

103D CONGRESS
2D SESSION

H. R. 3965

To amend the Solid Waste Disposal Act to implement the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 1994

Mr. SWIFT (for himself, Mr. SYNAR, and Mr. PORTER) introduced the following bill; which was referred jointly to the Committees on Energy and Commerce and Foreign Affairs

A BILL

To amend the Solid Waste Disposal Act to implement the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 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 “Waste Export and Im-
5 port Control Act of 1994”.

1 **SEC. 2. INTERNATIONAL SHIPMENTS OF HAZARDOUS AND**
2 **ADDITIONAL WASTES.**

3 (a) NEW SUBTITLE CONCERNING EXPORTS AND IM-
4 PORTS OF HAZARDOUS AND ADDITIONAL WASTE.—The
5 Solid Waste Disposal Act is amended by adding the follow-
6 ing new subtitle at the end thereof:

7 **“Subtitle K—Exports and Imports**
8 **of Hazardous and Additional**
9 **Wastes**

10 **“SEC. 12001. DEFINITIONS.**

11 “For purposes of this subtitle:

12 “(1) The term ‘additional waste’ means any
13 waste identified as additional waste in regulations
14 promulgated by the Administrator in order to imple-
15 ment the Basel Convention and any amendments
16 thereto.

17 “(2) The term ‘Basel Convention’ means the
18 Basel Convention on the Control of Transboundary
19 Movements of Hazardous Wastes and Their Dis-
20 posal, executed at Basel, Switzerland, on March 22,
21 1989.

22 “(3) The term ‘export’ means the
23 transboundary movement of hazardous or additional
24 waste from the United States to another country, or
25 an attempt to achieve such transboundary move-

1 ment, subject to the restrictions set out in para-
2 graph (10) of this section.

3 “(4) The term ‘exporter’ means any individual
4 or entity achieving or attempting to achieve the ex-
5 port of hazardous or additional waste.

6 “(5) The term ‘import’ means the
7 transboundary movement of hazardous or additional
8 waste from another country to the United States, or
9 an attempt to achieve such transboundary move-
10 ment, subject to the restrictions set out in para-
11 graph (10) of this section.

12 “(6) The term ‘importer’ means any individual
13 or entity achieving or attempting to achieve the im-
14 port of hazardous or additional waste.

15 “(7) The term ‘regional agreement’ means an
16 agreement between the United States and a political
17 or economic integration organization.

18 “(8) The term ‘political or economic integration
19 organization’ means an organization constituted by
20 sovereign countries to which its member countries
21 have transferred competence with respect to matters
22 governed by the Basel Convention and which has
23 been duly authorized, in accordance with its internal
24 procedures, to sign, ratify, accept, approve formally,
25 confirm or accede to such convention.

1 “(9) The term ‘transit country’ means any
2 country through which hazardous or additional
3 waste is transported during the process of importing
4 or exporting such waste.

5 “(10) The terms ‘export’ and ‘import’ do not
6 include—

7 “(A) any transport for the purpose of dis-
8 posal or disposal of hazardous or additional
9 waste pursuant to or in compliance with a per-
10 mit issued under the Marine Protection, Re-
11 search, and Sanctuaries Act;

12 “(B) any discharge of hazardous or addi-
13 tional waste subject to regulation or standard
14 under the Act to Prevent Pollution from Ships;
15 and

16 “(C) any transboundary movement of haz-
17 ardous or additional waste generated exclu-
18 sively—

19 “(i) by United States Government ac-
20 tivities or facilities located abroad, or

21 “(ii) on board United States sovereign
22 immune vessels or State aircraft,
23 into an area under the national jurisdiction of
24 the United States for further use, recycling, or
25 disposal.

1 **“SEC. 12002. PROHIBITION OF EXPORTS AND IMPORTS OF**
2 **HAZARDOUS AND ADDITIONAL WASTE.**

3 “(a) PROHIBITION.—Except as provided in section
4 12003, it shall be unlawful for any person to export or
5 import any hazardous or additional waste.

6 “(b) EXEMPT WASTE.—(1) The import of used tire
7 casings for retreading shall not be subject to the require-
8 ments of this subtitle. The following wastes, when ex-
9 ported or imported for the purpose of incorporation into
10 new products with recycled content shall not be subject
11 to the requirements of this subtitle, except for the require-
12 ments set out in sections 12008, 12009, and 120010:

13 “(A) Scrap metal (not including insulated wire),
14 waste paper, scrap textiles, waste glass, and waste
15 plastic, when separate from other solid waste; and

16 “(B) Any other category of additional waste,
17 when separate from other solid waste, if the Admin-
18 istrator, after notice and comment, determines that
19 there is no evidence that exempting such category of
20 additional waste would have significant adverse ef-
21 fects on human health and the environment.

