

104TH CONGRESS
1ST SESSION

H. R. 227

To amend the Solid Waste Disposal Act to provide congressional authorization for restrictions on receipt of out-of-State municipal solid waste, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. DINGELL introduced the following bill; which was referred to the
Committee on Commerce

A BILL

To amend the Solid Waste Disposal Act to provide congressional authorization for restrictions on 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 “State and Local Gov-
5 ernment Interstate Waste Control Act of 1995”.

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

3 Subtitle D of the Solid Waste Disposal Act (42
4 U.S.C. 6941 et seq.) is amended by adding after section
5 4010 the following new section:

6 **“SEC. 4011. INTERSTATE TRANSPORTATION AND DISPOSAL**
7 **OF MUNICIPAL SOLID WASTE.**

8 “(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE
9 WASTE.—

10 “(1) IN GENERAL.—(A) Effective January 1,
11 1996, a landfill or incinerator in a State may not re-
12 ceive for disposal or incineration any out-of-State
13 municipal solid waste unless the owner or operator
14 of such landfill or incinerator obtains explicit author-
15 ization (as part of a host community agreement)
16 from the affected local government to receive the
17 waste.

18 “(B) An authorization granted pursuant to sub-
19 paragraph (A) shall—

20 “(i) be granted by formal action at a meet-
21 ing;

22 “(ii) be recorded in writing in the official
23 record of the meeting; and

24 “(iii) remain in effect according to its
25 terms.

1 “(C) An authorization granted pursuant to sub-
2 paragraph (A) may specify terms and conditions, in-
3 cluding an amount of out-of-State waste that an
4 owner or operator may receive and the duration of
5 the authorization.

6 “(D) Promptly, but not later than 90 days after
7 such an authorization is granted, the affected local
8 government shall notify the Governor, contiguous
9 local governments, and any contiguous Indian tribes
10 of an authorization granted under this subsection.

11 “(2) INFORMATION.—Prior to seeking an au-
12 thorization to receive out-of-State municipal solid
13 waste pursuant to this subsection, the owner or op-
14 erator of the facility seeking such authorization shall
15 provide (and make readily available to the Governor,
16 each contiguous local government and Indian tribe,
17 and any other interested person for inspection and
18 copying) the following information:

19 “(A) A brief description of the facility, in-
20 cluding, with respect to both the facility and
21 any planned expansion of the facility, the size,
22 ultimate waste capacity, and the anticipated
23 monthly and yearly quantities (expressed in
24 terms of volume) of waste to be handled.

1 “(B) A map of the facility site indicating
2 location in relation to the local road system and
3 topography and hydrogeological features. The
4 map shall indicate any buffer zones to be ac-
5 quired by the owner or operator as well as all
6 facility units.

7 “(C) A description of the then current en-
8 vironmental characteristics of the site, a de-
9 scription of ground water use in the area (in-
10 cluding identification of private wells and public
11 drinking water sources), and a discussion of al-
12 terations that may be necessitated by, or occur
13 as a result of, the facility.

14 “(D) A description of environmental con-
15 trols typically required to be used on the site
16 (pursuant to permit requirements), including
17 run on or run off management (or both), air
18 pollution control devices, source separation pro-
19 cedures (if any), methane monitoring and con-
20 trol, landfill covers, liners or leachate collection
21 systems, and monitoring programs. In addition,
22 the description shall include a description of
23 any waste residuals generated by the facility,
24 including leachate or ash, and the planned man-
25 agement of the residuals.

1 “(E) A description of site access controls
2 to be employed, and roadway improvements to
3 be made, by the owner or operator, and an esti-
4 mate of the timing and extent of increased local
5 truck traffic.

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

8 “(G) Estimates of the personnel require-
9 ments of the facility, including information re-
10 garding the probable skill and education levels
11 required for jobs at the facility. To the extent
12 practicable, the information shall distinguish
13 between employment statistics for pre-
14 operational and postoperational levels.

