

**Union Calendar No. 397**

103D CONGRESS  
2D SESSION

**H. R. 4779**

**[Report No. 103-720]**

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**A BILL**

To amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste, and for other purposes.

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SEPTEMBER 16, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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### IN THE HOUSE OF REPRESENTATIVES

JULY 19, 1994

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

SEPTEMBER 16, 1994

Additional sponsors: Mr. GILLMOR, Mr. GREENWOOD, Mr. HOLDEN, Mr. MCHALE, and Mr. ROGERS

SEPTEMBER 16, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on July 19, 1994]

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## A BILL

To amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2       *This Act may be cited as the “State and Local Govern-*  
 3 *ment Interstate Waste Control Act of 1994”.*

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

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

9 **“SEC. 4011. INTERSTATE TRANSPORTATION AND DISPOSAL**  
 10 **OF MUNICIPAL SOLID WASTE.**

11       *“(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE*  
 12 *WASTE.—*

13           *“(1) IN GENERAL.—*

14                   *“(A) AUTHORIZATION.—A landfill or incin-*  
 15 *erator in a State may not receive for disposal or*  
 16 *incineration any out-of-State municipal solid*  
 17 *waste unless the owner or operator of such land-*  
 18 *fill or incinerator obtains explicit authorization*  
 19 *(as part of a host community agreement) from*  
 20 *the affected local government to receive the waste.*

21                   *“(B) REQUIREMENTS FOR AUTHORIZA-*  
 22 *TION.—An authorization granted pursuant to*  
 23 *subparagraph (A) shall—*

24                           *“(i) be granted by formal action at a*  
 25 *meeting;*

1                   “(ii) be recorded in writing in the offi-  
2                   cial record of the meeting; and

3                   “(iii) remain in effect according to its  
4                   terms.

5                   “(C) DISCRETIONARY TERMS AND CONDI-  
6                   TIONS.—An authorization granted pursuant to  
7                   subparagraph (A) may specify terms and condi-  
8                   tions, including an amount of out-of-State waste  
9                   that an owner or operator may receive and the  
10                  duration of the authorization.

11                  “(D) NOTIFICATION.—Promptly, but not  
12                  later than 90 days after an authorization is  
13                  granted, the affected local government shall no-  
14                  tify the Governor, contiguous local governments,  
15                  and any contiguous Indian tribes of an author-  
16                  ization granted under this subsection.

17                  “(2) INFORMATION.—Prior to seeking an author-  
18                  ization to receive out-of-State municipal solid waste  
19                  pursuant to this subsection, the owner or operator of  
20                  the facility seeking such authorization shall provide  
21                  (and make readily available to the Governor, each  
22                  contiguous local government and Indian tribe, and  
23                  any other interested person for inspection and copy-  
24                  ing) the following information:

1           “(A) A brief description of the facility, in-  
2           cluding, with respect to both the facility and any  
3           planned expansion of the facility, the size, ulti-  
4           mate waste capacity, and the anticipated month-  
5           ly and yearly quantities of (expressed in terms  
6           of volume) waste to be handled.

7           “(B) A map of the facility site indicating  
8           location in relation to the local road system and  
9           topography and hydrogeological features. The  
10          map shall indicate any buffer zones to be ac-  
11          quired by the owner or operator as well as all  
12          facility units.

13          “(C) A description of the then current envi-  
14          ronmental characteristics of the site, a descrip-  
15          tion of ground water use in the area (including  
16          identification of private wells and public drink-  
17          ing water sources), and a discussion of alter-  
18          ations that may be necessitated by, or occur as  
19          a result of, the facility.

20          “(D) A description of environmental con-  
21          trols typically required to be used on the site  
22          (pursuant to permit requirements), including  
23          run on or run off management (or both), air pol-  
24          lution control devices, source separation proce-  
25          dures (if any), methane monitoring and control,

1 landfill covers, liners or leachate collection sys-  
2 tems, and monitoring programs. In addition, the  
3 description shall include a description of any  
4 waste residuals generated by the facility, includ-  
5 ing leachate or ash, and the planned manage-  
6 ment of the residuals.