22 “(2) Any person may petition the Administrator for
23 a determination under paragraph (1)(B). Within 12
24 months of receipt of such a petition, the Administrator
25 shall publish in the Federal Register a decision to grant
26 or deny the petition.

1 “(3) No hazardous waste listed or identified under
2 section 3001 shall be exempt under this subsection.

3 “(c) OTHER EXEMPT MATERIALS.—The following
4 materials shall not be subject to the requirements of this
5 subtitle, except for the requirements set out in section
6 12008:

7 “(1) Source, special nuclear, or byproduct ma-
8 terial as defined by the Atomic Energy Act of 1954;
9 and

10 “(2) Spent nuclear fuel, as defined in the Nu-
11 clear Waste Policy Act of 1982.

12 **“SEC. 12003. EXCEPTIONS TO PROHIBITION.**

13 “(a) EXISTING AGREEMENTS.—Section 12002(a)
14 shall not apply to exports or imports of hazardous or addi-
15 tional waste made to or from any country with which the
16 United States has entered into a bilateral, multilateral, or
17 regional agreement regarding waste export and import be-
18 tween the United States and the government of one or
19 more exporting or importing countries that is in effect on
20 the date of enactment of this subtitle, provided that, with-
21 in 6 months after the date of the promulgation of the reg-
22 ulations provided for under section 12007(a) or 24 months
23 after the date of enactment of this subtitle, whichever is
24 earlier, any such agreement is amended—

1 “(1) to be made consistent with the provisions
2 of subsection (b); and

3 “(2) in the case of hazardous wastes, to comply
4 with the provisions of section 3017 and any regula-
5 tions promulgated pursuant thereto.

6 “(b) NEW AGREEMENTS.—Section 12002(a) shall
7 not apply to exports or imports of hazardous or additional
8 waste made pursuant to and in compliance with—

9 “(1) a bilateral, multilateral, or regional agree-
10 ment regarding waste export or import that—

11 “(A) the United States has entered into
12 with the government of one or more exporting
13 or importing countries or with a competent re-
14 gional economic integration organization after
15 the date of enactment of this subtitle;

16 “(B) requires environmentally sound man-
17 agement of the hazardous or additional waste
18 and compliance with any laws applicable in the
19 jurisdiction in which the waste is managed; and

20 “(C) provides for the importing country
21 and the United States to jointly conduct recip-
22 rocal inspections of waste treatment, storage
23 and disposal facilities for purposes of assessing
24 the capability of such facilities to manage haz-
25 ardous or additional waste in an environ-

1 mentally sound manner upon a reasonable belief
2 by either party that the receiving facility is not
3 handling exported waste in an environmentally
4 sound manner; and

5 “(2) the provisions of section 12004 (for ex-
6 ports), section 12005 (for imports), and any regula-
7 tions promulgated to implement any agreements de-
8 scribed in this subtitle.

9 “(c) REQUIREMENT TO HANDLE EXPORTED WASTE
10 IN AN ENVIRONMENTALLY SOUND MANNER.—In order to
11 comply with the requirement that exported waste be man-
12 aged in an environmentally sound manner, before any bi-
13 lateral, multilateral, or regional agreement made or
14 amended pursuant to this section shall become effective,
15 the Administrator shall make a finding that the party or
16 parties to the agreement or the political subdivision there-
17 of that is to receive a hazardous or additional waste ex-
18 ported from the United States has enacted and enforced,
19 and can reasonably be expected to maintain and enforce,
20 a regulatory program which, at a minimum—

21 “(1) regulates the hazardous or additional
22 waste to be exported from the United States;

23 “(2) requires the treatment, storage, or disposal
24 facility to be designed, constructed and operated to
25 limit the migration of hazardous constituents from

1 the waste to environmental media potentially im-
2 pacted by the facility under normal operating condi-
3 tions.