15 “(H) Any information that is required by
16 State or Federal law to be provided with re-
17 spect to any violations of environmental laws
18 (including regulations) by the owner, the opera-
19 tor, and any subsidiary of the owner or opera-
20 tor, the disposition of enforcement proceedings
21 taken with respect to the violations, and correc-
22 tive action and rehabilitation measures taken as
23 a result of the proceedings.

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

1 spect to gifts and contributions made by the
2 owner or operator.

3 “(J) Any information that is required by
4 State or Federal law to be provided with re-
5 spect to compliance by the owner or operator
6 with the State solid waste management plan.

7 “(3) NOTIFICATION.—Prior to taking formal
8 action with respect to granting authorization to re-
9 ceive out-of-State municipal solid waste pursuant to
10 this subsection, an affected local government shall—

11 “(A) notify the Governor, contiguous local
12 governments, and any contiguous Indian tribes;

13 “(B) publish notice of the action in a
14 newspaper of general circulation at least 30
15 days before holding a hearing and again at
16 least 15 days before holding the hearing, except
17 where State law provides for an alternate form
18 of public notification; and

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

22 “(b) ANNUAL STATE REPORT.—

23 “(1) IN GENERAL.—Each year the owner or op-
24 erator of each landfill or incinerator receiving out-of-
25 State municipal solid waste shall submit to the af-

1 fected local government and to the Governor of the
2 State in which the landfill or incinerator is located
3 information specifying the amount of out-of-State
4 municipal solid waste received for disposal during
5 the preceding year. Each year each such State shall
6 publish and make available to the public a report
7 containing information on the amount of out-of-
8 State municipal solid waste received for disposal in
9 the State during the preceding year. Each year the
10 owner or operator of each landfill or incinerator re-
11 ceiving out-of-State municipal solid waste shall also
12 submit to the Governor of the State of origin of such
13 waste, and to the Administrator, information speci-
14 fying the amount of out-of-State municipal solid
15 waste received for disposal by the owner or operator
16 during the preceding year from such State of origin.
17 The submissions under this paragraph by any owner
18 or operator shall all be made at the same time.

19 “(2) CONTENTS.—Each submission referred to
20 in this subsection shall be such as would result in
21 criminal penalties in case of false or misleading in-
22 formation. Such submission shall include the amount
23 of waste received, place of origin, identity of the gen-
24 erator, date of shipment, and type of waste.

1 “(3) LIST.—The Administrator shall publish a
2 list of States that the Administrator has determined
3 have exported out of State an amount of municipal
4 solid waste in excess of 3.5 million tons in calendar
5 year 1996, 3.0 million tons in each of calendar years
6 1997 and 1998, 2.5 million tons in each of calendar
7 years 1999 and 2000, 1.5 million tons in each of
8 calendar years 2001 and 2002, and 1.0 million tons
9 in calendar year 2003 and each year thereafter. The
10 list for any calendar year shall be published by
11 March 1 of the following calendar year.

12 “(4) SAVINGS PROVISION.—Nothing in this sub-
13 section shall be construed to preempt any State re-
14 quirement that requires more frequent reporting of
15 information.

16 “(c) FREEZE.—

17 “(1) ANNUAL AMOUNT.—(A) Except as pro-
18 vided in paragraph (2) and unless it would result in
19 a violation of, or be inconsistent with, a host com-
20 munity agreement or permit specifically authorizing
21 the owner or operator of a landfill or incinerator to
22 accept out-of-State municipal solid waste at such
23 landfill or incinerator, and notwithstanding the ab-
24 sence of a request in writing by the affected local
25 government, a Governor, in accordance with para-

1 graph (3), may limit the quantity of out-of-State
2 municipal solid waste received for disposal at each
3 landfill or incinerator covered by the exceptions pro-
4 vided in subsection (e) that is subject to the jurisdic-
5 tion of the Governor, to an annual amount equal to
6 the quantity of out-of-State municipal solid waste re-
7 ceived for disposal at such landfill or incinerator
8 during calendar year 1993.