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

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

14 “(G) Estimates of the personnel require-  
15 ments of the facility, including information re-  
16 garding the probable skill and education levels  
17 required for jobs at the facility. To the extent  
18 practicable, the information shall distinguish be-  
19 tween employment statistics for preoperational  
20 and postoperational levels.

21 “(H) Any information that is required by  
22 State or Federal law to be provided with respect  
23 to any violations of environmental laws (includ-  
24 ing regulations) by the owner, the operator, and  
25 any subsidiary of the owner or operator, the dis-

1        *position of enforcement proceedings taken with*  
2        *respect to the violations, and corrective action*  
3        *and rehabilitation measures taken as a result of*  
4        *the proceedings.*

5                *“(I) Any information that is required by*  
6        *State or Federal law to be provided with respect*  
7        *to gifts and contributions made by the owner or*  
8        *operator.*

9                *“(J) Any information that is required by*  
10        *State or Federal law to be provided with respect*  
11        *to compliance by the owner or operator with the*  
12        *State solid waste management plan.*

13                *“(3) NOTIFICATION.—Prior to taking formal ac-*  
14        *tion with respect to granting authorization to receive*  
15        *out-of-State municipal solid waste pursuant to this*  
16        *subsection, an affected local government shall—*

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

19                *“(B) publish notice of the action in a news-*  
20        *paper of general circulation at least 30 days be-*  
21        *fore holding a hearing and again at least 15*  
22        *days before holding the hearing, except where*  
23        *State law provides for an alternate form of pub-*  
24        *lic notification; and*

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

4           “(b) AUTHORIZATION NOT REQUIRED FOR CERTAIN  
5           FACILITIES.—

6           “(1) IN GENERAL.—A landfill or incinerator  
7           may receive for disposal or incineration out-of-State  
8           municipal solid waste in the absence of an authoriza-  
9           tion under subsection (a) if each of the following re-  
10          quirements are met:

11           “(A) The owner or operator shall provide ei-  
12          ther of the following to the Governor of the State  
13          in which the landfill or incinerator is located  
14          and to the affected local government:

15           “(i) Information establishing that, be-  
16          fore the date of the enactment of this sec-  
17          tion, the owner or operator of the landfill or  
18          incinerator has entered into a host commu-  
19          nity agreement or received a State permit,  
20          specifically authorizing the owner or opera-  
21          tor to accept, at the landfill or incinerator,  
22          out-of-State municipal solid waste. This  
23          clause shall be effective only if the owner or  
24          operator complies with all of the terms and  
25          conditions of the host community agreement

1            *or permit and, in the case of a permit, noti-*  
2            *fies the affected local government of the per-*  
3            *mit, as soon as practicable but not later*  
4            *than 90 days after the date of enactment of*  
5            *this section.*

6            *“(ii) Information establishing that*  
7            *during 1993, the landfill or incinerator re-*  
8            *ceived shipments of out-of-State municipal*  
9            *solid waste. Such information shall be in*  
10           *such documented form as will result in*  
11           *criminal penalties under State law in case*  
12           *of false or misleading information. Such in-*  
13           *formation shall include information about*  
14           *the date of shipment, place of origin of the*  
15           *waste, and the type of waste.*

16           *“(B) In the case of a landfill or incinerator*  
17           *in operation on the date of the enactment of this*  
18           *section, the landfill or incinerator must be in*  
19           *compliance as of such date with applicable Fed-*  
20           *eral and State environmental laws (including*  
21           *regulations), including, in the case of landfills,*  
22           *applicable laws and regulations relating to de-*  
23           *sign and location standards, leachate collection,*  
24           *ground water monitoring, and financial assur-*

1           *ance for closure and post-closure care and correc-*  
2           *tive action.*

3           “(2) *AMOUNT RECEIVED UNDER PARAGRAPH*  
4           *(1)(A)(ii).*—

5                   “(A) *STATES NOT EXERCISING RATCHET*  
6           *AUTHORITY UNDER (c)(5).*—

7                           “(i) *FACILITIES COVERED.*—*This sub-*  
8                           *paragraph shall cover only landfills and in-*  
9                           *cinerators in States which do not establish*  
10                           *a limit on out-of-State municipal solid*  
11                           *waste under subsection (c)(5).*

