

108TH CONGRESS  
1ST SESSION

# H. R. 1730

To impose certain limitations on the receipt of out-of-State municipal solid waste, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2003

Mr. GREENWOOD (for himself, Mr. DOYLE, Mr. DINGELL, Mr. ROGERS of Michigan, Mr. STRICKLAND, Mr. GERLACH, Mr. KILDEE, Mr. BUYER, Mr. LEVIN, Mr. EHLERS, Mr. HOLDEN, Mr. SMITH of Michigan, Mr. KANJORSKI, Mr. CAMP, Mr. BEREUTER, Mr. STUPAK, and Ms. SOLIS) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To impose certain limitations on the 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Solid Waste Interstate  
5 Transportation Act of 2003”.

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

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

6 **“SEC. 4011. RECEIPT AND DISPOSAL OF OUT-OF-STATE MU-**  
7 **NICIPAL SOLID WASTE.**

8 “(a) PRESUMPTIVE BAN ON RECEIPT OF OUT-OF-  
9 STATE WASTE.—No landfill or incinerator may receive  
10 any out-of-State municipal solid waste for disposal or in-  
11 cineration unless the waste is received pursuant to—

12 “(1) a host community agreement in accordance  
13 with subsection (b) or (c); or

14 “(2) an exemption under subsection (d).

15 “(b) EXISTING HOST COMMUNITY AGREEMENTS.—  
16 Except as provided in subsection (e), out-of-State munic-  
17 ipal solid waste may be received at a landfill or incinerator  
18 for disposal or incineration pursuant to a host community  
19 agreement entered into before the enactment of this sec-  
20 tion if—

21 “(1) the agreement specifically authorizes the  
22 owner or operator to accept, at the landfill or incin-  
23 erator, out-of-State municipal solid waste; and

24 “(2) the owner or operator complies with all of  
25 the terms and conditions of the host community  
26 agreement.

1 The owner or operator shall provide a copy of the host  
2 community agreement, within 90 days after the enactment  
3 of this section, to the State and affected local government  
4 and make such a copy available for inspection by the pub-  
5 lic in the affected local community.

6 “(c) NEW HOST COMMUNITY AGREEMENTS.—

7 “(1) EXEMPTION FROM BAN.—Except as pro-  
8 vided in subsection (e), out-of-State municipal solid  
9 waste may be received at a landfill or incinerator for  
10 disposal or incineration pursuant to a host commu-  
11 nity agreement entered into on or after the enact-  
12 ment of this section (in this section referred to as  
13 a ‘new host community agreement’) if the agreement  
14 specifically authorizes the receipt of such waste and  
15 meets the requirements of paragraphs (2) through  
16 (5) of this subsection.

17 “(2) REQUIREMENTS FOR AUTHORIZATION.—

18 An authorization to receive out-of-State municipal  
19 solid waste pursuant to a new host community  
20 agreement shall be granted by formal action at a  
21 meeting; be recorded in writing in the official record  
22 of the meeting; and remain in effect according to its  
23 terms. Such authorization may specify terms and  
24 conditions, including an amount of out-of-State mu-

1 municipal solid waste that an owner or operator may  
2 receive and the duration of the authorization.

3 “(3) INFORMATION.—Prior to seeking an au-  
4 thorization to receive out-of-State municipal solid  
5 waste pursuant to a new host community agreement  
6 under this subsection, the owner or operator of the  
7 facility seeking such authorization shall provide (and  
8 make readily available to the State, each contiguous  
9 local government and Indian tribe, and any other in-  
10 terested person for inspection and copying) each of  
11 the following items of information:

12 “(A) A brief description of the facility, in-  
13 cluding, with respect to both the facility and  
14 any planned expansion of the facility, the size,  
15 the ultimate waste capacity, and the anticipated  
16 monthly and yearly quantities of waste to be  
17 handled. Such quantities shall be expressed in  
18 terms of volume.