9 “(B) At the request of an affected local govern-
10 ment that has not executed a host community agree-
11 ment, the Governor may limit the amount of out-of-
12 State municipal solid waste received annually for
13 disposal at the landfill or incinerator concerned to
14 the amount described in subparagraph (A). No such
15 limit may conflict with provisions of a permit specifi-
16 cally authorizing the owner or operator to accept, at
17 the facility, out-of-State municipal solid waste.

18 “(2) LIMITATION ON GOVERNOR’S AUTHOR-
19 ITY.—A Governor may not exercise the authority
20 granted under this subsection in a manner that
21 would require any owner or operator of a landfill or
22 incinerator covered by the exceptions provided in
23 subsection (e) to reduce the amount of out-of-State
24 municipal solid waste received from any State for
25 disposal at such landfill or incinerator to an annual

1 quantity less than the amount received from such
2 State for disposal at such landfill or incinerator dur-
3 ing calendar year 1993.

4 “(3) UNIFORMITY.—Any limitation imposed by
5 a Governor under paragraph (1)(A)—

6 “(A) shall be applicable throughout the
7 State;

8 “(B) shall not directly or indirectly dis-
9 criminate against any particular landfill or in-
10 cinerator within the State; and

11 “(C) shall not directly or indirectly dis-
12 criminate against any shipments of out-of-State
13 municipal solid waste on the basis of State of
14 origin.

15 “(d) RATCHET.—

16 “(1) IN GENERAL.—Unless it would result in a
17 violation of, or be inconsistent with, a host commu-
18 nity agreement or permit specifically authorizing the
19 owner or operator of a landfill or incinerator to ac-
20 cept out-of-State municipal solid waste at such land-
21 fill or incinerator, immediately upon the date of pub-
22 lication of the list required under subsection (b)(3),
23 and notwithstanding the absence of a request in
24 writing by the affected local government, a Gov-
25 ernor, in accordance with paragraph (4), may pro-

1 hibit the disposal of out-of-State municipal solid
2 waste, at any landfill or incinerator covered by the
3 exceptions in subsection (e) that is subject to the ju-
4 risdiction of the Governor, generated in any State
5 that is determined by the Administrator under sub-
6 section (b)(3) as having exported, to landfills or in-
7 cinerators not covered by host community agree-
8 ments, more than any of the following:

9 “(A) 3.5 million tons of municipal solid
10 waste in calendar year 1996.

11 “(B) 3.0 million tons of municipal solid
12 waste in calendar year 1997.

13 “(C) 3.0 million tons of municipal solid
14 waste in calendar year 1998.

15 “(D) 2.5 million tons of municipal solid
16 waste in calendar year 1999.

17 “(E) 2.5 million tons of municipal solid
18 waste in calendar year 2000.

19 “(F) 1.5 million tons of municipal solid
20 waste in calendar year 2001.

21 “(G) 1.5 million tons of municipal solid
22 waste in calendar year 2002.

23 “(H) 1.0 million tons of municipal solid
24 waste in calendar year 2003.

1 “(I) 1.0 million tons of municipal solid
2 waste in each calendar year after 2003.