12                           “(ii) *WASTE UNDER CONTRACT.*—*For*  
13                           *any landfill or incinerator covered by this*  
14                           *subparagraph and authorized to receive out-*  
15                           *of-State municipal solid waste pursuant to*  
16                           *paragraph (1)(A)(ii), if out-of-State munic-*  
17                           *ipal solid waste was received at such land-*  
18                           *fill or incinerator during 1993 under a con-*  
19                           *tract, paragraph (1)(A)(ii) shall apply to*  
20                           *the amount of out-of-State municipal solid*  
21                           *waste specified in the contract for the longer*  
22                           *of the following periods:*

23                                   “(I) *The life of the contract.*

24                                   “(II) *The period ending 3 years*  
25                                   *after the enactment of this section.*

1           For purposes of subclause (I), the term ‘life  
2           of the contract’ shall not include any re-  
3           newal, novation, or other extension thereof  
4           (as determined under State law).

5           “(iii) *SPOT WASTE*.—For a landfill or  
6           incinerator covered by this subparagraph  
7           and authorized to receive out-of-State mu-  
8           nicipal solid waste pursuant to paragraph  
9           (1)(A)(ii), if out-of-State municipal solid  
10          waste was received at such landfill or incin-  
11          erator during 1993 in the absence of a con-  
12          tract, paragraph (1)(A)(ii) shall apply to  
13          the receipt of out-of-State municipal solid  
14          waste for a period ending 3 years after the  
15          enactment of this section.

16          “(iv) *CONTRACT AND SPOT WASTE*.—  
17          For any landfill or incinerator covered by  
18          this subparagraph and authorized to receive  
19          out-of-State municipal solid waste pursuant  
20          to paragraph (1)(A)(ii), if out-of-State mu-  
21          nicipal solid waste was received at such  
22          landfill or incinerator during 1993 both  
23          under a contract and otherwise, clause (ii)  
24          shall apply with respect to the waste re-  
25          ceived under the contract and clause (iii)

1           *shall apply to the other municipal solid*  
2           *waste received at the landfill or incinerator.*

3           “(B) *STATES EXERCISING RATCHET AU-*  
4           *THORITY UNDER (c)(5).—*

5           “(i) *FACILITIES COVERED.—This sub-*  
6           *paragraph shall cover only landfills and in-*  
7           *cinerators in States which establish a limit*  
8           *on out-of-State municipal solid waste under*  
9           *subsection (c)(5).*

10          “(ii) *WASTE UNDER CONTRACT.—For*  
11          *any landfill or incinerator covered by this*  
12          *subparagraph and authorized to receive out-*  
13          *of-State municipal solid waste pursuant to*  
14          *paragraph (1)(A)(ii), if out-of-State munic-*  
15          *ipal solid waste was received at such land-*  
16          *fill or incinerator during 1993 under a con-*  
17          *tract, paragraph (1)(A)(ii) shall apply to*  
18          *the amount of out-of-State municipal solid*  
19          *waste specified in the contract for the longer*  
20          *of the following periods:*

21                  “(I) *The life of the contract.*

22                  “(II) *The period ending January*  
23                  *1, 2000.*

24                  *For purposes of subclause (I), the term ‘life*  
25                  *of the contract’ shall not include any re-*

1           *newal, novation, or other extension thereof*  
2           *(as determined under State law).*

3           “(iii) *SPOT WASTE.*—*For a landfill or*  
4           *incinerator covered by this subparagraph*  
5           *and authorized to receive out-of-State mu-*  
6           *nicipal solid waste pursuant to paragraph*  
7           *(1)(A)(ii), if out-of-State municipal solid*  
8           *waste was received at such landfill or incin-*  
9           *erator during 1993 in the absence of a con-*  
10           *tract, paragraph (1)(A)(ii) shall apply to*  
11           *the receipt of out-of-State municipal solid*  
12           *waste for a period ending January 1, 2000.*

