

105TH CONGRESS  
1ST SESSION

# S. 899

To amend the Solid Waste Disposal Act to provide for flow control of municipal solid waste.

---

IN THE SENATE OF THE UNITED STATES

JUNE 12, 1997

Mr. DODD introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

---

## A BILL

To amend the Solid Waste Disposal Act to provide for flow control of municipal solid waste.

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 “Municipal Solid Waste  
5 Disposal Act of 1997”.

---

1 **SEC. 2. STATE AND LOCAL GOVERNMENT CONTROL OF**  
 2 **MOVEMENT OF MUNICIPAL SOLID WASTE**  
 3 **AND RECYCLABLE MATERIAL.**

4 (a) IN GENERAL.—Subtitle D of the Solid Waste Dis-  
 5 posal Act (42 U.S.C. 6941 et seq.) is amended by adding  
 6 at the end the following:

7 **“SEC. 4011. STATE AND LOCAL GOVERNMENT CONTROL OF**  
 8 **MOVEMENT OF MUNICIPAL SOLID WASTE**  
 9 **AND RECYCLABLE MATERIAL.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) DESIGNATE.—The term ‘designate’, in ref-  
 12 erence to the action of a State, political subdivision,  
 13 or public service authority in designating a waste  
 14 management facility, means to authorize, require, or  
 15 contractually commit that all or any portion of the  
 16 municipal solid waste or recyclable material that is  
 17 generated within the boundaries of the State, politi-  
 18 cal subdivision, or public service authority be deliv-  
 19 ered to waste management facilities or facilities for  
 20 recyclable material or a public service authority iden-  
 21 tified by the State, political subdivision, or public  
 22 service authority.

23 “(2) FLOW CONTROL AUTHORITY.—The term  
 24 ‘flow control authority’ means the authority to con-  
 25 trol the movement of municipal solid waste or volun-  
 26 tarily relinquished recyclable material and direct mu-

1       municipal solid waste or voluntarily relinquished recy-  
2       clable material to a designated waste management  
3       facility or facility for recyclable material.

4           “(3) LEGALLY BINDING PROVISION OF THE  
5       STATE OR POLITICAL SUBDIVISION.—For purposes  
6       of the authority conferred by subsections (b) and (c),  
7       the term ‘legally binding provision of the State or  
8       political subdivision’ includes a put or pay agree-  
9       ment that designates waste to a waste management  
10      facility that was in operation on or before December  
11      31, 1988, and that requires an aggregate tonnage to  
12      be delivered to the facility during each operating  
13      year by the political subdivisions that have entered  
14      put or pay agreements designating that waste man-  
15      agement facility. The entering into of a put or pay  
16      agreement shall be considered to be a designation  
17      (as defined in subsection (a)(1)) for purposes of this  
18      title.

19           “(4) MUNICIPAL SOLID WASTE.—

20           “(A) IN GENERAL.—The term ‘municipal  
21      solid waste’ means solid waste generated by the  
22      general public or from a residential, commer-  
23      cial, institutional, or industrial source, consist-  
24      ing of paper, wood, yard waste, plastics, leath-  
25      er, rubber, and other combustible material and

1 noncombustible material such as metal and  
2 glass, including residue remaining after recycla-  
3 ble material has been separated from waste des-  
4 tined for disposal, and including waste material  
5 removed from a septic tank, seepage pit, or  
6 cesspool (other than from portable toilets).

7 “(B) EXCLUSIONS.—The term ‘municipal  
8 solid waste’ does not include—

9 “(i) waste identified or listed as a  
10 hazardous waste under section 3001 or  
11 waste regulated under the Toxic Sub-  
12 stances Control Act (15 U.S.C. 2601 et  
13 seq.);

14 “(ii) waste, including contaminated  
15 soil and debris, resulting from a response  
16 action taken under section 104 or 106 of  
17 the Comprehensive Environmental Re-  
18 sponse, Compensation, and Liability Act of  
19 1980 (42 U.S.C. 9604, 9606) or any cor-  
20 rective action taken under this Act;

21 “(iii) medical waste listed in section  
22 11002;

23 “(iv) industrial waste generated by  
24 manufacturing or industrial processes, in-

1 cluding waste generated during scrap proc-  
 2 essing and scrap recycling;

3 “(v) recyclable material; or

4 “(vi) sludge.

5 “(5) POLITICAL SUBDIVISION.—The term ‘polit-  
 6 ical subdivision’ means a political subdivision of a  
 7 State.