3 “(2) ADDITIONAL EXPORT LIMITS.—No State
4 may export to any one State more than 1.4 million
5 tons of municipal solid waste in calendar year 1996
6 or 90 percent of the 1993 levels exported to a State,
7 whichever is greater, 1.3 million tons in 1997 or 90
8 percent of the 1996 levels exported to a State,
9 whichever is greater, 1.2 million tons in 1998 or 90
10 percent of the 1997 levels exported to a State,
11 whichever is greater, 1.1 million tons in 1999 or 90
12 percent of the 1998 levels exported to a State,
13 whichever is greater, 1 million tons in 2000,
14 800,000 tons in 2001, and 600,000 tons in 2002
15 and each year thereafter, to landfills or incinerators
16 not covered by host community agreements. Gov-
17 ernors of importing States may restrict levels of im-
18 ports to reflect the level of out-of-State municipal
19 solid waste imports referred to in the preceding sen-
20 tence if—

21 “(A) the Governor of the importing State
22 has notified the Governor of the exporting State
23 and the Administrator 12 months prior to en-
24 forcement of the importing State’s intention to
25 impose the requirements of this section;

1 “(B) the Governor of the importing State
2 has notified the Governor of the exporting State
3 and the Administrator of the violation by the
4 exporting State of this section at least 90 days
5 prior to the enforcement of this section; and

6 “(C) the restrictions imposed by the Gov-
7 ernor of the importing State are uniform at all
8 facilities within the State receiving municipal
9 solid waste from the exporting State.

10 “(3) DURATION.—The authority provided by
11 paragraph (1) or (2) or both shall apply for as long
12 as a State exceeds the levels allowable under para-
13 graph (1) or (2), as the case may be.

14 “(4) UNIFORMITY.—Any restriction imposed by
15 a State under paragraph (1) or (2)—

16 “(A) shall be applicable throughout the
17 State;

18 “(B) shall not directly or indirectly dis-
19 criminate against any particular landfill or in-
20 cinerator within the State; and

21 “(C) shall not directly or indirectly dis-
22 criminate against any shipments of out-of-State
23 municipal solid waste on the basis of State of
24 origin, in the case of States in violation of para-
25 graph (1) or (2).

1 “(e) AUTHORIZATION NOT REQUIRED FOR CERTAIN
2 FACILITIES.—

3 “(1) IN GENERAL.—The prohibition on the dis-
4 posal of out-of-State municipal solid waste under
5 subsection (a)(1) shall not apply to landfills and in-
6 cinerators in operation on the date of enactment of
7 this section that received during calendar year 1993
8 documented shipments of out-of-State municipal
9 solid waste.

10 “(2) AVAILABILITY OF DOCUMENTATION.—The
11 owner or operator of a landfill or incinerator that is
12 exempt under paragraph (1) of this subsection from
13 the requirements of subsection (a) shall provide to
14 the State and affected local government, and make
15 available for inspection by the public in the affected
16 local community, a copy of the host community
17 agreement or other documentation required under
18 paragraph (1). The owner or operator may omit
19 from such copy or other documentation any propri-
20 etary information, but shall ensure that at least the
21 following information is apparent: the volume of out-
22 of-State municipal solid waste received, the place of
23 origin of the waste, and the duration of any relevant
24 contract.

1 “(3) DENIED OR REVOKED PERMITS.—A land-
2 fill or incinerator may not receive for disposal or in-
3 cineration out-of-State municipal solid waste in the
4 absence of a host community agreement if the oper-
5 ating permit or license for the landfill or incinerator
6 (or renewal thereof) was denied or revoked by the
7 appropriate State agency before the date of enact-
8 ment of this section unless such permit or license (or
9 renewal) has been reinstated as of such date of en-
10 actment.

11 “(4) WASTE WITHIN BI-STATE METROPOLITAN
12 STATISTICAL AREAS.—The owner or operator of a
13 landfill or incinerator in a State may receive out-of-
14 State municipal solid waste without obtaining au-
15 thorization under subsection (a) from the affected
16 local government if the out-of-State waste is gen-
17 erated within, and the landfill or incinerator is lo-
18 cated within, the same bi-State level A metropolitan
19 statistical area (as defined by the Office of Manage-
20 ment and Budget and as listed by the Office of
21 Management and Budget as of the date of enact-
22 ment of this section) that contains two contiguous
23 major cities each of which is in a different State.

