

In the Senate of the United States,

July 30, 1996

Resolved, That the bill from the House of Representatives (H.R. 3816) entitled “An Act making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 *That the following sums are appropriated, out of any*
2 *money in the Treasury not otherwise appropriated, for the*
3 *fiscal year ending September 30, 1997, for energy and*
4 *water development, and for other purposes, namely:*

5

TITLE I

6

DEPARTMENT OF DEFENSE—CIVIL

7

DEPARTMENT OF THE ARMY

8

CORPS OF ENGINEERS—CIVIL

9

The following appropriations shall be expended under

10 *the direction of the Secretary of the Army and the super-*



1 *vision of the Chief of Engineers for authorized civil func-*
2 *tions of the Department of the Army pertaining to rivers*
3 *and harbors, flood control, beach erosion, and related pur-*
4 *poses.*

5 *GENERAL INVESTIGATIONS*

6 *For expenses necessary for the collection and study of*
7 *basic information pertaining to river and harbor, flood con-*
8 *trol, shore protection, and related projects, restudy of au-*
9 *thorized projects, miscellaneous investigations, and, when*
10 *authorized by laws, surveys and detailed studies and plans*
11 *and specifications of projects prior to construction,*
12 *\$154,557,000, to remain available until expended, of which*
13 *funds are provided for the following projects in the amounts*
14 *specified:*

15 *Coastal Studies Navigation Improvements, Alas-*
16 *ka, \$500,000;*

17 *Red River Navigation, Southwest, Arkansas,*
18 *\$600,000;*

19 *Tahoe Basin Study, Nevada and California,*
20 *\$200,000;*

21 *Walker River Basin Restoration Study, Nevada*
22 *and California, \$300,000;*

23 *Bolinas Lagoon restoration study, Marin Coun-*
24 *ty, California, \$500,000;*

25 *Barnegat Inlet to Little Egg Harbor Inlet, New*
26 *Jersey, \$300,000;*

1 *South Shore of Staten Island, New York,*
2 *\$300,000; and*

3 *Rhode Island South Coast, Habitat Restoration*
4 *and Storm Damage Reduction, Rhode Island,*
5 *\$300,000.*

6 *CONSTRUCTION, GENERAL*

7 *For the prosecution of river and harbor, flood control,*
8 *shore protection, and related projects authorized by laws;*
9 *and detailed studies, and plans and specifications, of*
10 *projects (including those for development with participation*
11 *or under consideration for participation by States, local*
12 *governments, or private groups) authorized or made eligible*
13 *for selection by law (but such studies shall not constitute*
14 *a commitment of the Government to construction),*
15 *\$1,049,306,000, to remain available until expended, of*
16 *which such sums as are necessary pursuant to Public Law*
17 *99–662 shall be derived from the Inland Waterways Trust*
18 *Fund, for one-half of the costs of construction and rehabili-*
19 *tation of inland waterways projects, including rehabilita-*
20 *tion costs for the Lock and Dam 25, Mississippi River, Illi-*
21 *nois and Missouri, Lock and Dam 14, Mississippi River,*
22 *Iowa, and Lock and Dam 24, Mississippi River, Illinois*
23 *and Missouri, projects, and of which funds are provided for*
24 *the following projects in the amounts specified:*

25 *Larsen Bay Harbor, Alaska, \$2,000,000;*

26 *Ouzinkie Harbor, Alaska, \$2,000,000;*

1 *Valdez Harbor, Alaska, Intertidal Water Reten-*
2 *tion, \$1,000,000;*

3 *Red River Emergency Bank Protection, Arkan-*
4 *sas, \$6,000,000;*

5 *Indianapolis Central Waterfront, Indiana,*
6 *\$2,000,000;*

7 *Harlan (Levisa and Tug Forks of the Big Sandy*
8 *River and Upper Cumberland River), Kentucky,*
9 *\$10,000,000;*

10 *Williamsburg (Levisa and Tug Forks of the Big*
11 *Sandy River and Upper Cumberland River), Ken-*
12 *tucky, \$4,700,000;*

13 *Middlesboro (Levisa and Tug Forks of the Big*
14 *Sandy River and Upper Cumberland River), Ken-*
15 *tucky, \$4,000,000;*

16 *Pike County (Levisa and Tug Forks of the Big*
17 *Sandy River and Upper Cumberland River), Ken-*
18 *tucky, \$3,000,000;*