8 “(6) PUBLIC SERVICE AUTHORITY.—The term  
 9 ‘public service authority’ means—

10 “(A) an authority or authorities created  
 11 pursuant to State legislation to provide individ-  
 12 ually or in combination solid waste management  
 13 services to political subdivisions;

14 “(B) other body created pursuant to State  
 15 law; or

16 “(C) an authority that was issued a certifi-  
 17 cate of incorporation by a State corporation  
 18 commission established by a State constitution.

19 “(7) PUT OR PAY AGREEMENT.—The term ‘put  
 20 or pay agreement’ means an agreement that obli-  
 21 gates or otherwise requires a State, political subdivi-  
 22 sion, or *public service authority* to—

23 “(A) deliver a minimum quantity of munic-  
 24 ipal solid waste to a waste management facility;  
 25 and

1           “(B) pay for that minimum quantity of  
2           municipal solid waste even if the stated mini-  
3           mum quantity of municipal solid waste is not  
4           delivered within a required period of time.

5           “(8) RECYCLABLE MATERIAL.—The term ‘recy-  
6           clable material’ means material that has been sepa-  
7           rated from waste otherwise destined for disposal (at  
8           the source of the waste or at a processing facility)  
9           or has been managed separately from waste destined  
10          for disposal, for the purpose of recycling, reclama-  
11          tion, composting of organic material such as food  
12          and yard waste, or reuse (other than for the purpose  
13          of incineration).

14          “(9) WASTE MANAGEMENT FACILITY.—The  
15          term ‘waste management facility’ means a facility  
16          that collects, separates, stores, transports, transfers,  
17          treats, processes, combusts, or disposes of municipal  
18          solid waste.

19          “(b) AUTHORITY.—

20          “(1) IN GENERAL.—Each State, political sub-  
21          division, or public service authority may exercise  
22          flow control authority for municipal solid waste and  
23          for recyclable material voluntarily relinquished by  
24          the owner or generator of the material that is gen-  
25          erated within its jurisdiction by directing the munic-

1 pal solid waste or recyclable material to a waste  
2 management facility or public service authority or  
3 facility for recyclable material, if the flow control  
4 authority—

5 “(A)(i) had been exercised before May 15,  
6 1994, and was being implemented on May 15,  
7 1994, pursuant to a law (including an ordi-  
8 nance or regulation) or other legally binding  
9 provision of the State or political subdivision; or

10 “(ii) had been exercised before May 15,  
11 1994, without regard to whether implementa-  
12 tion of such a law (including an ordinance or  
13 regulation) or other legally binding provision of  
14 the State or political subdivision was prevented  
15 by an injunction, temporary restraining order,  
16 or other court action, or was suspended by the  
17 voluntary decision of the State or political sub-  
18 division because of the pendency of a court ac-  
19 tion; or

20 “(B) has been implemented by designating  
21 before May 15, 1994, the particular waste man-  
22 agement facilities or public service authority to  
23 which the municipal solid waste or recyclable  
24 material is to be delivered, which facilities were  
25 in operation as of May 15, 1994, or were in op-

1           eration before May 15, 1994, and were tempo-  
2           rarily inoperative on May 15, 1994.

3           “(2) LIMITATION.—The authority of this sec-  
4           tion extends only to the specific classes or categories  
5           of municipal solid waste to which flow control au-  
6           thority requiring a movement to a waste manage-  
7           ment facility was applied on or before May 15, 1994  
8           (or, in the case of a State, political subdivision, or  
9           public service authority that qualifies under sub-  
10          section (c), to the specific classes or categories of  
11          municipal solid waste for which the State, political  
12          subdivision, or public service authority before May  
13          15, 1994, had committed to the designation of a  
14          waste management facility).

15          “(3) LACK OF CLEAR IDENTIFICATION.—With  
16          regard to facilities granted flow control authority  
17          under subsection (c), if the specific classes or cat-  
18          egories of municipal solid waste are not clearly iden-  
19          tified, the authority of this section shall apply only  
20          to municipal solid waste generated by households.