24 “(f) NEEDS DETERMINATION.—Any comprehensive
25 solid waste management plan adopted by an affected local

1 government pursuant to Federal or State law may take
2 into account local and regional needs for solid waste dis-
3 posal capacity. Any implementation of such plan through
4 the State permitting process may take into account local
5 and regional needs for solid waste disposal capacity only
6 in a manner that is not inconsistent with the provisions
7 of this section. Nothing in this subsection shall be con-
8 strued to prohibit or preclude any State government or
9 solid waste management district, as defined under State
10 law from requiring any affected local government to site,
11 construct, or modify any solid waste facility.

12 “(g) COST RECOVERY SURCHARGE.—

13 “(1) AUTHORITY.—Both of the States directly
14 affected by the decision of the Supreme Court in the
15 case of *Oregon Waste Systems, Inc. v. Department*
16 *of Environmental Quality*, 114 S. Ct. 1345 (1994)
17 may impose and collect a cost recovery surcharge on
18 the combustion or disposal in a landfill or inciner-
19 ator of out-of-State municipal solid waste in such
20 State.

21 “(2) LIMITATION.—During the period begin-
22 ning on the date of enactment of this section and
23 ending on December 31, 1997, no such State may
24 impose or collect a cost recovery surcharge from a

1 facility on any out-of-State municipal solid waste
2 that meets both of the following conditions:

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

6 “(B) The amount of waste being received
7 in a calendar year under the contract or con-
8 tracts does not exceed the amount of waste re-
9 ceived at the facility during calendar year 1993.

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

15 “(4) USE OF SURCHARGE COLLECTED.—All
16 cost recovery surcharges collected by a State covered
17 by this subsection shall be used to fund those solid
18 waste management programs administered by the
19 State or its political subdivisions that incur costs for
20 which the surcharge is collected.

21 “(5) CONDITIONS.—(A) Subject to subpara-
22 graphs (B) and (C), a State covered by this sub-
23 section may impose and collect a cost recovery sur-
24 charge on the combustion or disposal within the
25 State of out-of-State municipal solid waste if—

1 “(i) the State demonstrates a cost to the
2 State arising from the combustion or disposal
3 within the State of a volume of municipal solid
4 waste from a source outside the State;

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

10 “(iii) the surcharge is compensatory and is
11 not discriminatory.

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

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

22 “(6) BURDEN OF PROOF.—In any proceeding in
23 which a State invokes this subsection to justify a
24 cost recovery surcharge on the combustion or dis-
25 posal within the State of out-of-State municipal solid

1 waste, the State shall bear the burden of establish-
2 ing that the cost recovery surcharge satisfies the
3 conditions set forth in paragraph (5).

4 “(h) IMPLEMENTATION AND ENFORCEMENT.—Any
5 State may adopt such laws and regulations, not inconsis-
6 tent with this section, as are necessary to implement and
7 enforce this section, including provisions for penalties.

8 “(i) CONSTRUCTION AND DEMOLITION WASTE.—

9 “(1) LIMIT.—Any State may establish, pursu-
10 ant to this paragraph, a limit on the amount of out-
11 of-State construction and demolition waste for dis-
12 posal at landfills in the State. A limit under this
13 paragraph may be imposed consistent with each of
14 the following:

15 “(A) By January 1, 1997, each State seek-
16 ing to limit under this paragraph the receipt of
17 out-of-State construction and demolition waste
18 shall establish and implement a mechanism for
19 measuring the amount of construction and dem-
20 olition waste generated within the State, dis-
21 posed of within the State, imported into the
22 State and exported for disposal.

23 “(B) By March 1, 1999, each State seek-
24 ing to limit under this paragraph the receipt of
25 construction and demolition waste shall estab-

1 lish the amount of out-of-State construction
2 and demolition waste received during calendar
3 years 1997 and 1998 and report the tonnage
4 received to the Governor of each exporting
5 State.