4 “(3) establishes categories of waste prohibited
5 from disposal or requiring treatment prior to dis-
6 posal so as to reduce toxicity or mobility of hazard-
7 ous constituents in the waste and to limit the migra-
8 tion of hazardous constituents from the waste to en-
9 vironmental media potentially impacted by the facil-
10 ity under normal operating conditions;

11 “(4) requires the treatment or disposal facility
12 receiving the waste to conduct monitoring to detect
13 releases of hazardous constituents from the waste
14 into environmental media potentially impacted by
15 the facility under normal operating conditions;

16 “(5) imposes financial responsibility require-
17 ments for the closure and post-closure care of the
18 treatment or disposal facility receiving the waste;

19 “(6) requires the treatment or disposal facility
20 receiving the waste, or officials or agents of the im-
21 porting country, to respond to substantial unauthor-
22 ized releases of hazardous constituents in the waste
23 that may pose a serious threat to human health or
24 the environment; and

1 “(7) provides resources for reviewing and up-
2 dating the regulatory program, inspecting regulated
3 facilities, and enforcing applicable requirements of
4 the regulatory program.

5 In determining whether a regulatory program satisfies the
6 criteria in this subsection, the Administrator shall not give
7 extra territorial application to the laws of the United
8 States but shall consider the statutes, regulations, per-
9 mits, certificates of approval and other regulatory author-
10 izations of the party to the agreement, or political subdivi-
11 sion thereof, as well as the operating procedures of the
12 treatment and disposal facilities within that jurisdiction
13 receiving a hazardous or additional waste exported from
14 the United States.

15 “(d) PROHIBITIONS.—Notwithstanding the provi-
16 sions of subsections (a), (b), and (c), it shall be unlawful
17 to—

18 “(1) export hazardous or additional waste pur-
19 suant to subsection (a) if the exporter knows or has
20 reason to know that such waste will not be managed
21 in an environmentally sound manner within the
22 meaning of subsection (c) and in accordance with
23 the laws of the importing and transit countries and
24 political subdivisions thereof;

1 “(2) import hazardous or additional waste pur-
2 suant to subsection (a) if the importer knows or has
3 reason to know that such waste will not be managed
4 in accordance with applicable Federal, State, and
5 tribal law;

6 “(3) export hazardous or additional waste pur-
7 suant to subsection (b) if the exporter knows or has
8 reason to know that such waste will not be managed
9 according to the technical conditions respecting
10 waste management contained in the contract and the
11 notification and consent required by subsection
12 12004(b); or

13 “(4) import hazardous or additional waste pur-
14 suant to subsection (b) if the importer knows or has
15 reason to know that such waste will not be managed
16 as specified in the contract and the notification and
17 consent required by subsection 12005(b).

“(a) IN GENERAL.—After 6 months after the date of promulgation of the regulations provided for under section 12007(a) or 24 months after the enactment of this subtitle, whichever is earlier, exports of any hazardous or additional waste made pursuant to subsection 12003 shall

1 be subject to the requirements of this section and any reg-
2 ulations promulgated to implement this subtitle.

3 “(b) PRE-EXPORT REQUIREMENTS.—Prior to ex-
4 porting hazardous or additional waste from the United
5 States—

6 “(1) the exporter shall provide written notice of
7 the proposed export to the Administrator, which
8 shall contain—

9 “(A) copy of the technical provisions relat-
10 ing to waste management contained in an exe-
11 cuted written contract between the importer
12 and exporter that specifies: (i) the method by
13 which the hazardous or additional waste will be
14 managed, (ii) a summary description of the de-
15 sign and operation of the facilities at which
16 such waste will be treated, stored, and disposed
17 of, and (iii) that such waste will be managed in
18 an environmentally sound manner within the
19 meaning of section 12003(c); and

20 “(B) sufficient information for the govern-
21 ment of the importing country and all transit
22 countries to make an informed decision as to
23 whether to accept the proposed export;

24 “(2) the Administrator shall forward such no-
25 tice, through the Secretary of State, to the govern-

1 ment of the importing country and all transit coun-
2 tries; and

3 “(3) the Administrator shall obtain the written
4 consent of the government of the importing country
5 and all transit countries.

6 “(c) WASTE TRACKING.—The exporter of any haz-
7 ardous or additional waste shall be subject to regulations
8 promulgated by the Administrator to assure that the ex-
9 porter receives documentation from the facility specified
10 in the contract as authorized to receive such waste in the
11 importing country for ultimate treatment or disposal and
12 that the exporter provides a copy of such documentation
13 to the Administrator within 30 calendar days after the
14 date of delivery to such facility. The Administrator shall
15 promulgate regulations under this subsection within 90
16 days after the enactment of this section.