13           “(iv) *CONTRACT AND SPOT WASTE.*—  
14           *For any landfill or incinerator covered by*  
15           *this subparagraph and authorized to receive*  
16           *out-of-State municipal solid waste pursuant*  
17           *to paragraph (1)(A)(ii), if out-of-State mu-*  
18           *nicipal solid waste was received at such*  
19           *landfill or incinerator during 1993 both*  
20           *under a contract and otherwise, clause (ii)*  
21           *shall apply with respect to the waste re-*  
22           *ceived under the contract and clause (iii)*  
23           *shall apply to the other municipal solid*  
24           *waste received at the landfill or incinerator.*

1           “(3) *AVAILABILITY OF DOCUMENTATION.*—The  
2           owner or operator of a landfill or incinerator which  
3           is exempt under paragraph (1) of this subsection from  
4           the requirements of subsection (a) shall provide to the  
5           State and affected local government, and make avail-  
6           able for inspection by the public in the affected local  
7           community, a copy of the host community agreement  
8           or other documentation required under paragraph  
9           (1). The owner or operator may omit any proprietary  
10          information contained in the contracts, but shall en-  
11          sure that at least the following information is appar-  
12          ent: the volume of out-of-State municipal solid waste  
13          to be received, the source of the waste, and the dura-  
14          tion of the contract.

15          “(4) *DENIED OR REVOKED PERMITS.*—A landfill  
16          or incinerator may not receive for disposal or inciner-  
17          ation out-of-State municipal solid waste in the ab-  
18          sence of a host community agreement if the operating  
19          permit or license for the landfill or incinerator (or re-  
20          newal thereof) was denied or revoked by the appro-  
21          priate State agency before the date of enactment of  
22          this section unless such permit or license (or renewal)  
23          has been reinstated as of such date of enactment.

24          “(5) *WASTE WITHIN BI-STATE METROPOLITAN*  
25          *STATISTICAL AREAS.*—The owner or operator of a

1     *landfill or incinerator in a State may receive out-of-*  
2     *State municipal solid waste without obtaining au-*  
3     *thorization under subsection (a) from the affected*  
4     *local government if the out-of-State waste is generated*  
5     *within, and the landfill or incinerator is located*  
6     *within, the same bi-State level A metropolitan statis-*  
7     *tical area (as defined by the Office of Management*  
8     *and Budget and as listed by the Office of Manage-*  
9     *ment and Budget as of the date of enactment of this*  
10    *section) which contains two contiguous major cities*  
11    *each of which is in a different State.*

12     “(c) *AUTHORITY OF STATE TO RESTRICT OUT-OF-*  
13    *STATE MUNICIPAL SOLID WASTE.—*

14             “(1) *LIMITATIONS ON AMOUNT OF WASTE RE-*  
15    *CEIVED.—*

16                     “(A) *LIMIT FOR ALL FACILITIES IN THE*  
17    *STATE.—A State may limit the amount of out-*  
18    *of-State municipal solid waste received annually*  
19    *for disposal at each landfill or incinerator in the*  
20    *State to the limitation amount described in*  
21    *paragraph (2), except as provided in this sub-*  
22    *section. No such limit may conflict—*

23                             “(i) *with provisions of a permit spe-*  
24    *cifically authorizing the owner or operator*

1           to accept, at the facility, out-of-State mu-  
2           nicipal solid waste, or

3           “(ii) with a host community agreement  
4           entered into between the owner or operator  
5           of any such landfill or incinerator and the  
6           affected local government.

7           “(B) CONFLICT.—A limit referred to in sub-  
8           paragraph (A) shall be treated as conflicting  
9           with a permit or host community agreement if—

10           “(i) the permit or host community  
11           agreement establishes a higher limit, or

12           “(ii) the permit or host community  
13           agreement does not establish any limit,

14           on the amount of out-of-State municipal solid  
15           waste which may be received annually at the  
16           facility.