6 “(2) AMOUNT.—For each calendar year begin-
7 ning after January 1, 1999, the amount of out-of-
8 State construction and demolition waste received at
9 any facility within an importing State may be lim-
10 ited to the average of the amounts received in cal-
11 endar years 1997 and 1998.

12 “(3) DEFINITION.—For purposes of this sub-
13 section, the term ‘construction and demolition waste’
14 means debris resulting from construction, remodel-
15 ing, repair, or demolition of structures other than
16 debris that is not otherwise commingled with other
17 municipal solid waste and has been determined by
18 the generator, to be contaminated. For purposes of
19 determining whether any such debris is contami-
20 nated, the generator shall conduct representative
21 sampling and analysis of such debris, the results of
22 which shall be submitted to the affected local gov-
23 ernment for recordkeeping purposes only, unless not
24 required by the affected local government. Any such
25 debris that has been determined to be contaminated

1 shall be disposed of in a landfill that meets, at a
2 minimum, the requirements of this subtitle.

3 “(j) SAVINGS CLAUSE.—Nothing in this section shall
4 be interpreted or construed to have any effect on State
5 law relating to contracts.

6 “(k) DEFINITIONS.—As used in this section:

7 “(1) AFFECTED LOCAL GOVERNMENT.—(A)
8 For any landfill or incinerator, the term ‘affected
9 local government’ means—

10 “(i) the public body authorized by State
11 law to plan for the management of municipal
12 solid waste, a majority of the members of which
13 are elected officials, for the area in which the
14 landfill or incinerator is located or proposed to
15 be located; or

16 “(ii) if there is no such body created by
17 State law—

18 “(I) the elected officials of the city,
19 town, township, borough, county, or parish
20 selected by the Governor and exercising
21 primary responsibility over municipal solid
22 waste management or the use of land in
23 the jurisdiction in which the facility is lo-
24 cated or is proposed to be located; or

1 “(II) if a Governor fails to make a se-
2 lection under subclause (I), and publish a
3 notice regarding the selection, within 90
4 days after the date of enactment of this
5 section, the elected officials of the city,
6 town, township, borough, county, parish, or
7 other public body created pursuant to
8 State law with primary jurisdiction over
9 the land or the use of land on which the
10 facility is located or is proposed to be lo-
11 cated.

12 The Governor shall publish a notice regarding the
13 selection described in clause (ii).

14 “(B) Notwithstanding subparagraph (A), for
15 purposes of host community agreements entered into
16 before the date of enactment of this section (or be-
17 fore the date of publication of notice, in the case of
18 subparagraph (A)(ii)), the term shall mean either
19 the public body described in clause (i) or the elected
20 officials of the city, town, township, borough, county,
21 or parish exercising primary responsibility for the
22 use of land on which the facility is located or pro-
23 posed to be located.

24 “(C) Two or more Governors of adjoining
25 States may use the authority provided in section

1 1005(b) to enter into an agreement under which
2 contiguous units of local government located in each
3 of the adjoining States may act jointly as the af-
4 fected local government for purposes of providing
5 authorization under subsection (a) for municipal
6 solid waste generated in one of such counties and re-
7 ceived for disposal or incineration in another.

8 “(2) HOST COMMUNITY AGREEMENT.—The
9 term ‘host community agreement’ means a written,
10 legally binding document or documents executed by
11 duly authorized officials of the affected local govern-
12 ment that specifically authorizes a landfill or inciner-
13 ator to receive municipal solid waste generated out-
14 of-State, but does not include any agreement to pay
15 host community fees for receipt of waste unless ad-
16 ditional express authorization to receive out-of-State
17 municipal solid waste is also included.