19 “(B) A map of the facility site indicating  
20 location in relation to the local road system and  
21 topography and general hydrogeological fea-  
22 tures. The map shall indicate any buffer zones  
23 to be acquired by the owner or operator as well  
24 as all facility units.

1           “(C) A description of the then current en-  
2           vironmental characteristics of the site, a de-  
3           scription of ground water use in the area, and  
4           a discussion of alterations that may be neces-  
5           sitated by, or occur as a result of, the facility.  
6           The description of groundwater use shall in-  
7           clude identification of private wells and public  
8           drinking water sources.

9           “(D) A description of environmental con-  
10          trols typically required to be used on the site  
11          (pursuant to permit requirements), including  
12          run on or run off management, or both, air pol-  
13          lution control devices, source separation proce-  
14          dures (if any), methane monitoring and control,  
15          landfill covers, liners or leachate collection sys-  
16          tems, and monitoring programs. In addition,  
17          the description shall include a description of  
18          any waste residuals generated by the facility,  
19          including leachate or ash, and the planned man-  
20          agement of the residuals.

21          “(E) A description of site access controls  
22          to be employed, and roadway improvements to  
23          be made, by the owner or operator, and an esti-  
24          mate of the timing and extent of increased local  
25          truck traffic.

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

3           “(G) Estimates of the personnel require-  
4 ments of the facility, including information re-  
5 garding the probable skill and education levels  
6 required for jobs at the facility. To the extent  
7 practicable, the information shall distinguish  
8 between employment statistics for  
9 preoperational and postoperational levels.

10           “(H) Any information that is required by  
11 State or Federal law to be provided with re-  
12 spect to any violations of environmental laws  
13 (including regulations) by the owner, the oper-  
14 ator, and any subsidiary of the owner or oper-  
15 ator, the disposition of enforcement proceedings  
16 taken with respect to the violations, and correc-  
17 tive action and rehabilitation measures taken as  
18 a result of the proceedings.

19           “(I) Any information that is required by  
20 State or Federal law to be provided with re-  
21 spect to gifts and contributions made by the  
22 owner or operator.

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

1           spect to compliance by the owner or operator  
2           with the State solid waste management plan.

3           “(4) PRIOR NOTIFICATION.—Prior to taking  
4           formal action with respect to granting authorization  
5           to receive out-of-State municipal solid waste pursu-  
6           ant to a new host community agreement under this  
7           subsection, an affected local government shall—

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

10                   “(B) publish notice of the action in a  
11                   newspaper of general circulation in the affected  
12                   area at least 15 days before holding a hearing  
13                   under subparagraph (C), except where State  
14                   law provides for an alternate form of public no-  
15                   tification; and

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

19           “(5) SUBSEQUENT NOTIFICATION.—Promptly,  
20           but not later than 90 days after an authorization is  
21           granted pursuant to a new host community agree-  
22           ment under this subsection, the affected local gov-  
23           ernment shall notify the Governor, contiguous local  
24           governments, and any contiguous Indian tribes of  
25           such authorization.

1           “(6) AUTHORITY.—

2                   “(A) IN GENERAL.—A State may enact a  
3 law or laws with respect to the entry, by an af-  
4 fected local government in the State, into a host  
5 community agreement, as it relates to the inter-  
6 state transportation of solid waste.

7                   “(B) NO DISCRIMINATION.—In enacting a  
8 law or laws pursuant to subparagraph (A), a  
9 State shall act in a consistent manner that does  
10 not discriminate against the receipt of out-of-  
11 State municipal solid waste on the basis of  
12 State of origin.