17           “(C) LIMIT FOR PARTICULAR FACILITIES.—

18           At the request of an affected local government  
19           that has not executed a host community agree-  
20           ment, the State may limit the amount of out-of-  
21           State municipal solid waste received annually  
22           for disposal at the landfill or incinerator con-  
23           cerned to the limitation amount described in  
24           paragraph (2). No such limit may conflict with  
25           provisions of a permit specifically authorizing

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

3           “(D) *EFFECT ON OTHER LAWS.*—*Nothing in*  
4           *this subsection shall be interpreted or construed*  
5           *to have any effect on any State law relating to*  
6           *contracts.*

7           “(2) *LIMITATION AMOUNT.*—*For any landfill or*  
8           *incinerator that commenced receiving documented*  
9           *out-of-State municipal solid waste before the date of*  
10          *enactment of this section, the limitation amount re-*  
11          *ferred to in paragraph (1) for any year shall be equal*  
12          *to the amount of out-of-State municipal solid waste*  
13          *received for disposal at the landfill or incinerator*  
14          *concerned during calendar year 1993. The docu-*  
15          *mentation referred to in this subparagraph shall be*  
16          *such as would result in criminal penalties in case of*  
17          *false or misleading information. Such documentation*  
18          *shall include the amount of waste received, place of*  
19          *origin, including the identity of the generator, date of*  
20          *shipment, and type of waste.*

21          “(3) *OTHER LIMITATION AMOUNT.*—(A) *Except*  
22          *as provided in subparagraph (B), the limitation*  
23          *amount referred to in paragraph (1) shall be zero for*  
24          *a landfill or incinerator authorized to receive out-of-*  
25          *State municipal solid waste solely by reason of re-*

1       *ceipt in calendar year 1993 of municipal solid waste*  
2       *that was not received under contract or otherwise au-*  
3       *thorized under this section.*

4               “(B) *The limitation amount of zero referred to*  
5       *in subparagraph (A) shall not be applicable to receipt*  
6       *of any out-of-State municipal solid waste by the land-*  
7       *fill or incinerator if the owner or operator, on the*  
8       *date of enactment of this section, owned the land on*  
9       *which the facility that received such waste is located.*

10              “(4) *NO DISCRIMINATION.—Except as provided*  
11       *in paragraph (5), in establishing a limitation under*  
12       *this subsection, a State shall act in a consistent man-*  
13       *ner that does not discriminate against any shipments*  
14       *of out-of-State municipal solid waste on the basis of*  
15       *State of origin.*

16              “(5) *ADDITIONAL LIMIT FOR MUNICIPAL*  
17       *WASTE.—(A) Any State (hereinafter in this para-*  
18       *graph referred to as an ‘importing State’) that im-*  
19       *ported more than 750,000 tons of out-of-State municipi-*  
20       *pal solid waste in 1993 may establish a limit under*  
21       *this paragraph on the amount of out-of-State municipi-*  
22       *pal solid waste received pursuant to the authority of*  
23       *subsection (b)(1)(A)(ii) for disposal at landfills and*  
24       *incinerators in the importing State. A limit under*  
25       *this paragraph shall be in addition to, or in lieu of,*

1 *any other limit imposed under this subsection. A*  
2 *limit under this paragraph may be imposed only if*  
3 *each of the following requirements are met:*

4 *“(i) The limit shall not conflict (within the*  
5 *meaning of paragraph (1)(B)) with any permit*  
6 *or host community agreement authorizing the re-*  
7 *ceipt of out-of-State municipal solid waste.*

8 *“(ii) The importing State shall notify the*  
9 *Governor of the exporting State or States of the*  
10 *proposed limit at least 12 months before imposi-*  
11 *tion of the limit.*

12 *“(iii) The importing State shall notify the*  
13 *Governor of the exporting State or States of the*  
14 *proposed limit at least 90 days before enforce-*  
15 *ment of the limit.*

16 *“(iv) The percentage reduction in the*  
17 *amount of out-of-State municipal solid waste*  
18 *which is received at each facility in the import-*  
19 *ing State at which a limit may be established*  
20 *under this paragraph shall be uniform for all*  
21 *such facilities.*

