

104TH CONGRESS  
1ST SESSION

# H. R. 2443

To amend subtitle D of the Solid Waste Disposal Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 1995

Mr. PAXON (for himself, Mr. FRISA, Mr. MANTON, Mr. TOWNS, Mr. SOLOMON, Mr. HOUGHTON, Mrs. KELLY, Mr. BOEHLERT, Mr. KING, Mr. ACKERMAN, Mr. SCHUMER, Mr. ENGEL, Mrs. MALONEY, Mr. PALLONE, Mr. LAZIO of New York, Ms. MOLINARI, Mr. MCHUGH, Mr. SERRANO, Mr. HASTERT, Mr. WALSH, and Mrs. ROUKEMA) introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To amend subtitle D of the Solid Waste Disposal Act, 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. INTERSTATE TRANSPORTATION OF MUNICI-**  
4 **PAL SOLID WASTE.**

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

1 **“SEC. 4011. INTERSTATE TRANSPORTATION OF MUNICIPAL**  
2 **SOLID WASTE.**

3 “(a) **AUTHORITY TO RESTRICT OUT-OF-STATE MU-**  
4 **NICIPAL SOLID WASTE.—**(1) Except as provided in para-  
5 graph (4), beginning January 1, 1996, if requested in  
6 writing by an affected local government, a State may pro-  
7 hibit the disposal of out-of-State municipal solid waste in  
8 any landfill or incinerator that is not covered by the excep-  
9 tions provided in subsection (b) and that is subject to the  
10 jurisdiction of the State and the affected local government.

11 “(2) Except as provided in paragraph (4), imme-  
12 diately upon the date of publication of the list required  
13 in paragraph (6)(C) and notwithstanding the absence of  
14 a request in writing by the affected local government, a  
15 State, in accordance with paragraph (5), may limit the  
16 quantity of out-of-State municipal solid waste received for  
17 disposal at each landfill or incinerator covered by the ex-  
18 ceptions provided in subsection (b) that is subject to the  
19 jurisdiction of the State, to an annual amount equal to  
20 or greater than the quantity of out-of-State municipal  
21 solid waste received for disposal at such landfill or inciner-  
22 ator during calendar year 1993.

23 “(3)(A) Except as provided in paragraph (4), any  
24 State that imported more than 750,000 tons of out-of-  
25 State municipal solid waste in 1993 may establish a limit  
26 under this paragraph on the amount of out-of-State mu-

1 nicipal solid waste received for disposal at landfills and  
2 incinerators that are not covered by host community  
3 agreements in the importing State as follows:

4 “(i) In calendar year 1997, 95 percent of the  
5 amount exported to the State in calendar year 1993.

6 “(ii) In calendar years 1998 through 2003, 95  
7 percent of the amount exported to the State in the  
8 previous year.

9 “(iii) In calendar year 2004, and each succeed-  
10 ing year, the limit shall be 65 percent of the amount  
11 exported in 1993.

12 “(iv) No exporting State shall be required  
13 under this subparagraph to reduce its exports to any  
14 importing State below the proportionate amount es-  
15 tablished herein.

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

21 “(i) In calendar year 1996, the greater of  
22 1,700,000 tons or 95 percent of the net amount ex-  
23 ported to the State in calendar year 1993.

1           “(ii) In calendar year 1997, the greater of  
2           1,500,000 tons or 95 percent of the net amount ex-  
3           ported to the State in calendar year 1996.

4           “(iii) In calendar year 1998, the greater of  
5           1,400,000 tons or 95 percent of the net amount ex-  
6           ported to the State in calendar year 1997.

7           “(iv) In calendar year 1999, the greater of  
8           1,300,000 tons or 95 percent of the net amount ex-  
9           ported to the State in calendar year 1998.

10           “(v) In calendar year 2000, the greater of  
11           1,200,000 tons or 95 percent of the net amount ex-  
12           ported to the State in calendar year 1999.

13           “(vi) In calendar year 2001, 1,100,000 tons.

14           “(vii) In calendar year 2002 or any calendar  
15           year thereafter, 1,000,000 tons.

16 For purposes of this clause, the term ‘net amount’ means,  
17 for any exporting State in any calendar year, the amount  
18 by which the total amount of municipal solid waste ex-  
19 ported by that State in the calendar year to an importing  
20 State for disposal in landfills or incinerators in the import-  
21 ing State exceeds the total amount of municipal solid  
22 waste exported in the same calendar year by the importing  
23 State to the exporting State for disposal in landfills or  
24 incinerators in the exporting State.