13           “(d) EXEMPTION FOR WASTE NOT SUBJECT TO  
14 HOST COMMUNITY AGREEMENTS.—

15                   “(1) EXEMPTION FROM BAN.—Except as pro-  
16 vided in subsection (e), out-of-State municipal solid  
17 waste received at a landfill or incinerator shall be ex-  
18 empt from the presumptive ban contained in sub-  
19 section (a) if the owner or operator of the landfill or  
20 incinerator provides to the State in which the landfill  
21 or incinerator is located and to the affected local  
22 government either of the following:

23                   “(A) PERMIT.—Information establishing  
24 that, before the enactment of this section, the  
25 owner or operator of the landfill or incinerator

1 has received a State permit that specifically au-  
2 thorizes the owner or operator to accept, at the  
3 landfill or incinerator, such out-of-State munic-  
4 ipal solid waste. This subparagraph shall be ef-  
5 fective only if the owner or operator complies  
6 with all of the terms and conditions of the per-  
7 mit after the date of enactment of this section  
8 and notifies the affected local government of  
9 the permit as soon as practicable but not later  
10 than 90 days after the date of enactment of  
11 this section.

12 “(B) CONTRACT.—Information estab-  
13 lishing that the owner or operator of the landfill  
14 or incinerator has entered into a binding con-  
15 tract before April 10, 2003, that commits to the  
16 delivery to and receipt at the landfill or inciner-  
17 ator of a specific quantity of out-of-State mu-  
18 nicipal solid waste and that the owner or oper-  
19 ator of the landfill or incinerator has permitted  
20 capacity actually available on the date of enact-  
21 ment of this section for receipt of the specific  
22 quantity of out-of-State municipal solid waste  
23 committed to in the contract. This subpara-  
24 graph shall be effective only for the longer of—

1                   “(i) the life of the contract (not in-  
2                   cluding any renewal, novation, or extension  
3                   thereof); or

4                   “(ii) a period of 3 years after the date  
5                   of enactment of this section,

6                   and only with respect to the amount of the obli-  
7                   gation in the contract.

8                   “(2) AVAILABILITY OF DOCUMENTATION.—The  
9                   owner or operator of a landfill or incinerator receiv-  
10                  ing out-of-State municipal solid waste pursuant to  
11                  an exemption under paragraph (1) shall make avail-  
12                  able for inspection by the public in the affected local  
13                  community a copy of the permit or contract referred  
14                  to in paragraph (1). The owner or operator may  
15                  omit any proprietary information contained in con-  
16                  tracts.

17                  “(3) DENIED OR REVOKED PERMITS.—A land-  
18                  fill or incinerator may not receive for disposal or in-  
19                  cineration out-of-State municipal solid waste pursu-  
20                  ant to an exemption under paragraph (1) if the op-  
21                  erating permit for the landfill or incinerator (or re-  
22                  newal thereof) was denied or revoked by the appro-  
23                  priate State agency before the date of enactment of  
24                  this section, unless such permit or license (or re-

1 newal) has been reinstated as of such date of enact-  
2 ment.

3 “(e) REQUIRED COMPLIANCE.—Exemptions under  
4 subsections (b), (c), and (d) shall not apply to a landfill  
5 or incinerator during any period with respect to which the  
6 State in which the facility is located has determined that  
7 the facility is not in compliance with applicable Federal  
8 and State laws and regulations relating to—

9 “(1) facility operation and design;

10 “(2) in the case of landfills, facility location  
11 standards, leachate collection standards, ground-  
12 water monitoring standards, and standards for fi-  
13 nancial assurance and for closure and postclosure  
14 and corrective action; and

15 “(3) in the case of incinerators, the applicable  
16 requirements of section 129 of the Clean Air Act (42  
17 U.S.C. 7429).

18 “(f) AUTHORITY OF STATE TO RESTRICT OUT-OF-  
19 STATE MUNICIPAL SOLID WASTE.—

20 “(1) LIMITATIONS ON AMOUNT OF WASTE RE-  
21 CEIVED.—

22 “(A) LIMIT FOR ALL FACILITIES IN THE  
23 STATE.—A State may limit the amount of out-  
24 of-State municipal solid waste received annually  
25 at each landfill or incinerator in the State to

1 the limitation amount described in paragraph  
2 (2), except as provided in this subsection. No  
3 such limit may conflict—

4 “(i) with provisions of a permit spe-  
5 cifically authorizing the owner or operator  
6 to accept, at the facility, out-of-State mu-  
7 nicipal solid waste; or

8 “(ii) with a host community agree-  
9 ment entered into between the owner or  
10 operator of any such landfill or incinerator  
11 and the affected local government.