22 *“(B) The limit established under this paragraph*  
23 *shall be a percentage of the amount of out-of-State*  
24 *municipal solid waste generated in the exporting*  
25 *State during calendar year 1993 and received at fa-*

1 *cilities in the importing State in which a limit is es-*  
 2 *tablished under this paragraph. For any calendar*  
 3 *year after 1994, the percentage shall be as specified*  
 4 *in the following table:*

<b>“Calendar year:</b>	<b>Applicable Percentage:</b>
1996 .....	85
1997 .....	75
1998 .....	65
1999 .....	55
after 1999 .....	50.

5 “(d) *NEEDS DETERMINATION.*—Any comprehensive  
 6 *solid waste management plan approved under Federal or*  
 7 *State law and any implementation of such plan through*  
 8 *the State permitting process may take into account local*  
 9 *and regional needs for solid waste disposal capacity. An*  
 10 *affected local government may make a determination that*  
 11 *there is no local or regional need for a new landfill or incin-*  
 12 *erator or major modification to an existing facility in the*  
 13 *area under the jurisdiction of the affected local government.*  
 14 *Such determination shall be based on a finding that the*  
 15 *proposed facility does not have a host community agreement*  
 16 *or is inconsistent with the capacity needs established in the*  
 17 *comprehensive solid waste management plan adopted by the*  
 18 *affected local government pursuant to State law. No com-*  
 19 *prehensive solid waste management plan may expressly*  
 20 *prohibit the importation of municipal solid waste from out*  
 21 *of State.*

1       “(e) *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       “(f) *EFFECT ON INTERSTATE COMMERCE.*—No *State*  
6 *limitation established as provided in subsection (c), no*  
7 *State planning and permitting process referred to in sub-*  
8 *section (d), and no State law or regulation referred to in*  
9 *subsection (e) shall be considered to impose an undue bur-*  
10 *den on interstate commerce or to otherwise impair, restrain,*  
11 *or discriminate against interstate commerce.*

12       “(g) *ANNUAL STATE REPORT.*—Each year the owner  
13 *or operator of each landfill or incinerator receiving out-of-*  
14 *State municipal solid waste shall submit to the Governor*  
15 *of the State in which the landfill or incinerator is located*  
16 *information specifying the amount of out-of-State municipi-*  
17 *pal solid waste received for disposal during the preceding*  
18 *year. Each year each such State shall publish and make*  
19 *available to the public, a report containing information on*  
20 *the amount of out-of-State municipal solid waste received*  
21 *for disposal in the State during the preceding year.*

22       “(h) *DEFINITIONS.*—For purposes of this section:

23               “(1) *AFFECTED LOCAL GOVERNMENT.*—(A) For  
24               any landfill or incinerator, the term ‘affected local  
25               government’ shall mean—

1           “(i) the public body authorized by State law  
2           to plan for the management of municipal solid  
3           waste, a majority of the members of which are  
4           elected officials, for the area in which the landfill  
5           or incinerator is located or proposed to be lo-  
6           cated, or

7           “(ii) if there is no such body created by  
8           State law, the elected officials of the city, town,  
9           township, borough, county, or parish exercising  
10          primary responsibility for the use of land on  
11          which the facility is located or proposed to be  
12          located,

13          except that for purposes of host community agree-  
14          ments entered into before the date of enactment of this  
15          section, the term shall mean either the public body de-  
16          scribed in subparagraph (A) or the elected officials of  
17          the city, town, township, borough, county, or parish  
18          exercising primary responsibility for the use of land  
19          on which the facility is located or proposed to be  
20          located.