17 “(d) FAILURE OF DELIVERY.—Unless the Adminis-
18 trator receives notice under subsection (c) within 30 cal-
19 endar days after the date specified in the contract or ship-
20 ment manifest for delivery of the waste to the facility spec-
21 ified in the contract as authorized to receive such waste
22 in the importing country for ultimate treatment or dis-
23 posal or if the Administrator receives evidence from any
24 source establishing that a shipment of hazardous or addi-
25 tional waste has not been delivered to the facility des-

1 designated or managed as specified in the notice, consent and
2 contract, the exporters and generators of such waste shall,
3 within 10 days after the exporter receives notice of such
4 evidence from the Administrator, or 10 days after the ex-
5 piration of such 30-day period, whichever is sooner, pro-
6 vide evidence to the Administrator that the shipment has
7 been delivered to the facility designated or managed as
8 so specified. Unless such evidence is provided within such
9 10-day period, the exporters and generators shall, within
10 15 days after such 10-day period, accept legal and finan-
11 cial responsibility for—

12 “(1) arranging for the acceptance of the haz-
13 ardous or additional waste by an alternative facility
14 and delivering the hazardous or additional waste to
15 that facility in compliance with all requirements of
16 this subtitle, or

17 “(2) returning the hazardous or additional
18 waste to the United States in compliance with all re-
19 quirements of this subtitle and any applicable State,
20 tribal and Federal laws.

21 “(e) DOCUMENTS.—The exporter shall ensure that
22 all required documents have been properly executed and
23 that such documents accompany the hazardous or addi-
24 tional waste to the importing facility.

1 “(f) FINANCIAL RESPONSIBILITY.—The exporter
2 shall comply with any financial responsibility requirements
3 promulgated by the President. The exporter shall also
4 comply with any bonding, insurance, guarantee, and other
5 financial responsibility requirements of the importing and
6 transit countries.

7 “(g) REGULAR SHIPMENTS.—The President may,
8 subject to the written consent of the importing and transit
9 countries, allow the exporter to use a general notification
10 and consent procedure where hazardous or additional
11 wastes having the same physical and chemical characteris-
12 tics are shipped regularly to the same disposer via—

13 “(1) the same customs office of exit in the
14 United States;

15 “(2) the same customs office of entry in the im-
16 porting country; and

17 “(3) the same customs offices of entry and exit
18 in any transit countries.

19 Such general notification and consent may cover multiple
20 shipments of hazardous or additional wastes during a pe-
21 riod of no more than 12 months.

22 “(h) WASTE MINIMIZATION.—To the extent required
23 by section 3002 of this title and the Pollution Prevention
24 Act of 1990, generators of hazardous or additional waste

1 exporting such waste shall minimize the generation of such
2 waste and document such efforts.

3 **“SEC. 12005. REQUIREMENTS FOR IMPORT OF HAZARDOUS**
4 **AND ADDITIONAL WASTE.**

5 “(a) OTHER APPLICABLE LAWS.—Imports of any
6 hazardous or additional waste into the United States made
7 pursuant to subsection 12003(b) shall be subject to the
8 requirements of this section, all other applicable State,
9 tribal and Federal laws, and any regulations promulgated
10 to implement the requirements of this subtitle unless such
11 wastes are imported into the United States for transit
12 through the United States to another country in accord-
13 ance with section 12006.

14 “(b) PRE-IMPORT REQUIREMENTS.—Prior to import-
15 ing hazardous or additional wastes into the United
16 States—

17 “(1) the importer shall provide to the Adminis-
18 trator a written notice of the proposed export from
19 the government of the exporting country obtained
20 through the Secretary of State, which shall con-
21 tain—

22 “(A) a copy of the technical provisions re-
23 garding waste management contained in an exe-
24 cuted written contract between the importer
25 and exporter that specifies (i) the method by

1 which the hazardous or additional waste will be
2 managed; and (ii) that such waste will be man-
3 aged in accordance with applicable State, tribal
4 and Federal laws; and

5 “(B) sufficient information for the Presi-
6 dent to make an informed decision as to wheth-
7 er to accept the proposed import; and

8 “(2) the importer must obtain the written con-
9 sent of the President to the import of such waste.

10 “(c) WASTE TRACKING.—The importer of any haz-
11 ardous or additional waste shall be subject to regulations
12 promulgated by the Administrator to assure that the ex-
13 porter receives documentation from the facility specified
14 in the contract as authorized to receive such waste in the
15 United States for ultimate treatment or disposal and that
16 the importer provides a copy of such documentation to the
17 Administrator within 30 calendar days after the date of
18 delivery to such facility. The Administrator shall promul-
19 gate regulations under this subsection within 90 days after
20 the enactment of this section.