12 “(B) CONFLICT.—A limit referred to in  
13 subparagraph (A) shall be treated as conflicting  
14 with—

15 “(i) a permit if the permit establishes  
16 a higher limit or does not establish any  
17 limit on the amount of out-of-State munic-  
18 ipal solid waste which may be received an-  
19 nually at the facility; and

20 “(ii) a host community agreement if  
21 the host community agreement establishes  
22 a higher limit or does not establish any  
23 limit on the amount of out-of-State munic-  
24 ipal solid waste which may be received an-  
25 nually at the facility, but only to the extent

1           that the landfill or incinerator, at the time  
2           the host community agreement was entered  
3           into, had specifically permitted capacity to  
4           receive the solid waste authorized by the  
5           host community agreement.

6           “(C) LIMIT FOR PARTICULAR FACILI-  
7           TIES.—An affected local government that has  
8           not executed a host community agreement with  
9           a particular landfill or incinerator may limit the  
10          amount of out-of-State municipal solid waste  
11          received annually at the landfill or incinerator  
12          concerned to the limitation amount described in  
13          paragraph (2). No such limit may conflict with  
14          provisions of a permit specifically authorizing  
15          the owner or operator to accept, at the facility,  
16          out-of-State municipal solid waste.

17          “(D) EFFECT ON OTHER LAWS.—Nothing  
18          in this subsection shall be interpreted or con-  
19          strued to supersede any State law relating to  
20          contracts.

21          “(2) LIMITATION AMOUNT.—For any landfill or  
22          incinerator that commenced receiving documented  
23          out-of-State municipal solid waste before the date of  
24          enactment of this section, the limitation amount re-  
25          ferred to in paragraph (1) for any year shall be

1 equal to the amount of out-of-State municipal solid  
2 waste received at the landfill or incinerator con-  
3 cerned during calendar year 1993, or any subse-  
4 quent year for which the State required or kept such  
5 documentation. The documentation referred to in  
6 this paragraph shall be such as would result in  
7 criminal penalties under State law in case of false or  
8 misleading information. Such documentation shall  
9 include the amount of waste received in 1993, or  
10 such other baseline year as is provided for in this  
11 paragraph, place of origin, identity of the generator,  
12 date of shipment, and type of waste.

13 “(3) NO DISCRIMINATION.—In establishing a  
14 limitation under this subsection, a State shall act in  
15 a consistent manner that does not discriminate  
16 against any shipments of out-of-State municipal  
17 solid waste on the basis of State of origin.

18 “(g) LIMITATIONS ON PROSPECTIVE WASTE  
19 FLOWS.—

20 “(1) STATE AUTHORITY TO DENY PERMITS.—A  
21 State may provide by law that the State will deny,  
22 or refuse to renew, a permit for the construction or  
23 operation of a landfill or incinerator, or for a major  
24 modification to an existing landfill or incinerator,  
25 if—

1           “(A) the State has approved a State or  
2 local comprehensive municipal solid waste man-  
3 agement plan developed under Federal or State  
4 law; and

5           “(B) the denial or refusal to renew is  
6 based on a determination, pursuant to a State  
7 law authorizing the denial or refusal to renew,  
8 that there is not a local or regional need for the  
9 landfill or incinerator in the State.

10           “(2) PERCENTAGE LIMIT.—

11           “(A) IN GENERAL.—A State may provide  
12 by law that a State permit issued or renewed  
13 after the date of enactment of this section for  
14 a municipal solid waste landfill or incinerator,  
15 or for expansion of a municipal solid waste  
16 landfill or incinerator, shall include a require-  
17 ment that not more than a specified percentage  
18 of the total amount of municipal solid waste re-  
19 ceived annually at the landfill or incinerator  
20 may be out-of-State municipal solid waste. A  
21 percentage limitation established by a State  
22 under this subparagraph shall not be less than  
23 20 percent.