21          “(B) Two or more Governors of adjoining States  
22          may use the authority provided in section 1005(b) to  
23          enter into an agreement under which contiguous units  
24          of local government located in each of the adjoining  
25          States may act jointly as the affected local govern-

1 *ment for purposes of providing authorization under*  
2 *subsection (a) for municipal solid waste generated in*  
3 *one of such counties and received for disposal or*  
4 *incineration in another.*

5 *“(2) HOST COMMUNITY AGREEMENT.—The term*  
6 *‘host community agreement’ means a written, legally*  
7 *binding agreement, lawfully entered into between an*  
8 *owner or operator of a landfill or incinerator and an*  
9 *affected local government that specifically authorizes*  
10 *the landfill or incinerator to receive out-of-State*  
11 *municipal solid waste.*

12 *“(3) MUNICIPAL SOLID WASTE.—The term ‘mu-*  
13 *nicipal solid waste’ means all waste materials dis-*  
14 *carded for disposal by households, including single*  
15 *and multifamily residences, and hotels and motels.*  
16 *The term also includes waste materials generated by*  
17 *commercial, institutional, and industrial sources, to*  
18 *the extent such wastes are essentially the same as*  
19 *waste normally generated by households or were col-*  
20 *lected and disposed of with other municipal solid*  
21 *waste as part of normal municipal solid waste collec-*  
22 *tion services, and regardless of when generated, would*  
23 *be considered conditionally exempt small quantity*  
24 *generator waste under section 3001(d). Examples of*  
25 *municipal solid waste include food and yard waste,*

1 *paper, clothing, appliances, consumer product pack-*  
2 *aging, disposable diapers, office supplies, cosmetics,*  
3 *glass and metal food containers, elementary or sec-*  
4 *ondary school science laboratory waste, and household*  
5 *hazardous waste. Such term shall include debris re-*  
6 *sulting from construction, remodeling, repair, or dem-*  
7 *olition of structures other than debris that is not oth-*  
8 *erwise commingled with other municipal solid waste*  
9 *and has been determined by the generator, to be con-*  
10 *taminated. For purposes of determining whether any*  
11 *such debris is contaminated, the generator shall con-*  
12 *duct representative sampling and analysis of such de-*  
13 *bris, the results of which shall be submitted to the af-*  
14 *ected local government for record keeping purposes*  
15 *only, unless not required by the affected local govern-*  
16 *ment. Any such debris that has been determined to be*  
17 *contaminated shall be disposed of in a landfill that*  
18 *meets, at a minimum, the requirements of this sub-*  
19 *title. The term does not include any of the following:*

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

22 *“(B) Any solid waste, including contami-*  
23 *nated soil and debris, resulting from—*

24 *“(i) a response action taken under sec-*  
25 *tion 104 or 106 of the Comprehensive Envi-*

1            *ronmental Response, Compensation, and Li-*  
2            *ability Act (42 U.S.C. 9604 or 9606),*

3            *“(ii) a response action taken under a*  
4            *State law with authorities comparable to*  
5            *the authorities of section 104 or 106, or*

6            *“(iii) a corrective action taken under*  
7            *this Act.*

8            *“(C) Recyclable materials that have been*  
9            *separated, at the source of the waste, from waste*  
10           *otherwise destined for disposal or that have been*  
11           *managed separately from waste destined for*  
12           *disposal.*

13           *“(D) Materials and products returned from*  
14           *a dispenser or distributor to the manufacturer or*  
15           *an agent of the manufacturer for credit, evalua-*  
16           *tion, and possible reuse.*

17           *“(E) 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 a company with*  
25           *which the generator is affiliated.*

1           “(F) Any medical waste that is segregated  
2           from or not mixed with solid waste.

3           “(G) Sewage sludge and residuals from any  
4           sewage treatment plant, including any sewage  
5           treatment plant required to be constructed in the  
6           State of Massachusetts pursuant to any court  
7           order issued against the Massachusetts Water  
8           Resources Authority.

9           “(H) Combustion ash generated by resource  
10          recovery facilities or municipal incinerators, or  
11          waste from manufacturing or processing (includ-  
12          ing pollution control) operations not essentially  
13          the same as waste normally generated by house-  
14          holds.

15          “(4) *OUT-OF-STATE MUNICIPAL SOLID WASTE.*—  
16          The term ‘out-of-State municipal solid waste’, means,  
17          with respect to any State, municipal solid waste gen-  
18          erated outside of the State. The term includes municipi-  
19          pal solid waste generated outside of the United States.