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

5       “(D) An importing State may take action to restrict  
6 levels of imports to reflect the appropriate level of out-  
7 of-State municipal solid waste imports if—

8               “(i) the importing State has notified the Gov-  
9 ernor of the exporting State and the Administrator,  
10 12 months prior to taking any such action, of the  
11 importing State’s intention to impose the require-  
12 ments of this section;

13               “(ii) the Governor of the importing State has  
14 notified the Governor of the exporting State and the  
15 Administrator of the violation by the exporting State  
16 of this section at least 90 days prior to taking any  
17 such action; and

18               “(iii) the restrictions imposed by the importing  
19 State are uniform at all facilities and the importing  
20 State may only apply subparagraph (A) or (B) but  
21 not both.

22       “(4)(A) A State may not exercise the authority grant-  
23 ed under this section if such action would result in the  
24 violation of, or would otherwise be inconsistent with, the  
25 terms of a host community agreement or a permit issued

1 from the State to receive out-of-State municipal solid  
2 waste.

3 “(B) A limit or prohibition under this section shall  
4 be treated as conflicting and inconsistent with a permit  
5 or host community agreement if—

6 “(i) the permit or host community agreement  
7 establishes a higher limit; or

8 “(ii) the permit or host community agreement  
9 does not establish any limit.

10 “(C) Except as provided in paragraph (3), a State  
11 may not exercise the authority granted under this section  
12 in a manner that would require any owner or operator of  
13 a landfill or incinerator covered by the exceptions provided  
14 in subsection (b) to reduce the amount of out-of-State mu-  
15 nicipal solid waste received from any State for disposal  
16 at such landfill or incinerator to an annual quantity less  
17 than the amount received from such State for disposal at  
18 such landfill or incinerator during calendar year 1993.

19 “(5) Any limitation imposed by a State under para-  
20 graph (2) or (3)—

21 “(A) shall be applicable throughout the State;

22 “(B) shall not directly or indirectly discriminate  
23 against any particular landfill or incinerator within  
24 the State; and

1           “(C) shall not directly or indirectly discriminate  
2           against any shipments of out-of-State municipal  
3           solid waste on the basis of place of origin and all  
4           such limitations shall be applied to all States in vio-  
5           lation of paragraph (3).

6           “(6)(A) Within 90 days after enactment of this sec-  
7           tion and on April 1 of each year thereafter the owner or  
8           operator of each landfill or incinerator receiving out-of-  
9           State municipal solid waste shall submit to the affected  
10          local government and to the Governor of the State in  
11          which the landfill or incinerator is located, information  
12          specifying the amount and State of origin of out-of-State  
13          municipal solid waste received for disposal during the pre-  
14          ceding calendar year, and the amount of waste that was  
15          received pursuant to host community agreements or per-  
16          mits authorizing receipt of out-of-State municipal solid  
17          waste. Within 120 days after enactment of this section  
18          and on May 1 of each year thereafter each State shall  
19          publish and make available to the Administrator, the Gov-  
20          ernor of the State of origin and the public, a report con-  
21          taining information on the amount of out-of-State municipi-  
22          pal solid waste received for disposal in the State during  
23          the preceding calendar year.

24          “(B) Each submission referred to in this section shall  
25          be such as would result in criminal penalties in case of

1 false or misleading information. Such information shall in-  
2 clude the date and amount of waste received, the State  
3 of origin, and the type of out-of-State municipal solid  
4 waste. States making submissions referred to in this sec-  
5 tion to the Administrator shall notice these submissions  
6 for public review and comment at the State level before  
7 submitting them to the Administrator.

8       “(C) The Administrator shall publish a list of import-  
9 ing States and the out-of-State municipal solid waste re-  
10 ceived from each State at landfills or incinerators not cov-  
11 ered by host community agreements or permits authoriz-  
12 ing receipt of out-of-State municipal solid waste. The list  
13 for any calendar year shall be published by June 1 of the  
14 following calendar year.

15       “(D) Nothing in this subsection shall be construed  
16 to preempt any State requirement that requires more fre-  
17 quent reporting of information.

18       “(E) For purposes of developing the list required in  
19 this section, the Administrator shall be responsible for col-  
20 lating and publishing only that information provided to  
21 the Administrator by States pursuant to this section. The  
22 Administrator shall not be required to gather additional  
23 data over and above that provided by the States pursuant  
24 to this section, nor to verify data provided by the States  
25 pursuant to this section, nor to arbitrate or otherwise en-

1 certain or resolve disputes between States or other parties  
2 concerning interstate movements of municipal solid waste.