24           “(B) HOST COMMUNITY AGREEMENT.—  
25 Notwithstanding subparagraphs (A) and (C), a

1 landfill or incinerator acting pursuant to a host  
2 community agreement entered into prior to the  
3 date of enactment of this section that specifi-  
4 cally authorizes the landfill or incinerator to re-  
5 ceive a specific quantity of out-of-State munic-  
6 ipal solid waste annually may receive the spe-  
7 cific quantity authorized under the host com-  
8 munity agreement.

9 “(C) NONDISCRIMINATION.—An annual  
10 percentage limitation referred to in subpara-  
11 graph (A)—

12 “(i) shall be uniform for all municipal  
13 solid waste landfills and incinerators in the  
14 State; and

15 “(ii) may not discriminate against  
16 out-of-State municipal solid waste accord-  
17 ing to the State of origin.

18 “(h) AUTHORITY OF STATE TO RESTRICT OUT-OF-  
19 STATE MUNICIPAL SOLID WASTE BASED ON RECYCLING  
20 PROGRAMS.—

21 “(1) AUTHORITY.—

22 “(A) LIMITATION.—A State may limit the  
23 amount of out-of-State municipal solid waste  
24 received annually at each landfill or incinerator  
25 in the State to the amount of out-of-State mu-

1           municipal solid waste received at the landfill or in-  
2           cinerator concerned during calendar year 1995  
3           if the State has enacted a comprehensive, state-  
4           wide recycling program. No such limit may con-  
5           flict—

6                   “(i) with provisions of a permit spe-  
7                   cifically authorizing the owner or operator  
8                   to accept, at the facility, out-of-State mu-  
9                   nicipal solid waste; or

10                   “(ii) with a host community agree-  
11                   ment entered into between the owner or  
12                   operator of any such landfill or incinerator  
13                   and the affected local government.

14           “(B) CONFLICT.—A limit referred to in  
15           subparagraph (A) shall be treated as conflicting  
16           with—

17                   “(i) a permit if the permit establishes  
18                   a higher limit or does not establish any  
19                   limit on the amount of out-of-State munic-  
20                   ipal solid waste which may be received an-  
21                   nually at the facility; and

22                   “(ii) a host community agreement if  
23                   the host community agreement establishes  
24                   a higher limit or does not establish any  
25                   limit on the amount of out-of-State munic-

1            ipal solid waste which may be received an-  
2            nually at the facility, but only to the extent  
3            that the landfill or incinerator, at the time  
4            the host community agreement was entered  
5            into, had specifically permitted capacity to  
6            receive the solid waste authorized by the  
7            host community agreement.

8            “(2) NO DISCRIMINATION.—In establishing a  
9            limitation under this subsection, a State shall act in  
10           a consistent manner that does not discriminate  
11           against any shipments of out-of-State municipal  
12           solid waste on the basis of State of origin.

13           “(3) EFFECT ON OTHER LAWS.—Nothing in  
14           this subsection shall be interpreted or construed to  
15           supersede any State law relating to contracts.

16           “(4) DEFINITION.—As used in this subsection,  
17           the term ‘comprehensive, statewide recycling pro-  
18           gram’ means a law of statewide applicability that re-  
19           quires the generators of municipal solid waste to  
20           separate all of the following materials for recycling  
21           as a condition of disposing of the waste at landfills  
22           or incinerators in the State:

23                    “(A) Aluminum containers.

24                    “(B) Corrugated paper or other container  
25                    board.

1           “(C) Glass containers.

2           “(D) Magazines or other material printed  
3 on similar paper.

4           “(E) Newspapers or other material printed  
5 on newsprint.

6           “(F) Office paper.

7           “(G) Plastic containers.

8           “(H) Steel containers.

9           “(I) Containers for carbonated or malt  
10 beverages that are primarily made of a com-  
11 bination of steel and aluminum.