21          “(4) EFFECTIVE PERIOD OF AUTHORITY.—  
22          With respect to each designated waste management  
23          facility, the authority of this section shall be effec-  
24          tive during the period ending on the later of—

1           “(A) the end of the remaining life of a con-  
2           tract between the State, political subdivision, or  
3           public service authority and any other person  
4           regarding the movement or delivery of municipi-  
5           pal solid waste or voluntarily relinquished recy-  
6           clable material to a designated facility (as in ef-  
7           fect May 15, 1994);

8           “(B) completion of the schedule for pay-  
9           ment of the capital costs of the facility con-  
10          cerned (as in effect May 15, 1994 (without re-  
11          gard to whether the capital costs are subse-  
12          quently refinanced to provide a reduced interest  
13          rate with no change in amount or maturity); or

14          “(C) the end of the remaining useful life of  
15          the facility (as in existence on the date of en-  
16          actment of this section), as that remaining life  
17          may be extended by—

18                 “(i) retrofitting of equipment or the  
19                 making of other significant modifications  
20                 to meet applicable environmental require-  
21                 ments or safety requirements;

22                 “(ii) routine repair or scheduled re-  
23                 placement of equipment or components  
24                 that does not add to the capacity of a  
25                 waste management facility; or

1                   “(iii) expansion of the facility on land  
2                   that is—

3                               “(I) legally or equitably owned,  
4                               or under option to purchase or lease,  
5                               by the owner or operator of the facil-  
6                               ity; and

7                               “(II) covered by the permit for  
8                               the facility (as in effect May 15,  
9                               1994).

10                   “(5) ADDITIONAL AUTHORITY.—

11                               “(A) APPLICATION OF PARAGRAPH.—This  
12                   paragraph applies to a State or political sub-  
13                   division that, on or before January 1, 1984—

14                               “(i) adopted a regulation under State  
15                               law that required the transportation to,  
16                               and management or disposal at, waste  
17                               management facilities in the State, of—

18                                       “(I) all solid waste from residen-  
19                                       tial, commercial, institutional, or in-  
20                                       dustrial sources (as defined under  
21                                       State law); and

22                                       “(II) recyclable material volun-  
23                                       tarily relinquished by the owner or  
24                                       generator of the recyclable material;  
25                                       and

1           “(ii) as of January 1, 1984, had im-  
2           plemented the regulation in the case of  
3           every political subdivision of the State.

4           “(B) AUTHORITY.—Notwithstanding any-  
5           thing to the contrary in this section (including  
6           subsection (m)), a State or political subdivision  
7           described in subparagraph (A) may continue to  
8           exercise flow control authority (including des-  
9           ignation of waste management facilities in the  
10          State that meet the requirements of subsection  
11          (c)) for all classes and categories of solid waste  
12          that were subject to flow control on January 1,  
13          1984.

14          “(6) FLOW CONTROL ORDINANCE.—

15                 “(A) IN GENERAL.—Notwithstanding any-  
16                 thing to the contrary in this section, but subject  
17                 to subsection (m), during the effective period  
18                 described in paragraph (4), a political subdivi-  
19                 sion that adopted a flow control ordinance in  
20                 November 1991, and designated facilities to re-  
21                 ceive municipal solid waste before April 1,  
22                 1992, may exercise flow control authority until  
23                 the end of the remaining life of all contracts be-  
24                 tween the political subdivision and any other  
25                 person regarding the movement or delivery of

1           municipal solid waste or voluntarily relinquished  
2           recyclable material to a designated facility (as  
3           in effect May 15, 1994).

4           “(B) LIMITATION.—The authority under  
5           subparagraph (A) applies only with respect to  
6           the specific classes or categories of municipal  
7           solid waste to which flow control authority was  
8           actually applied on or before May 15, 1994.

9           “(c) COMMITMENT TO CONSTRUCTION.—

10           “(1) IN GENERAL.—Notwithstanding subpara-  
11           graphs (A) and (B) of subsection (b)(1), a political  
12           subdivision may exercise flow control authority  
13           under subsection (b), if—

14           “(A)(i) the law (including an ordinance or  
15           regulation) or other legally binding provision  
16           specifically provides for flow control authority  
17           for municipal solid waste generated within the  
18           boundaries of the political subdivision; and

19           “(ii) the authority was exercised before  
20           May 15, 1995, and was being implemented on  
21           May 15, 1994; or

22           “(B) before May 15, 1994, the political  
23           subdivision committed to the designation of the  
24           particular waste management facilities or public  
25           service authority to which municipal solid waste

1 is to be transported or at which municipal solid  
2 waste is to be disposed of under that law (in-  
3 cluding an ordinance or regulation), plan, or le-  
4 gally binding provision.