19 *Ouachita River Levees, Louisiana, \$2,600,000;*

20 *Lake Pontchartrain and Vicinity, Louisiana,*
21 *\$18,525,000;*

22 *Lake Pontchartrain (Jefferson Parish)*
23 *Stormwater Discharge, Louisiana, \$3,500,000;*

24 *Red River Emergency Bank Protection, Louisi-*
25 *ana, \$4,400,000;*

1 *Mill Creek, Ohio, \$500,000;*

2 *Seelconk River, Rhode Island Bridge removal,*
3 *\$650,000;*

4 *Red River Chloride Control, Texas, \$4,500,000;*

5 *Wallisville Lake, Texas, \$5,000,000;*

6 *Richmond Filtration Plant, Virginia,*
7 *\$3,500,000;*

8 *Virginia Beach, Virginia, Hurricane Protection,*
9 *\$8,000,000;*

10 *Hatfield Bottom (Levisa and Tug Forks of the*
11 *Big Sandy River and Upper Cumberland River),*
12 *West Virginia, \$1,600,000;*

13 *Lower Mingo (Kermit) (Levisa and Tug Forks of*
14 *the Big Sandy River and Upper Cumberland River),*
15 *\$4,200,000;*

16 *Lower Mingo, West Virginia, Tributaries Sup-*
17 *plement, \$105,000; and*

18 *Upper Mingo County (Levisa and Tug Forks of*
19 *the Big Sandy River and Upper Cumberland River),*
20 *West Virginia, \$4,000,000: Provided, That of the*
21 *funds provided for the Red River Waterway, Mis-*
22 *issippi River to Shreveport, Louisiana, project,*
23 *\$3,000,000 is provided, to remain available until ex-*
24 *pendent, for design and construction of a regional visi-*
25 *tor center in the vicinity of Shreveport, Louisiana at*

1 *full Federal expense: Provided further, That the Sec-*
2 *retary of the Army, acting through the Chief of Engi-*
3 *neers, is authorized and directed to initiate construc-*
4 *tion on the following projects in the amounts speci-*
5 *fied:*

6 *Kake Harbor, Alaska, \$4,000,000;*

7 *Helena and Vicinity, Arkansas, \$150,000;*

8 *San Lorenzo, California, \$200,000;*

9 *Panama City Beaches, Florida, \$400,000;*

10 *Chicago Shoreline, Illinois, \$1,300,000;*

11 *Pond Creek, Jefferson City, Kentucky,*
12 *\$3,000,000;*

13 *Boston Harbor, Massachusetts, \$500,000;*

14 *Poplar Island, Maryland, \$5,000,000;*

15 *Natchez Bluff, Mississippi, \$5,000,000;*

16 *Wood River, Grand Isle, Nebraska, \$1,000,000;*

17 *Duck Creek, Cincinnati, Ohio, \$466,000;*

18 *Saw Mill River, Pittsburgh, Pennsylvania,*
19 *\$500,000;*

20 *Upper Jordan River, Utah, \$1,100,000;*

21 *San Juan Harbor, Puerto Rico, \$800,000; and*

22 *Allendale Dam, Rhode Island, \$195,000: Pro-*
23 *vided further, That no fully allocated funding policy*
24 *shall apply to construction of the projects listed above,*
25 *and the Secretary of the Army is directed to under-*

1 *take these projects using continuing contracts where*
2 *sufficient funds to complete the projects are not avail-*
3 *able from funds provided herein or in prior years.*

4 *FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES,*
5 *ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MIS-*
6 *SISSIPPI, MISSOURI, AND TENNESSEE*

7 *For expenses necessary for prosecuting work of flood*
8 *control, and rescue work, repair, restoration, or mainte-*
9 *nance of flood control projects threatened or destroyed by*
10 *flood, as authorized by law (33 U.S.C. 702a, 702g-1),*
11 *\$312,513,000, to remain available until expended: Pro-*
12 *vided, That the President of the Mississippi River Commis-*
13 *sion is directed henceforth to use the variable cost recovery*
14 *rate set forth in OMB Circular A-126 for use of the Com-*
15 *mission aircraft authorized by the Flood Control Act of*
16 *1946, Public Law 526.*

17 *OPERATION AND MAINTENANCE, GENERAL*

18 *For expenses necessary for the preservation, operation,*
19 *maintenance, and care of existing river and harbor, flood*
20 *control, and related works, including such sums as may be*
21 *necessary for the maintenance of harbor channels provided*
22 *by a State, municipality or other public agency, outside*
23 *of harbor lines, and serving essential needs of general com-*
24 *merce and navigation; surveys and charting of northern*
25 *and northwestern lakes and connecting waters; clearing and*
26 *straightening channels; and removal of obstructions to navi-*