12       “(i) COST RECOVERY SURCHARGE.—

13           “(1) AUTHORITY.—A State may impose and  
14 collect a cost recovery charge on the processing,  
15 combustion, or disposal in a landfill or incinerator of  
16 out-of-State municipal solid waste in the State in ac-  
17 cordance with this subsection.

18           “(2) AMOUNT OF SURCHARGE.—The amount of  
19 the cost recovery surcharge may be no greater than  
20 the amount necessary to recover those costs deter-  
21 mined in conformance with paragraph (4) and in no  
22 event may exceed \$2.00 per ton of waste.

23           “(3) USE OF SURCHARGE COLLECTED.—All  
24 cost recovery surcharges collected by a State shall be  
25 used to fund those solid waste management pro-

1       grams administered by the State or its political sub-  
2       division that incur costs for which the surcharge is  
3       collected.

4               “(4) CONDITIONS.—(A) Subject to subpara-  
5       graphs (B) and (C), a State may impose and collect  
6       a cost recovery surcharge on the processing, combus-  
7       tion, or disposal within the State of out-of-State mu-  
8       nicipal solid waste if—

9               “(i) the State demonstrates a cost to the  
10       State arising from the processing, combustion,  
11       or disposal within the State of a volume of mu-  
12       nicipal solid waste from a source outside the  
13       State;

14              “(ii) the surcharge is based on those costs  
15       to the State demonstrated under clause (i) that,  
16       if not paid for through the surcharge, would  
17       otherwise have to be paid or subsidized by the  
18       State; and

19              “(iii) the surcharge is compensatory and is  
20       not discriminatory.

21              “(B) In no event shall a cost recovery surcharge  
22       be imposed by a State to the extent that the cost for  
23       which recovery is sought is otherwise paid, recov-  
24       ered, or offset by any other fee or tax paid to the  
25       State or its political subdivision or to the extent that

1 the amount of the surcharge is offset by voluntarily  
2 agreed payments to a State or its political subdivi-  
3 sion in connection with the generation, transpor-  
4 tation, treatment, processing, combustion, or dis-  
5 posal of solid waste.

6 “(C) The grant of a subsidy by a State with re-  
7 spect to entities disposing of waste generated within  
8 the State does not constitute discrimination for pur-  
9 poses of subparagraph (A)(iii).

10 “(5) DEFINITIONS.—As used in this subsection:

11 “(A) The term ‘costs’ means the costs in-  
12 curred by the State for the implementation of  
13 its laws governing the processing, combustion,  
14 or disposal of municipal solid waste, limited to  
15 the issuance of new permits and renewal of or  
16 modification of permits, inspection and compli-  
17 ance monitoring, enforcement, and costs associ-  
18 ated with technical assistance, data manage-  
19 ment, and collection of fees.

20 “(B) The term ‘processing’ means any ac-  
21 tivity to reduce the volume of solid waste or  
22 alter its chemical, biological or physical state,  
23 through processes such as thermal treatment,  
24 bailing, composting, crushing, shredding, sepa-  
25 ration, or compaction.

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

5       “(k) EFFECT ON INTERSTATE COMMERCE.—No  
6 State or local government action taken as authorized by  
7 this section, including the establishment of a limit pursu-  
8 ant to subsection (f) or the enactment or execution of a  
9 law or regulation described in subsection (c)(6), (g), (h),  
10 (i), or (j), shall be considered to impose an undue burden  
11 on interstate commerce or to otherwise impair, restrain,  
12 or discriminate against interstate commerce.

13       “(l) ANNUAL STATE REPORT.—Each year the owner  
14 or operator of each landfill or incinerator receiving out-  
15 of-State municipal solid waste shall submit to the Gov-  
16 ernor of the State in which the landfill or incinerator is  
17 located information specifying the amount of out-of-State  
18 municipal solid waste received for disposal during the pre-  
19 ceding year. Each year each such State shall publish and  
20 make available to the public a report containing informa-  
21 tion on the amount of out-of-State municipal solid waste  
22 received for disposal in the State during the preceding  
23 year.