21 “(d) FAILURE To DELIVER.—If the importer fails to
22 deliver the hazardous or additional waste to the facility
23 designated in the notification, consent and contract, the
24 importer shall be legally and financially responsible for—

1 “(1) delivering such waste to an alternative fa-
2 cility in compliance with all requirements of this
3 subtitle and with applicable State, tribal, and Fed-
4 eral laws; or

5 “(2) returning such waste to the exporting
6 country in compliance with all requirements of this
7 subtitle.

8 “(e) DOCUMENTS.—The importer shall ensure that
9 all required documents have been properly executed and
10 that the documents accompany the hazardous or addi-
11 tional wastes to the importing facility.

12 “(f) FINANCIAL RESPONSIBILITY.—The importer
13 shall comply with any financial responsibility requirements
14 promulgated by the President. The importer shall also
15 comply with any bonding, insurance, guarantee, and other
16 financial responsibility requirements of the exporting and
17 transit countries.

18 “(g) REGULAR SHIPMENTS.—The President may,
19 subject to the written consent of the exporting and transit
20 countries, allow the importer to use a general notification
21 and consent procedure where hazardous or additional
22 wastes having the same physical and chemical characteris-
23 tics are shipped regularly to the same disposer via—

24 “(1) the same customs office of exit in the ex-
25 porting country;

1 “(2) the same customs office of entry in the
2 United States; and

3 “(3) the same customs offices of entry and exit
4 in any transit countries.

5 Such general notification and consent may cover multiple
6 shipments of hazardous or additional wastes during a pe-
7 riod of no more than 12 months.

8 **“SEC. 12006. REQUIREMENTS OF TRANSIT THROUGH THE**
9 **UNITED STATES.**

10 “(a) COVERAGE.—All imports of hazardous or addi-
11 tional wastes into the United States solely for purposes
12 of transit through the United States to another country,
13 shall be subject to the requirements of this section and
14 the requirements of section 12005 shall not apply to any
15 such imports.

16 “(b) PROHIBITION.—No person may import hazard-
17 ous or additional wastes into the United States for transit
18 through the United States to another country without the
19 prior written consent of the President.

20 “(c) PRE-IMPORT REQUIREMENTS.—Prior to import-
21 ing hazardous or additional wastes into the United States
22 for transit, the person responsible for such transit shall
23 provide to the President—

24 “(1) a written notice from the government of
25 the exporting country obtained through the Sec-

1 retary of State, notifying the United States of the
2 proposed export and requesting consent to the trans-
3 it of the specified wastes through the United
4 States;

5 “(2) copies of the consent to transit of any
6 other transit countries for the specified wastes; and

7 “(3) a copy of the consent to import granted by
8 the country in which final disposal of the specified
9 wastes will occur.

10 “(d) CONSENT TO TRANSIT.—The President may
11 consent to the import of hazardous or additional waste
12 into the United States solely for purposes of transit only
13 upon a finding that, during transit, such waste will be
14 managed in an environmentally sound manner.

15 “(e) WASTE TRACKING.—The United States im-
16 porter and United States exporter of any hazardous or ad-
17 ditional waste subject to this section shall be subject to
18 regulations promulgated by the Administrator to assure
19 that such importer and exporter both receive documenta-
20 tion from the importer in the next country to which such
21 waste is transferred and that both the United States im-
22 porter and the United States exporter provide a copy of
23 such documentation to the Administrator within 30 cal-
24 endar days after the date of delivery to such next im-
25 porter. The Administrator shall promulgate regulations

1 under this subsection within 90 days after the enactment
2 of this section. Upon completion of transit through the
3 United States, the person responsible for such transit shall
4 provide a notice of completion to the Administrator.

5 **“SEC. 12007. AUTHORITIES OF THE PRESIDENT AND THE**
6 **ADMINISTRATOR.**

7 “(a) AUTHORITY TO PROMULGATE REGULATIONS.—
8 (1) Not later than 12 months after the date of enactment
9 of this subtitle, the President shall promulgate any regula-
10 tions necessary to implement the requirements of this sub-
11 title, including the requirements applicable to bilateral,
12 multilateral, or regional agreements referred to in this
13 subtitle. Such regulations shall include, at a minimum,
14 provisions for: notification, tracking, manifesting, packag-
15 ing, labelling, reporting, recordkeeping, financial respon-
16 sibility, transportation, enforcement and information re-
17 quired to be included in contracts.

18 “(2) Such regulations shall be effective 60 days after
19 the date of promulgation.

20 “(3) No exports shall take place pursuant to nego-
21 tiated new bilateral, multilateral, or regional agreements
22 entered into under section 12003(b) unless the Adminis-
23 trator has promulgated such regulations.