20          “(5) *SPECIFIC AUTHORIZATION.*—For purposes  
21          of this section, the term ‘specifically authorizes’ refers  
22          to an explicit authorization, contained in a host com-  
23          munity agreement or permit, to import waste from  
24          outside the State. Such authorization may include a  
25          reference to a fixed radius surrounding the landfill or

1 *incinerator which includes an area outside the State*  
2 *or a reference to 'any place of origin', reference to*  
3 *specific places outside the State, or use of such*  
4 *phrases as 'regardless of origin' or 'outside the State'.*  
5 *The language for such authorization may vary as*  
6 *long as it clearly and affirmatively states the ap-*  
7 *proval or consent of the affected local government or*  
8 *State for receipt of municipal solid waste from*  
9 *sources or locations outside the State from which the*  
10 *owner or operator of a landfill or incinerator pro-*  
11 *poses to import it. The authorization shall not include*  
12 *general references to the receipt of waste outside the*  
13 *jurisdiction of the affected local government.*

14 *“(i) COST RECOVERY SURCHARGE.—*

15 *“(1) AUTHORITY.—A State may impose and col-*  
16 *lect a cost recovery surcharge on the combustion or*  
17 *disposal in a landfill or incinerator of out-of-State*  
18 *municipal solid waste in such State.*

19 *“(2) LIMITATION.—During the period beginning*  
20 *on the date of the enactment of this section and end-*  
21 *ing on December 31, 1996, a State may not impose*  
22 *or collect a cost recovery surcharge from a facility on*  
23 *any out-of-State municipal solid waste that meets*  
24 *both of the following conditions:*

1           “(A) *The waste is being received at the fa-*  
2           *cility under one or more contracts entered into*  
3           *before the date of the enactment of this section.*

4           “(B) *The amount of waste being received in*  
5           *a calendar year under the contract or contracts*  
6           *does not exceed the amount of waste received at*  
7           *the facility during calendar year 1993.*

8           “(3) *AMOUNT OF SURCHARGE.—The amount of*  
9           *the cost recovery surcharge may be no greater than*  
10          *the amount necessary to recover those costs deter-*  
11          *mined in conformance with paragraph (5) and in no*  
12          *event may exceed \$2 per ton of waste.*

13          “(4) *USE OF SURCHARGE COLLECTED.—All cost*  
14          *recovery surcharges collected by a State shall be used*  
15          *to fund those solid waste management programs ad-*  
16          *ministered by the State or its political subdivisions*  
17          *that incur costs for which the surcharge is collected.*

18          “(5) *CONDITIONS.—(A) Subject to subparagraphs*  
19          *(B) and (C), a State may impose and collect a cost*  
20          *recovery surcharge on the combustion or disposal*  
21          *within the State of out-of-State municipal solid waste*  
22          *if—*

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

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

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

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

10          “(B) *In no event shall a cost recovery surcharge*  
11          *be imposed by a State to the extent that the cost for*  
12          *which recovery is sought is otherwise recovered by any*  
13          *other fee or tax assessed against the generation, trans-*  
14          *portation, treatment, combustion, or disposal of solid*  
15          *waste.*

16          “(C) *The grant of a subsidy by a State with re-*  
17          *spect to entities disposing of waste generated within*  
18          *the State does not constitute discrimination for pur-*  
19          *poses of subparagraph (A)(iii).*

20          “(6) *BURDEN OF PROOF.—In any proceeding in*  
21          *which a State invokes this subsection to justify a cost*  
22          *recovery surcharge on the combustion or disposal*  
23          *within the State of out-of-State municipal solid*  
24          *waste, the State shall bear the burden of establishing*

1        *that the cost recovery surcharge satisfies the condi-*  
2        *tions set forth in paragraph (5).”.*

3        *(b) TABLE OF CONTENTS AMENDMENT.—The table of*  
4        *contents of the Solid Waste Disposal Act (42 U.S.C. prec.*  
5        *6901) is amended by adding after the item relating to sec-*  
6        *tion 4010 the following new item:*

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

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