24       “(m) DEFINITIONS.—For purposes of this section:

1           “(1) AFFECTED LOCAL GOVERNMENT.—The  
2 term ‘affected local government’ means—

3           “(A) the public body authorized by State  
4 law to plan for the management of municipal  
5 solid waste, a majority of the members of which  
6 are elected officials, for the area in which a  
7 landfill or incinerator is located or proposed to  
8 be located;

9           “(B) if there is no such body authorized by  
10 State law, 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 use of land in the ju-  
14 risdiction in which a landfill or incinerator is lo-  
15 cated or proposed to be located; or

16           “(C) contiguous units of local government  
17 located in each of 2 or more adjoining States  
18 acting jointly as an affected local government,  
19 pursuant to the authority provided in section  
20 1005(b), for purposes of providing authoriza-  
21 tion under subsection (b), (c), or (d) for munic-  
22 ipal solid waste generated in the jurisdiction of  
23 one of those units of local government and re-  
24 ceived for disposal or incineration in the juris-  
25 diction of another.

1           “(2) HOST COMMUNITY AGREEMENT.—The  
2 term ‘host community agreement’ means a written,  
3 legally binding agreement, lawfully entered into be-  
4 tween an owner or operator of a landfill or inciner-  
5 ator and an affected local government that specifi-  
6 cally authorizes the landfill or incinerator to receive  
7 out-of-State municipal solid waste.

8           “(3) MUNICIPAL SOLID WASTE.—

9           “(A) WASTE INCLUDED.—Except as pro-  
10 vided in subparagraph (B), the term ‘municipal  
11 solid waste’ means—

12                   “(i) all waste materials discarded for  
13 disposal by households, including single  
14 and multifamily residences, and hotels and  
15 motels; and

16                   “(ii) all waste materials discarded for  
17 disposal that were generated by commer-  
18 cial, institutional, municipal, and industrial  
19 sources, to the extent such materials—

20                           “(I) are essentially the same as  
21 materials described in clause (i); and

22                           “(II) were collected and disposed  
23 of with other municipal solid waste  
24 described in clause (i) or subclause (I)  
25 of this clause as part of normal mu-

1                   municipal solid waste collection services,  
2                   except that this subclause does not  
3                   apply to hazardous materials other  
4                   than hazardous materials that, pursu-  
5                   ant to regulations issued under sec-  
6                   tion 3001(d), are not subject to regu-  
7                   lation under subtitle C.

8                   Examples of municipal solid waste include food  
9                   and yard waste, paper, clothing, appliances,  
10                  consumer product packaging, disposable dia-  
11                  pers, office supplies, cosmetics, glass and metal  
12                  food containers, and household hazardous  
13                  waste. Such term shall include debris resulting  
14                  from construction, remodeling, repair, or demo-  
15                  lition of structures.

16                  “(B) WASTE NOT INCLUDED.—The term  
17                  ‘municipal solid waste’ does not include any of  
18                  the following:

19                         “(i) Any solid waste identified or list-  
20                         ed as a hazardous waste under section  
21                         3001, except for household hazardous  
22                         waste.

23                         “(ii) Any solid waste, including con-  
24                         taminated soil and debris, resulting from—

1           “(I) a response action taken  
2           under section 104 or 106 of the Com-  
3           prehensive Environmental Response,  
4           Compensation, and Liability Act (42  
5           U.S.C. 9604 or 9606);

6           “(II) a response action taken  
7           under a State law with authorities  
8           comparable to the authorities of such  
9           section 104 or 106; or

10           “(III) a corrective action taken  
11           under this Act.

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

17           “(iv) Scrap rubber to be used as a  
18           fuel source.

19           “(v) Materials and products returned  
20           from a dispenser or distributor to the man-  
21           ufacturer or an agent of the manufacturer  
22           for credit, evaluation, and possible reuse.