18 “(3) MUNICIPAL SOLID WASTE.—The term
19 ‘municipal solid waste’ means refuse (and refuse-de-
20 rived fuel) generated by the general public, from a
21 residential source, or from a commercial, institu-
22 tional, or industrial source (or any combination
23 thereof) to the extent such waste is essentially the
24 same as waste normally generated by households or
25 was collected and disposed of with other municipal

1 solid waste as part of normal municipal solid waste
2 collection services, and regardless of when generated,
3 would be considered conditionally exempt small
4 quantity generator waste under section 3001(d),
5 such as paper, food, wood, yard wastes, plastics,
6 leather, rubber, appliances, or other combustible or
7 noncombustible materials such as metal or glass (or
8 any combination thereof). The term ‘municipal solid
9 waste’ does not include any of the following:

10 “(A) Any solid waste identified or listed as
11 a hazardous waste under section 3001.

12 “(B) Any solid waste, including contami-
13 nated soil and debris, resulting from a response
14 action taken under section 104 or 106 of the
15 Comprehensive Environmental Response, Com-
16 pensation, and Liability Act of 1980 (42 U.S.C.
17 9604 or 9606) or a corrective action taken
18 under this Act.

19 “(C) Recyclable materials that have been
20 separated, at the source of the waste, from
21 waste otherwise destined for disposal or that
22 have been managed separately from waste des-
23 tined for disposal.

24 “(D) Any solid waste that is—

1 “(i) generated by an industrial facil-
2 ity; and

3 “(ii) transported for the purpose of
4 treatment, storage, or disposal to a facility
5 that is owned or operated by the generator
6 of the waste, or is located on property
7 owned by the generator of the waste, or is
8 located on property owned by a company
9 with which the generator is affiliated.

10 “(E) Any solid waste generated incident to
11 the provision of service in interstate, intrastate,
12 foreign, or overseas air transportation.

13 “(F) Sewage sludge and residuals from
14 any sewage treatment plant, including any sew-
15 age treatment plant required to be constructed
16 in the State of Massachusetts pursuant to any
17 court order issued against the Massachusetts
18 Water Resources Authority.

19 “(G) Combustion ash generated by re-
20 source recovery facilities or municipal inciner-
21 ators, or waste from manufacturing or process-
22 ing (including pollution control) operations not
23 essentially the same as waste normally gen-
24 erated by households.

1 “(H) Any medical waste that is segregated
2 from or not mixed with municipal solid waste
3 (as otherwise defined in this paragraph).

4 “(I) Any material or product returned
5 from a dispenser or distributor to the manufac-
6 turer for credit, evaluation, or possible reuse.

7 “(4) OUT-OF-STATE MUNICIPAL SOLID
8 WASTE.—The term ‘out-of-State municipal solid
9 waste’ means, with respect to any State, municipal
10 solid waste generated outside of the State. Unless
11 the President determines it is not consistent with
12 the North American Free Trade Agreement and the
13 General Agreement on Tariffs and Trade, the term
14 shall include municipal solid waste generated outside
15 of the United States.

16 “(5) SPECIFICALLY AUTHORIZED.—The term
17 ‘specifically authorizes’ refers to an explicit author-
18 ization, contained in a host community agreement or
19 permit, to import waste from outside the State.
20 Such authorization may include a reference to a
21 fixed radius surrounding the landfill or incinerator
22 that includes an area outside the State or a ref-
23 erence to ‘any place of origin’, reference to specific
24 places outside the State, or use of such phrases as
25 ‘regardless of origin’ or ‘outside the State’. The lan-

1 guage for such authorization may vary as long as it
2 clearly and affirmatively states the approval or con-
3 sent of the affected local government or State for re-
4 ceipt of municipal solid waste from sources or loca-
5 tions outside the State from which the owner or op-
6 erator of a landfill or incinerator proposes to import
7 it.”.

8 **SEC. 3. TABLE OF CONTENTS AMENDMENT.**

9 The table of contents in section 1001 of the Solid
10 Waste Disposal Act (42 U.S.C. prec. 6901) is amended
11 by adding after the item relating to section 4010 the fol-
12 lowing new item:

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

○

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