 sludge or residuals.”.

14 **SEC. 4. TABLE OF CONTENTS AMENDMENT.**

15 The table of contents in section 1001 of the Solid
16 Waste Disposal Act (42 U.S.C. prec. 6901) is amended
17 by adding after the item relating to section 4010 the fol-
18 lowing new item:

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

19 **SEC. 5. CONGRESSIONAL AUTHORIZATION OF STATE AND**
20 **LOCAL GOVERNMENT CONTROL OVER MOVE-**
21 **MENT OF MUNICIPAL SOLID WASTE AND RE-**
22 **CYCLABLE MATERIALS.**

23 (a) AMENDMENT OF SUBTITLE D.—Subtitle D of the
24 Solid Waste Disposal Act is amended by adding after sec-
25 tion 4010 the following new section:

1 **“SEC. 4011. CONGRESSIONAL AUTHORIZATION OF STATE**
2 **AND LOCAL GOVERNMENT CONTROL OVER**
3 **MOVEMENT OF MUNICIPAL SOLID WASTE**
4 **AND RECYCLABLE MATERIALS.**

5 “(a) AUTHORITY.—Each State and each political
6 subdivision thereof is authorized to exercise flow control
7 authority for municipal solid waste, and recyclable mate-
8 rials voluntarily relinquished by the owner or generator
9 of such materials, generated within its jurisdiction direct-
10 ing such municipal solid waste or recyclable materials to
11 one or more waste management facilities or facilities for
12 recyclable materials, if such flow control authority—

13 “(1) is imposed pursuant to a law, ordinance,
14 regulation, or other legally binding provision or offi-
15 cial act of the State or political subdivision in effect
16 on May 15, 1994; and

17 “(2) has been implemented by designating be-
18 fore May 15, 1994, the particular waste manage-
19 ment facilities in operation as of May 15, 1994, to
20 which the municipal solid waste or recyclable mate-
21 rials must be delivered.

22 The authority of this section shall only extend to the spe-
23 cific classes, categories, volumes or sources of municipal
24 solid waste to which flow control authority requiring a
25 movement to one or more waste management facilities was
26 actually applied on May 15, 1994 (or, in the case of a

1 State or political subdivision that qualifies under sub-
2 section (b), to the specific classes or categories of munici-
3 pal solid waste for which the State or political subdivision
4 prior to May 15, 1994, had committed to the designation
5 of one or more waste management facilities). With regard
6 to facilities granted flow control authority pursuant to
7 subsection (b), if the specific classes or categories of mu-
8 nicipal solid waste are not clearly identified, the authority
9 of this section shall apply only to municipal solid waste
10 generated by households. With respect to each designated
11 facility, the authority of subsections (a) and (b) shall be
12 effective for the remaining life of a contract between the
13 State or political subdivision and any other person for the
14 movement or delivery of such waste or recyclable materials
15 (as in effect May 15, 1994), or until completion of the
16 original schedule for payment of the capital costs of the
17 facility concerned (as in effect May 15, 1994). With re-
18 spect to any facility to which a local government was di-
19 recting waste as of May 15, 1994, pursuant to a law or
20 ordinance of the state or political subdivision in effect on
21 May 15, 1994, the authority of this section shall be effec-
22 tive for the remaining life of a contract between the state
23 or political subdivision and any other person for the move-
24 ment or delivery of such waste or recyclable materials (as
25 in effect May 15, 1994) or until completion of the original

1 schedule for payment of the capital costs of the facility
2 concerned (as in effect May 15, 1994).

3 “(b) COMMITMENT TO CONSTRUCTION.—Notwith-
4 standing the restrictions in subsection (a) (1) and (2), any
5 political subdivision of a State may be granted the flow
6 control authority in subsection (a), if—

7 “(1) the law, ordinance, regulation, or other le-
8 gally binding provision specifically provides for flow
9 control authority for municipal solid waste generated
10 within its boundaries and was in effect as of May
11 15, 1994; and

12 “(2) such political subdivision has taken action
13 prior to May 15, 1994, to commit to the designation
14 of one or more waste management facilities for such
15 method of disposal of municipal solid waste selected
16 under such law, ordinance, regulation, plan, or le-
17 gally binding provision. Such a commitment to the
18 designation of one or more waste management facili-
19 ties is demonstrated if the political subdivision of a
20 state presented revenue bonds for sale to specifically
21 provide revenue for the construction of such facility
22 prior to May 15, 1994.

23 “(c) RETAINED AUTHORITY.—Upn the request of
24 any generator of municipal solid waste affected by this
25 section, the State or political subdivision shall authorize

1 the diversion of all or a portion of the sold wastes gen-
2 erated by the generator making such request to a solid
3 waste facility, other than the facility or facilities originally
4 designated by the political subdivision, where the purpose
5 of such request is to provide a higher level of protection
6 for human health and the environment or to indemnify
7 or reduce potential future liability under Federal or State
8 law of such generator for the management of such wastes,
9 unless the state or political subdivision determines that the
10 facility to which the municipal solid waste is being diverted
11 does not provide a higher level of protection for human
12 health and the environment or does not indemnify or re-
13 duce the potential future liability under Federal or State
14 law of such generator for the management of such wastes.
15 Requests shall include information on the environmental
16 suitability of the proposed alternative treatment or dis-
17 posal facility and method, compared to that of the des-
18 igned facility and method.

19 “(d) REASONABLE REGULATION OF COMMERCE.—A
20 law, ordinance, regulation, or other legally binding provi-
21 sion or official act of a State or political subdivision, de-
22 scribed in subsection (a) or (b), that implements flow con-
23 trol authority in compliance with this section shall be con-
24 sidered to be a reasonable regulation of commerce and
25 shall not be considered to be an undue burden or otherwise

1 as impairing, restraining, or discriminating against inter-
2 state commerce.