24 “(b) AUTHORITY To PROHIBIT EXPORTS AND IM-
25 PORTS.—As required to fulfill the obligations of the

1 United States under the Basel Convention, the President
2 shall issue an order prohibiting by particular source, ship-
3 ment, or class—

4 “(1) exports of hazardous or additional waste
5 from the United States where the President has rea-
6 son to believe the waste to be exported would not be
7 managed in an environmentally sound manner, not-
8 withstanding the consent of the importing country or
9 other entity or the existence of a bilateral or regional
10 agreement between the United States and the im-
11 porting country;

12 “(2) imports of hazardous or additional waste
13 into the United States where the President has rea-
14 son to believe such imports or the subsequent man-
15 agement of such wastes would be in violation of ap-
16 plicable State, tribal or Federal laws;

17 “(3) exports from or imports into the United
18 States of hazardous or additional wastes where the
19 President has reason to believe that the shipment(s)
20 involved may not proceed in accordance with—

21 “(A) the contract specified in subsection
22 12004(b) or subsection 12005(b), or

23 “(B) any requirements of the bilateral or
24 regional agreements between the countries; or

1 “(4) exports from or imports into the United
2 States of hazardous or additional waste where such
3 exports or imports would otherwise be inconsistent
4 with the international obligations of the United
5 States.

6 Such orders shall be immediately effective. However, the
7 President shall conduct a hearing if, within 30 days of
8 issuance of the order, any person or persons named there-
9 in or affected by the order submits written notification re-
10 questing a hearing. Following the hearing, the President,
11 upon a determination that the order was not warranted,
12 may modify or reissue the order. The proscribed exports
13 or imports may not proceed during the pendency of any
14 administrative hearing or judicial proceeding challenging
15 an order by the President pursuant to this subsection. Ju-
16 dicial review of such orders shall be limited to the adminis-
17 trative record.

18 “(c) INSPECTIONS.—If, after a review of the notice
19 of intent to export and other information concerning the
20 management of hazardous or additional waste in the im-
21 porting country, the President determines that there is
22 substantial evidence that the hazardous or additional
23 waste would not be managed in an environmentally sound
24 manner, within the meaning of section 12003(c), the
25 President may, before issuing an order prohibiting the ex-

1 port, request the exporter or the owner or operator of the
2 treatment or disposal facility receiving the waste to—

3 “(1) arrange for the President to inspect the
4 receiving facility for the purpose of assessing the ca-
5 pability of the facility to manage hazardous or addi-
6 tional waste in an environmentally sound manner,
7 within the meaning of 12003(c); and

8 “(2) demonstrate that the receiving facility has
9 operated in substantial compliance with the regu-
10 latory program described in section 12003(c) and in
11 a manner which indicates that the waste to be ex-
12 ported will be managed in accordance with the appli-
13 cable requirements of the program.

14 “(d) EMERGENCY ORDERS.—Notwithstanding any
15 other authorities provided by this subtitle, the President
16 may issue an emergency order to prohibit the export or
17 import of hazardous or additional wastes by particular
18 source, shipment, or class from or to a specific country
19 for a period not to exceed 60 days—

20 “(1) if the President has reason to believe that
21 the export or import may present an imminent and
22 substantial endangerment to health or the environ-
23 ment within or outside the United States, or

24 “(2) if the government of an importing or ex-
25 porting country submits a request to the President

1 for emergency action in support of that country's en-
2 forcement efforts related to the export or import of
3 hazardous or additional waste.

4 There shall be no judicial review of such emergency order
5 except in the context of an action brought by the Attorney
6 General to enforce such order. The President shall have
7 the authority to extend the emergency order after notice
8 and opportunity for a hearing for a period not to exceed
9 an additional 90 calendar days, except that in the case
10 of an imminent and substantial endangerment, the order
11 shall be effective until the President determines that the
12 endangerment is no longer imminent. Any extension of the
13 initial emergency order shall be subject to judicial review,
14 and such review shall be limited to the administrative
15 record.

16 "(e) AUTHORITY TO CONTROL HAZARDOUS AND AD-
17 DITIONAL WASTE EXPORTS THAT ARE NOT DELIV-
18 ERED.—Whenever any exporter or generator of hazardous
19 or additional waste fails or refuses to commence taking
20 actions specified in section 12004(d) within the period
21 specified in section 12004(d), or whenever the Adminis-
22 trator receives notice that a shipment has not been deliv-
23 ered to the facility designated, or managed as specified
24 in the notice, consent or contract, the Administrator shall
25 perform the actions required by subsection 12004(d). The

1 Administrator shall provide notice to the appropriate ex-
2 porters or generators. The exporters or generators shall
3 be liable for all costs incurred by the Administrator in ar-
4 ranging for or conducting such disposition, including but
5 not limited to—

6 “(1) any liability resulting from the treatment,
7 storage, or disposal of the wastes;

8 “(2) costs of arranging for or conducting trans-
9 portation, storage, and disposal of the waste; and

10 “(3) attorney’s fees incurred by the United
11 States in seeking recovery of its costs.