5 “(2) FACTORS DEMONSTRATING COMMIT-  
6 MENT.—A commitment to the designation of waste  
7 management facilities or public service authority is  
8 demonstrated by 1 or more of the following factors:

9 “(A) CONSTRUCTION PERMITS.—All per-  
10 mits required for the substantial construction of  
11 the facility were obtained before May 15, 1994.

12 “(B) CONTRACTS.—All contracts for the  
13 substantial construction of the facility were in  
14 effect before May 15, 1994.

15 “(C) REVENUE BONDS.—Before May 15,  
16 1994, revenue bonds were presented for sale to  
17 specifically provide revenue for the construction  
18 of the facility (without regard to whether the  
19 revenue bonds are subsequently refinanced to  
20 provide a reduced interest rate with no change  
21 in amount or maturity).

22 “(D) CONSTRUCTION AND OPERATING  
23 PERMITS.—The State or political subdivision  
24 submitted to the appropriate regulatory agency  
25 or agencies, on or before May 15, 1994, sub-

1           stantially complete permit applications for the  
2           construction and operation of the facility.

3           “(d) FORMATION OF SOLID WASTE MANAGEMENT  
4 DISTRICT TO PURCHASE AND OPERATE EXISTING FACIL-  
5 ITY.—Notwithstanding subparagraphs (A) and (B) of sub-  
6 section (b)(1), a solid waste management district that was  
7 formed by a number of political subdivisions for the pur-  
8 pose of purchasing and operating a facility owned by 1  
9 of the political subdivisions may exercise flow control au-  
10 thority under subsection (b) if—

11           “(1) the facility was fully licensed and in oper-  
12 ation before May 15, 1994;

13           “(2) before April 1, 1994, substantial negotia-  
14 tions and preparation of documents for the forma-  
15 tion of the district and purchase of the facility were  
16 completed;

17           “(3) before May 15, 1994, at least 80 percent  
18 of the political subdivisions that were to participate  
19 in the solid waste management district had adopted  
20 an ordinance committing the political subdivisions to  
21 the participation, and the remaining political sub-  
22 divisions adopted such an ordinance within 2 months  
23 after that date; and

24           “(4) the financing was completed (without re-  
25 gard to whether the revenue bonds are subsequently

1       refinanced to provide a reduced interest rate with no  
2       change in amount or maturity), the acquisition was  
3       made, and the facility was placed under operation by  
4       the solid waste management district on or before  
5       September 21, 1994.

6       “(e) FACILITY CONSTRUCTED AND OPERATED.—  
7       During the effective period described in subsection (b)(4),  
8       a political subdivision may exercise flow control authority  
9       for municipal solid waste and for recyclable material vol-  
10      untarily relinquished by the owner or generator of the ma-  
11      terial that is generated within the jurisdiction of the politi-  
12      cal subdivision if—

13               “(1) before May 15, 1994, the political subdivi-  
14      sion—

15                       “(A) contracted with a public service au-  
16                      thority or with its operator, to deliver or cause  
17                      to be delivered to the public service authority  
18                      substantially all of the disposable municipal  
19                      solid waste that is generated or collected by or  
20                      is within or under the control of the political  
21                      subdivision, for the purpose of supporting reve-  
22                      nue bonds issued by and in the name of the  
23                      public service authority or on its behalf by a  
24                      State entity for waste management facilities; or

1           “(B) entered into contracts with a public  
2 service authority or its operator to deliver or  
3 cause to be delivered to the public service au-  
4 thority substantially all of the disposable munic-  
5 ipal solid waste that is generated or collected by  
6 or within the control of the political subdivision,  
7 which imposed flow control pursuant to a law  
8 (including an ordinance or regulation) or other  
9 legally binding provision, if revenue bonds were  
10 issued in the name of the public service author-  
11 ity for waste management facilities and out-  
12 standing (without regard to whether the reve-  
13 nue bonds are subsequently refinanced to pro-  
14 vide a reduced interest rate with no change in  
15 amount or maturity); and

16           “(2) before May 15, 1994, the public service  
17 authority—

18           “(A) issued the revenue bonds or had reve-  
19 nue bonds issued on its behalf by a State entity  
20 for the construction of municipal solid waste fa-  
21 cilities to which the municipal solid waste of the  
22 political subdivision is transferred or disposed  
23 (without regard to whether the revenue bonds  
24 are subsequently refinanced to provide a re-

1           duced interest rate with no change in amount  
2           or maturity); and

3           “(B) commenced operation of the facilities.