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

8 “(A) notify the Governor, contiguous local gov-  
9 ernments, and any contiguous Indian tribes;

10 “(B) publish notice of the action in a news-  
11 paper of general circulation at least 30 days before  
12 taking such action;

13 “(C) provide an opportunity for public com-  
14 ment; and

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

18 “(8) Any owner or operator seeking a host commu-  
19 nity agreement after the date of enactment of this section  
20 shall provide to the affected local government the following  
21 information, which shall be made available to the public  
22 from the affected local government:

23 “(A) A brief description of the planned facility,  
24 including a description of the facility size, ultimate

1 waste capacity, and anticipated monthly and yearly  
2 waste quantities to be handled.

3 “(B) A map of the facility site that indicates  
4 the location of the facility in relation to the local  
5 road system and topographical and hydrological fea-  
6 tures and any buffer zones and facility units to be  
7 acquired by the owner or operator of the facility.

8 “(C) A description of the existing environ-  
9 mental conditions at the site, and any violations of  
10 applicable laws or regulations.

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

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

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

20 “(G) Any information that is required by State  
21 or Federal law to be provided with respect to any  
22 violations of environmental laws (including regula-  
23 tions) by the owner and operator, the disposition of  
24 enforcement proceedings taken with respect to the

1 violations, and corrective measures taken as a result  
2 of the proceedings.

3 “(H) Any information that is required by State  
4 or Federal law to be provided with respect to compli-  
5 ance by the owner or operator with the State solid  
6 waste management plan.

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

13 “(A) received during calendar year 1993 docu-  
14 mented shipments of out-of-State municipal solid  
15 waste; and

16 “(B)(i) in the case of landfills, are in compli-  
17 ance with all applicable Federal and State laws and  
18 regulations relating to operation, design and location  
19 standards, leachate collection, ground water monitor-  
20 ing, and financial assurance for closure and post-clo-  
21 sure and corrective action; or

22 “(ii) in the case of incinerators, are in compli-  
23 ance with the applicable requirements of section 129  
24 of the Clean Air Act (42 U.S.C. 7429) and applica-

1 ble State laws and regulations relating to facility de-  
2 sign and operations.

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

9 “(c) ADDITIONAL AUTHORITY TO LIMIT OUT-OF-  
10 STATE MUNICIPAL SOLID WASTE.—(1) In any case in  
11 which an affected local government is considering entering  
12 into a host community agreement and the disposal or in-  
13 cineration of out-of-State municipal solid waste under  
14 such agreement would preclude the use of municipal solid  
15 waste management capacity described in paragraph (2),  
16 the State in which the affected local government is located  
17 may prohibit the execution of such host community agree-  
18 ment with respect to that capacity.

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

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

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

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

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

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

11          “(2) to affect the authority of any State or local  
12          government to protect public health and the environ-  
13          ment through laws, regulations, and permits, includ-  
14          ing the authority to limit the total amount of munic-  
15          ipal solid waste that landfill or incinerator owners or  
16          operators within the jurisdiction of a State may ac-  
17          cept during a prescribed period: *Provided* That such  
18          limitations do not discriminate between in-State and  
19          out-of-State municipal solid waste, except to the ex-  
20          tent authorized by this section; or

21          “(3) to authorize, require, result in the violation  
22          or failure of, or mandate the renegotiation of, a  
23          written, legally binding contract entered into before  
24          the enactment of this section.

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

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

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

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

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

22                   “(ii) If a Governor fails to make and publish  
23                   notice of such a designation, the affected local gov-  
24                   ernment shall be the elected officials of the city,  
25                   town, township, borough, county, parish, or other

1 public body created pursuant to State law with pri-  
2 mary jurisdiction over the land or the use of land  
3 on which the facility is located or is proposed to be  
4 located.

5 “(C) For purposes of host community agree-  
6 ments entered into before the date of publication of  
7 the notice, the term means either a public body de-  
8 scribed in subparagraph (A)(i) or the elected offi-  
9 cials of any of the public bodies described in sub-  
10 paragraph (A)(ii).