12 The United States may recover all such costs and fees
13 from the exporters or generators in the United States Dis-
14 trict Court for the district in which the cost was incurred,
15 or in which any of the exporters or generators reside or
16 have their principal place of business, or in the District
17 of Columbia.

18 “(f) AUTHORITY TO DESIGNATE PORTS.—The Ad-
19 ministrator may by regulation limit or restrict to specifi-
20 cally designated ports in the United States shipments of—

21 “(1) particular hazardous or additional wastes
22 for export or import, or

23 “(2) all hazardous or additional waste for ex-
24 port or import.

1 **“SEC. 12008. ANTARCTIC TREATY AREA AND NATIONS WITH**2 **IMPORT BAN.**

3 “(a) PROHIBITIONS.—

4 “(1) ANARCTIC TREATY AREA.—It shall be un-
5 lawful for any person to export hazardous or addi-
6 tional waste for treatment, incineration, storage, dis-
7 posal or recycling to any location south of 60 de-
8 grees south latitude.

9 “(2) NATIONS WITH IMPORT PROHIBITIONS.—It
10 shall be unlawful for any person to export hazardous
11 or additional waste from the United States to any
12 other country in violation of any provision of law in
13 effect in that country prohibiting the entry of such
14 waste into that country.

15 “(b) SAVINGS PROVISION.—Nothing in this section
16 shall be construed as contravening or superseding—

17 “(1) any obligations under any international
18 treaty, convention, or agreement if such treaty, con-
19 vention, or agreement is in force with respect to the
20 United States on the date of enactment of this sub-
21 title, and if it is compatible with the environmentally
22 sound management of hazardous or additional
23 waste, or

24 “(2) the provisions of any statute which imple-
25 ments any such treaty, convention, or agreement.

1 **“SEC. 12009. REPORTING.**

2 “Effective in the calendar year following the effective
3 date of regulations promulgated pursuant to this subtitle,
4 all persons who export or import hazardous or additional
5 waste under this subtitle shall report no later than March
6 1 of each calendar year to the Administrator summarizing
7 the types, quantities, frequency, routes, ultimate destina-
8 tion, and any known disposition of all such hazardous and
9 additional wastes that were exported or imported or for
10 which notice to export or import was given during the pre-
11 ceding calendar year, and any such information that the
12 Administrator may require pursuant to such regulations.

13 **“SEC. 12010. FEES.**

14 “The President shall promulgate and revise regula-
15 tions establishing fees to be paid by persons who export
16 or import any hazardous or additional wastes. Such fees
17 shall be established at such level as the President esti-
18 mates to be necessary to recover all reasonable costs in-
19 curred by all departments, agencies, and instrumentalities
20 of the United States in carrying out the new requirements
21 of this subtitle. Fees collected under this section shall be
22 deposited as miscellaneous receipts in the United States
23 Treasury and shall be available, subject to annual appro-
24 priation to the departments, agencies, and instrumental-
25 ities of the United States carrying out the requirements
26 of this subtitle.

1 **“SEC. 12011. FEDERAL ENFORCEMENT.**

2 “The provisions of this subtitle shall be enforced in
3 accordance with section 3008 of this Act.

4 **“SEC. 12012. EFFECTIVE DATE.**

5 “Except as otherwise provided, the provisions of this
6 subtitle shall take effect on the date of enactment of the
7 Waste Export and Import Control Act of 1994.”.

8 (b) OBJECTIVES AND NATIONAL POLICY.—Section
9 1003(a) of the Solid Waste Disposal Act is amended—

10 (1) by striking out “and” at the end of para-
11 graph (10);

12 (2) by striking out the period at the end of
13 paragraph (11) and inserting in lieu thereof “; and”;
14 and

15 (3) by adding at the end the following new
16 paragraph:

17 “(12) assuring that the export from and import
18 into the United States of hazardous and additional
19 wastes is undertaken in compliance with the provi-
20 sions of the Basel Convention on the Control of
21 Transboundary Movements of Hazardous Wastes
22 and Their Disposal.”.