4           “(f) STATE-MANDATED DISPOSAL SERVICES.—Dur-  
5 ing the effective period described in subsection (b)(4), a  
6 political subdivision may exercise flow control authority for  
7 municipal solid waste and for recyclable material volun-  
8 tarily relinquished by the owner or generator of the mate-  
9 rial that is generated within the jurisdiction of the political  
10 subdivision if, before May 15, 1994, the political subdivi-  
11 sion—

12           “(1) was responsible under State law for pro-  
13 viding for the operation of solid waste facilities to  
14 serve the disposal needs of all incorporated and un-  
15 incorporated areas of the county;

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

19           “(3) has been authorized by State statute to ex-  
20 ercise flow control authority and had implemented  
21 the authority through the adoption or execution of  
22 a law (including an ordinance or regulation), con-  
23 tract, or other legally binding provision; and

24           “(4) had incurred, or caused a public service  
25 authority to incur, significant financial expenditures

1 to comply with State law and to repay outstanding  
 2 bonds that were issued specifically for the construc-  
 3 tion of solid waste management facilities to which  
 4 the waste of the political subdivision is to be deliv-  
 5 ered.

6 “(g) STATE SOLID WASTE DISTRICT AUTHORITY.—  
 7 A solid waste district or a political subdivision may exer-  
 8 cise flow control authority for municipal solid waste and  
 9 for recyclable material voluntarily relinquished by the  
 10 owner or generator of the material that is generated with-  
 11 in the jurisdiction of the political subdivision if—

12 “(1) the solid waste district or a political sub-  
 13 division within the solid waste district—

14 “(A) is currently required to initiate a re-  
 15 cyclable material recycling program in order to  
 16 meet a municipal solid waste reduction goal of  
 17 at least 30 percent by the year 2005; and

18 “(B) uses revenues generated by the exer-  
 19 cise of flow control authority strictly to imple-  
 20 ment programs to manage municipal solid  
 21 waste, other than development of incineration;  
 22 and

23 “(2) before May 15, 1994, the solid waste dis-  
 24 trict or political subdivision or municipality—

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

5           “(B) was authorized by State statute (en-  
6 acted before January 1, 1992) to exercise flow  
7 control authority, and subsequently adopted or  
8 sought to exercise the authority through a law  
9 (including an ordinance or regulation), regu-  
10 latory proceeding, contract, franchise, or other  
11 legally binding provision; and

12           “(C) was required by State statute (en-  
13 acted before January 1, 1992) to develop and  
14 implement a solid waste management plan con-  
15 sistent with the State solid waste management  
16 plan, and the solid waste management plan of  
17 the solid waste district or political subdivision  
18 or municipality was approved by the appro-  
19 priate State agency before September 15, 1994.

20           “(h) STATE-AUTHORIZED SERVICES AND LOCAL  
21 PLAN ADOPTION.—A political subdivision may exercise  
22 flow control authority for municipal solid waste and for  
23 recyclable material voluntarily relinquished by the owner  
24 or generator of the material that is generated within the

1 jurisdiction of the political subdivision if, before May 15,  
2 1994, the political subdivision—

3           “(1) had been authorized by a State statute  
4 that specifically named the political subdivision to  
5 exercise flow control authority and had implemented  
6 the authority through a law (including an ordinance  
7 or regulation), contract, or other legally binding pro-  
8 vision;

9           “(2) had adopted a local solid waste manage-  
10 ment plan pursuant to State statute and was re-  
11 quired by State statute to adopt the plan in order  
12 to submit a complete permit application to construct  
13 a new solid waste management facility proposed in  
14 the plan;

15           “(3) had presented for sale a revenue or general  
16 obligation bond to provide for the site selection, per-  
17 mitting, or acquisition for construction of new facili-  
18 ties identified and proposed in the local solid waste  
19 management plan of the political subdivision (with-  
20 out regard to whether the revenue or general obliga-  
21 tion bond is subsequently refinanced to provide a re-  
22 duced interest rate with no change in amount or ma-  
23 turity);

24           “(4) includes a municipality or municipalities  
25 required by State law to adopt a local law (including

1 an ordinance) to require that solid waste that has  
2 been left for collection shall be separated into recy-  
3 clable, reusable, or other components for which eco-  
4 nomic markets exist; and

5 “(5) is in a State that has aggressively pursued  
6 closure of substandard municipal landfills, both by  
7 regulatory action and under statute designed to pro-  
8 tect deep flow recharge areas in counties in which  
9 potable water supplies are derived from sole source  
10 aquifers.