11 “(2) The term ‘host community agreement’  
12 means a written, legally binding document or docu-  
13 ments executed by duly authorized officials of an af-  
14 fected local government and an owner or operator of  
15 a landfill or incinerator and that specifically author-  
16 izes a landfill or incinerator to receive municipal  
17 solid waste generated out-of-State, but does not in-  
18 clude any agreement to pay differential host commu-  
19 nity fees for receipt of waste unless additional spe-  
20 cific authorization to receive out-of-State municipal  
21 solid waste is also included. In the case of an agree-  
22 ment entered into prior to December 31, 1987, pro-  
23 visions for the payment of a fee by the owner or op-  
24 erator for disposal by any State or out-of-State en-

1       tity shall be treated as a specific authorization to  
2       import waste from outside the State.

3               “(3) The terms ‘specifically authorized’ ‘specific  
4       authorization’ and ‘specifically authorizes’ refer to  
5       an explicit authorization, contained in a host com-  
6       munity agreement or permit, to import waste from  
7       outside the State. Such authorization may include a  
8       reference to a fixed radius surrounding the landfill  
9       or incinerator that includes an area outside the  
10      State or a reference to any place of origin, reference  
11      to specific places outside the State, or use of such  
12      phrases as ‘regardless of origin’ or ‘outside the  
13      State’. The language for such authorization may  
14      vary as long as it reasonably evidences the approval  
15      or consent of the affected local government or State  
16      for receipt of municipal solid waste from sources  
17      outside the State.

18              “(4) The term ‘out-of-State municipal solid  
19      waste’ means, with respect to any State, municipal  
20      solid waste generated outside of the State. Unless  
21      the President determines it is inconsistent with the  
22      North American Free Trade Agreement and the  
23      General Agreement on Tariffs and Trade, the term  
24      shall include municipal solid waste generated outside  
25      of the United States. Notwithstanding any other

1 provision of law, generators of municipal solid waste  
2 outside the United States shall possess no greater  
3 right of access to disposal facilities in a State than  
4 United States generators of municipal solid waste  
5 outside of that State.

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

15 “(A) any solid waste identified or listed as  
16 a hazardous waste under section 3001;

17 “(B) any solid waste, including contami-  
18 nated soil and debris, resulting from a response  
19 action taken under section 104 or 106 of the  
20 Comprehensive Environmental Response, Com-  
21 pensation, and Liability Act of 1980 (42 U.S.C.  
22 9604 or 9606) or a corrective action taken  
23 under this Act;

24 “(C) any metal, pipe, glass, plastic, paper,  
25 textile, or other material that has been sepa-

1 rated or diverted from municipal solid waste (as  
2 otherwise defined in this paragraph) and has  
3 been transported into a State for the purpose of  
4 recycling or reclamation;

5 “(D) any solid waste that is—

6 “(i) generated by an industrial facil-  
7 ity; and

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

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

19 “(F) any industrial waste that is not iden-  
20 tical to municipal solid waste (as otherwise de-  
21 fined in this paragraph) with respect to the  
22 physical and chemical state of the industrial  
23 waste, and composition;

24 “(G) any construction and demolition de-  
25 bris from any source;

1           “(H) any sewage sludge and residuals from  
2 any sewage treatment plant; or

3           “(I) any combustion ash generated by re-  
4 source recovery facilities or municipal inciner-  
5 ators, or waste from manufacturing or process-  
6 ing (including pollution control) operations not  
7 essentially the same as waste normally gen-  
8 erated by households; or

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

12           “(K) any material or product returned  
13 from a dispenser or distributor to the manufac-  
14 turer for credit, evaluation, or possible reuse.

15           “(5) The term ‘compliance’ means a pattern or  
16 practice of adhering to and satisfying standards and  
17 requirements promulgated by the Federal or a State  
18 government for the purpose of preventing significant  
19 harm to human health and the environment. Actions  
20 undertaken in accordance with compliance schedules  
21 for remediation established by Federal or State en-  
22 forcement authorities shall be considered compliance  
23 for purposes of this section.

24           “(f) IMPLEMENTATION AND ENFORCEMENT.—Any  
25 State may adopt such laws and regulations, not inconsist-

1 ent with this section, as are necessary to implement and  
2 enforce this section, including provisions for penalties.

3 “(g) SUNSET.—The provisions of this section shall  
4 cease to apply on the date 10 years after the enactment  
5 of this section.”.

6 (b) TABLE OF CONTENTS AMENDMENT.—The table  
7 of contents in section 1001 of the Solid Waste Disposal  
8 Act (42 U.S.C. prec. 6901) is amended by adding at the  
9 end of the items relating to subtitle D the following new  
10 item:

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



HR 2443 IH—2

HR 2443 IH—3