23 (c) RETENTION OF EXISTING AUTHORITY.—Section
24 3017 of the Solid Waste Disposal Act and all regulations
25 promulgated pursuant to that section, shall remain effec-
26 tive for hazardous wastes exported or imported under sub-

1 section 12003(a) of that Act. No exports shall take place
2 pursuant to negotiated new bilateral, multilateral, or re-
3 gional agreements under section 12003(b) of that Act un-
4 less the Administrator has promulgated regulations pursu-
5 ant to section 12007 of that Act.

6 (d) CONFORMING AMENDMENTS.—(1) The table of
7 contents of the Solid Waste Disposal Act is amended to
8 add the following new items after the items relating to
9 subtitle J—

“Subtitle K—Exports and Imports of Hazardous and Additional Wastes

“Sec. 12001. Definitions.

“Sec. 12002. Prohibition of exports and imports of hazardous and additional waste.

“Sec. 12003. Exceptions to prohibition.

“Sec. 12004. Requirements for export of hazardous and additional waste.

“Sec. 12005. Requirements for import of hazardous and additional waste.

“Sec. 12006. Requirements of transit through the United States.

“Sec. 12007. Authorities of the President and the Administrator.

“Sec. 12008. Antarctic Treaty area.

“Sec. 12009. Reporting.

“Sec. 12010. Fees.

“Sec. 12011. Federal enforcement.

“Sec. 12012. Effective date.”.

10 (2) Section 3017(f) of the Solid Waste Disposal Act
11 is amended to read as follows:

12 (f) ADDITIONAL WASTE.—Effective on the date of
13 the enactment of subtitle K of this Act, the provisions of
14 this section shall be applicable to additional wastes identi-
15 fied under subtitle K, except that in the case of exports
16 or imports of additional waste identified under subtitle K
17 to or from any country with which the United States has
18 entered into a bilateral, multilateral, or regional agree-

1 ment regarding waste export and import that is in effect
2 on the date of enactment of subtitle K, such provisions
3 shall be effective 6 months after the date of the promulga-
4 tion of regulations under section 12007(a) of the Solid
5 Waste Disposal Act or 24 months after the date of enact-
6 ment of subtitle K of that Act, whichever is earlier.”.

7 (3) Section 3017(h) of the Solid Waste Disposal Act
8 is amended by inserting “or under subtitle K” at the end
9 thereof.

10 (4) Section 3008 of the Solid Waste Disposal Act is
11 amended as follows:

12 (A) Insert “or subtitle K” after “this subtitle”
13 wherever it appears in subsections (a) and (g).

14 (B) Insert “or, for violation of any requirement
15 of subtitle K, in the district in which the defendant
16 resides or maintains a principal place of business or
17 in the District of Columbia,” after “in which the vio-
18 lation occurred” in subsection (a).

19 (C) Insert “or under subtitle K or with bilateral
20 or regional agreements for the export or import of
21 hazardous or additional waste under subtitle K” in
22 subsections (d)(3) and (d)(4) before the semicolon at
23 the end.

24 (D) Insert “, imports” after “exports” in sub-
25 section (d)(4) and insert “or any hazardous or addi-

1 tional wastes under subtitle K” after “subtitle” the
2 first place it appears in subsection (d)(4).

3 (E) Amend subsection (d)(6) to read:

4 “(6) knowingly exports or imports a hazardous
5 or additional waste, as those terms are defined in
6 subtitle K of this Act, in violation of (A) any re-
7 quirement of this subtitle, or any regulation promul-
8 gated thereunder, or (B) any requirement of a bilat-
9 eral or regional agreement, as those terms are de-
10 fined in subtitle K of this Act, entered into pursuant
11 to such subtitle; or”.

12 (F) In subsection (e)—

13 (i) insert “or imports” after “exports”;
14 and

15 (ii) insert “or any hazardous or additional
16 wastes under subtitle K” after “subtitle” the
17 second place it appears.

18 (G) Insert at the end thereof the following new
19 subsection:

20 “(i) CIVIL ENFORCEMENT OF EMERGENCY OR-
21 DERS.—Upon receipt of evidence that an export or import
22 may present an imminent and substantial endangerment
23 to health or the environment within or outside the United
24 States, or upon the receipt of a request by the government
25 of an importing or exporting country for emergency action

1 in support of that country's enforcement efforts related
2 to the export or import of hazardous or additional wastes,
3 the President may bring suit on behalf of the United
4 States in the appropriate United States district court to—
5 “(1) immediately restrain any person causing or
6 contributing to the alleged endangerment;
7 “(2) enforce the order; or,
8 “(3) take such other action as may be nec-
9 essary.”.

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