23           “(vi) Any solid waste that is—

24           “(I) generated by an industrial  
25           facility; and

1                   “(II) transported for the purpose  
2                   of treatment, storage, or disposal to a  
3                   facility or unit thereof that is owned  
4                   or operated by the generator of the  
5                   waste, located on property owned by  
6                   the generator or a company with  
7                   which the generator is affiliated, or  
8                   the capacity of which is contractually  
9                   dedicated exclusively to a specific gen-  
10                  erator, so long as the disposal area  
11                  complies with local and State land use  
12                  and zoning regulations applicable to  
13                  the disposal site.

14                  “(vii) Any medical waste that is seg-  
15                  regated from or not mixed with solid  
16                  waste.

17                  “(viii) Sewage sludge and residuals  
18                  from any sewage treatment plant, includ-  
19                  ing any sewage treatment plant required to  
20                  be constructed in the State of Massachu-  
21                  setts pursuant to any court order issued  
22                  against the Massachusetts Water Re-  
23                  sources Authority.

24                  “(ix) Combustion ash generated by re-  
25                  source recovery facilities or municipal in-

1 cinerators, or waste from manufacturing or  
2 processing (including pollution control) op-  
3 erations not essentially the same as waste  
4 normally generated by households.

5 “(4) OUT-OF-STATE MUNICIPAL SOLID  
6 WASTE.—The term ‘out-of-State municipal solid  
7 waste’ means, with respect to any State, municipal  
8 solid waste generated outside of the State. The term  
9 includes municipal solid waste generated outside of  
10 the United States.

11 “(5) RECYCLABLE MATERIALS.—The term ‘re-  
12 cyclable materials’ means materials that are di-  
13 verted, separated from, or separately managed from  
14 materials otherwise destined for disposal as solid  
15 waste, by collecting, sorting, or processing for use as  
16 raw materials or feedstocks in lieu of, or in addition  
17 to, virgin materials, including petroleum, in the  
18 manufacture of usable materials or products.

19 “(6) SPECIFICALLY AUTHORIZES.—The term  
20 ‘specifically authorizes’ refers to an explicit author-  
21 ization, contained in a host community agreement or  
22 permit, to import municipal solid waste from outside  
23 the State. Such authorization may include a ref-  
24 erence to a fixed radius surrounding the landfill or  
25 incinerator which includes an area outside the State

1 or a reference to ‘any place of origin’, reference to  
2 specific places outside the State, or use of such  
3 phrases as ‘regardless of origin’ or ‘outside the  
4 State’. The language for such authorization must  
5 clearly and affirmatively state the approval or con-  
6 sent of the affected local government or State for re-  
7 ceipt of municipal solid waste from sources or loca-  
8 tions outside the State from which the owner or op-  
9 erator of a landfill or incinerator proposes to import  
10 it. The term shall not include general references to  
11 the receipt of waste from outside the jurisdiction of  
12 the affected local government.”.

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

“Sec. 4011. Receipt and disposal of out-of-State municipal solid waste.”.

17 (c) INCIDENT REPORTS.—Not later than one year  
18 after the date of the enactment of this Act and annually  
19 for the next two years, the General Accounting Office shall  
20 submit a report to the Committee on Commerce of the  
21 House of Representatives and the Committee on Environ-  
22 ment and Public Works of the Senate that contains the  
23 following information:

24 (1) Available information for each State that  
25 imports municipal solid waste detailing any incidents

1 or circumstances where waste materials that are not  
2 authorized by permit to be disposed of at a landfill  
3 or incinerator have been discovered in the imported  
4 municipal solid waste during the transportation,  
5 processing, or disposal of such waste. Such unau-  
6 thorized waste materials can include hazardous  
7 waste, medical waste, radioactive waste, and indus-  
8 trial waste.

9 (2) For each incident or circumstance identified  
10 under paragraph (1), an indication of the method or  
11 circumstances of detection, and the identity of the  
12 source of the waste, the transporter, and the dis-  
13 posal facility.

14 (3) For each incident or circumstance identified  
15 under paragraph (1), an indication of whether any-  
16 one was cited for a violation, and if so the nature  
17 of the violation and any penalty assessed.

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