11 “(i) RETAINED AUTHORITY.—

12 “(1) REQUEST.—On the request of a generator  
13 of municipal solid waste affected by this section, a  
14 State or political subdivision may authorize the di-  
15 version of all or a portion of the solid waste gen-  
16 erated by the generator making the request to an al-  
17 ternative solid waste treatment or disposal facility, if  
18 the purpose of the request is to provide a higher  
19 level of protection for human health and the environ-  
20 ment or reduce potential future liability of the gen-  
21 erator under Federal or State law for the manage-  
22 ment of the municipal solid waste, unless the State  
23 or political subdivision determines that the facility to  
24 which the municipal solid waste is proposed to be di-  
25 verted does not provide a higher level of protection

1 for human health and the environment or does not  
2 reduce the potential future liability of the generator  
3 under Federal or State law for the management of  
4 the municipal solid waste.

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

10 “(j) LIMITATIONS ON REVENUE.—A State or politi-  
11 cal subdivision may exercise flow control authority under  
12 subsection (b), (c), (d), or (e) only if the State or political  
13 subdivision certifies that the use of any of its revenues  
14 derived from the exercise of the authority will be used for  
15 solid waste management services or related landfill rec-  
16 lamation.

17 “(k) REASONABLE REGULATION OF COMMERCE.—A  
18 law, ordinance, regulation, or other legally binding provi-  
19 sion or official act or political subdivision, as described in  
20 subsection (b), (c), (d), or (e), that implements flow con-  
21 trol authority in compliance with this section shall be con-  
22 sidered to be a reasonable regulation of commerce retro-  
23 active to its date of enactment or effective date and shall  
24 not be considered to be an undue burden on or otherwise

1 considered as impairing, restraining, or discriminating  
2 against interstate commerce.

3 “(1) EFFECT ON EXISTING LAWS AND CONTRACTS.—

4 “(1) ENVIRONMENTAL LAWS.—Nothing in this  
5 section has any effect on any other law relating to  
6 the protection of human health and the environment  
7 or the management of municipal solid waste or recy-  
8 clable material.

9 “(2) STATE LAW.—Nothing in this section au-  
10 thorizes a political subdivision to exercise the flow  
11 control authority granted by this section in a man-  
12 ner that is inconsistent with State law.

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

15 “(A) authorizes a State or political subdivi-  
16 sion to require a generator or owner of recycla-  
17 ble material to transfer recyclable material to  
18 the State or political subdivision; or

19 “(B) prohibits a generator or owner of re-  
20 cyclable material from selling, purchasing, ac-  
21 cepting, conveying, or transporting recyclable  
22 material for the purpose of transformation or  
23 remanufacture into usable or marketable mate-  
24 rial, unless the generator or owner voluntarily  
25 made the recyclable material available to the

1 State or political subdivision and relinquished  
2 any right to, or ownership of, the recyclable ma-  
3 terial.

4 “(m) TERMINATION OF AUTHORITY; REPEAL.—

5 “(1) TERMINATION OF AUTHORITY.—Notwith-  
6 standing any other provision of this title, authority  
7 to control the flow of municipal solid waste or recy-  
8 clable material by directing municipal solid waste or  
9 recyclable material to a waste management facility  
10 shall terminate on the date that is 30 years after the  
11 date of enactment of this Act.

12 “(2) REPEAL.—This section and the item relat-  
13 ing to this section in the table of contents for sub-  
14 title D of the Solid Waste Disposal Act are repealed  
15 effective as of the date that is 30 years after the  
16 date of enactment of this Act.

17 “(n) SECTION NOT APPLICABLE TO LISTED FACILI-  
18 TIES.—Notwithstanding any other provision of this title,  
19 the authority to exercise flow control shall not apply to  
20 a facility that—

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

1           “(2) as of May 15, 1994, was the subject of a  
2           pending proposal by the Administrator of the Envi-  
3           ronmental Protection Agency to be listed on the Na-  
4           tional Priorities List.”.

5           (b) TABLE OF CONTENTS AMENDMENT.—The table  
6           of contents for subtitle D in section 1001 of the Solid  
7           Waste Disposal Act (42 U.S.C. prec. 6901) is amended  
8           by adding after the item relating to section 4010 the fol-  
9           lowing:

          “Sec. 4011. State and local government control of movement of municipal solid  
          waste and recyclable material.”.

○