3 “(e) FLOW CONTROL STUDY.—The Administrator, in
4 cooperation with the National Academy of Public Adminis-
5 tration and the Secretary of the Treasury, shall conduct
6 a study of the extent to which the decision of the United
7 States Supreme Court in *C&A Carbone v. Clarkstown*,
8 New York has affected the ability of public and private
9 agencies and entities to secure or retain financing for solid
10 waste management facilities or services. Such study shall
11 address whether such decision is likely to interfere with
12 the implementation of State solid waste management
13 plans, and whether such decision is likely to affect recy-
14 cling or composing. The Administration shall submit a re-
15 port on such study to the Congress, together with rec-
16 ommendations for needed legislation, if any, not later than
17 March 31, 1996.

18 “(f) EFFECT ON EXISTING LAWS AND CON-
19 TRACTS.—

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

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

5 “(3) OWNERSHIP OF RECYCLABLE MATE-
6 RIALS.—Nothing in this section shall authorize any
7 State or political subdivision to require any genera-
8 tor or owner of recyclable materials to transfer any
9 recyclable materials to such State or political sub-
10 division, nor shall prohibit any generator or owner of
11 recyclable materials from selling, purchasing, accept-
12 ing, conveying, or transporting any recyclable mate-
13 rials for purposes of transformation or remanufac-
14 ture into usable or marketable materials, unless the
15 generator or owner voluntarily made such recyclable
16 materials available to the State or political subdivi-
17 sion and relinquished any rights to, or ownership of,
18 such recyclable materials.

19 “(g) DEFINITIONS.—For the purposes of this sec-
20 tion—

21 “(1) MUNICIPAL SOLID WASTE.—The term
22 ‘municipal solid waste’ means, subject to the limita-
23 tions of subsection (a), any solid waste generated by
24 the general public or by households (including single
25 residences and multifamily residences of up to 4

1 units) and from commercial, institutional, and in-
2 dustrial sources, to the extent such waste is essen-
3 tially the same as waste normally generated by
4 households or was collected and disposed of with
5 other municipal solid waste as part of normal munic-
6 ipal solid waste collection services, consisting of
7 paper, wood, yard waste, plastics, leather, rubber,
8 and other combustible materials and noncombustible
9 materials such as metal and glass, including residue
10 remaining after recyclable materials have been sepa-
11 rated from waste destined for disposal, and includ-
12 ing waste material removed from a septic tank,
13 septage pit, or cesspool (other than from portable
14 toilets), except that the term does not include—

15 “(A) any waste identified or listed as a
16 hazardous waste under section 3001 of this Act
17 or waste regulated under the Toxic Substances
18 and Control Act;

19 “(B) any waste, including contaminated
20 soil and debris, resulting from response taken
21 under section 104 or 106 of the Comprehensive
22 Environmental Response, Compensation, and
23 Liability Act of 1980 or any corrective action
24 taken under this Act;

25 “(C) construction and demolition debris;

1 “(D) medical waste listed in section 11002
2 of this Act;

3 “(E) industrial waste generated by manu-
4 facturing or industrial processes, including
5 waste generated during scrap processing and
6 scrap recycling;

7 “(F) recyclable materials; or

8 “(G) sludge.

9 “(2) RECYCLABLE MATERIALS.—The term ‘re-
10 cyclable materials’ means any materials that have
11 been separated from waste otherwise destined for
12 disposal (either at the source of the waste or at
13 processing facilities) or that have been managed sep-
14 arately from waste destined for disposal, for the pur-
15 pose of recycling, reclamation, composing of organic
16 materials such as food and yard waste, or reuse
17 (other than for the purpose of incineration). Mate-
18 rials shall be deemed ‘recyclable materials’ for the
19 purpose of subsection (a) only if the generator or
20 owner of the materials voluntarily made the mate-
21 rials available to the State or political subdivision
22 (or the designee of the State or political subdivision)
23 and relinquished any rights to, or ownership of, such
24 materials, and the State or political subdivision (or

1 such designee) assumes such rights to, or ownership
2 of, such materials.

3 “(3) WASTE MANAGEMENT FACILITY.—The
4 term ‘waste management facility’ means any facility
5 collecting, separating, storing, transporting, trans-
6 ferring, treating, processing, combusting, or dispos-
7 ing of municipal solid waste.

8 “(4) FLOW CONTROL AUTHORITY.—The term
9 ‘flow control authority’ means the authority to con-
10 trol the movement of solid waste or recyclable mate-
11 rials and direct such solid waste or recyclable mate-
12 rials to one or more designated waste management
13 facilities or facilities for recyclable materials.

14 “(5) DESIGNATE; DESIGNATION.—The terms
15 ‘designate’, ‘designated’, ‘designating’, and ‘designa-
16 tion’ mean a requirement of a State or political sub-
17 division, and the act of a State or political subdivi-
18 sion, to require that all or any portion of the municipi-
19 pal solid waste or recyclable materials that is gen-
20 erated within the boundaries of the State or political
21 subdivision be delivered to a waste management fa-
22 cility or facility for recyclable materials identified by
23 the State or political subdivision.”.

1 **SEC. 6. TABLE OF CONTENTS AMENDMENT.**

2 The table of contents for subtitle D of the Solid
3 Waste Disposal Act is amended by adding the following
4 new item after the item relating to section 4010:

“Sec. 4011. Congressional authorization of State and local government control
over movement of municipal solid waste and recyclable materials.”.

○

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HR 1180 IH—4