1 gation, \$1,688,358,000, to remain available until expended,
2 of which such sums as become available in the Harbor
3 Maintenance Trust Fund, pursuant to Public Law 99-662,
4 may be derived from that fund, and of which such sums
5 as become available from the special account established by
6 the Land and Water Conservation Act of 1965, as amended
7 (16 U.S.C. 460l), may be derived from that fund for con-
8 struction, operation, and maintenance of outdoor recreation
9 facilities and of which \$500,000 shall be made available for
10 the maintenance of Compton Creek Channel, Los Angeles
11 County drainage area, California: Provided, That the Sec-
12 retary of the Army is directed to design and implement at
13 full Federal expense an early flood warning system for the
14 Greenbrier and Cheat River Basins, West Virginia within
15 eighteen months from the date of enactment of this Act: Pro-
16 vided further, That the Secretary of the Army is directed
17 during fiscal year 1997 to maintain a minimum conserva-
18 tion pool level of 475.5 at Wister Lake in Oklahoma: Pro-
19 vided further, That no funds, whether appropriated, con-
20 tributed, or otherwise provided, shall be available to the
21 United States Army Corps of Engineers for the purpose of
22 acquiring land in Jasper County, South Carolina, in con-
23 nection with the Savannah Harbor navigation project: Pro-
24 vided further, That the Secretary of the Army is directed
25 to use \$600,000 of funding provided herein to perform

1 *maintenance dredging of the Cocheco River navigation*
2 *project, New Hampshire: Provided further, That \$750,000*
3 *is for the Buford-Trenton Irrigation District, section 33,*
4 *erosion control project in North Dakota.*

5 *REGULATORY PROGRAM*

6 *For expenses necessary for administration of laws per-*
7 *taining to regulation of navigable waters and wetlands,*
8 *\$101,000,000, to remain available until expended.*

9 *FLOOD CONTROL AND COASTAL EMERGENCIES*

10 *For expenses necessary for emergency flood control,*
11 *hurricane, and shore protection activities, as authorized by*
12 *section 5 of the Flood Control Act approved August 18,*
13 *1941, as amended, \$10,000,000, to remain available until*
14 *expended.*

15 *GENERAL EXPENSES*

16 *For expenses necessary for general administration and*
17 *related functions in the Office of the Chief of Engineers and*
18 *offices of the Division Engineers; activities of the Coastal*
19 *Engineering Research Board, the Humphreys Engineer*
20 *Center Support Activity, the Engineering Strategic Studies*
21 *Center, and the Water Resources Support Center, and for*
22 *costs of implementing the Secretary of the Army's plan to*
23 *reduce the number of division offices as directed in title I,*
24 *Public Law 104-46, \$153,000,000, to remain available*
25 *until expended: Provided, That no part of any other appro-*
26 *priation provided in title I of this Act shall be available*

1 *to fund the activities of the Office of the Chief of Engineers*
2 *or the executive direction and management activities of the*
3 *Division Offices: Provided further, That the Secretary of the*
4 *Army may not obligate any funds available to the Depart-*
5 *ment of the Army for the closure of the Pacific Ocean Divi-*
6 *sion Office of the Army Corps of Engineers.*

7 *ADMINISTRATIVE PROVISIONS*

8 *Appropriations in this title shall be available for offi-*
9 *cial reception and representation expenses (not to exceed*
10 *\$5,000); and during the current fiscal year the revolving*
11 *fund, Corps of Engineers, shall be available for purchase*
12 *(not to exceed 100 for replacement only) and hire of pas-*
13 *senger motor vehicles.*

14 *GENERAL PROVISIONS*

15 *SEC. 101. The flood control project for Arkansas City,*
16 *Kansas authorized by section 401(a) of the Water Resources*
17 *Development Act of 1986 (Public Law 99-662, 100 Stat.*
18 *4116) is modified to authorize the Secretary of the Army*
19 *to construct the project at a total cost of \$38,500,000, with*
20 *an estimated first Federal cost of \$19,250,000 and an esti-*
21 *mated first non-Federal cost of \$19,250,000.*

22 *SEC. 102. Funds previously provided under the Fiscal*
23 *Year 1993 Energy and Water Development Act, Public Law*
24 *102-377, for the Elk Creek Dam, Oregon project, are hereby*
25 *made available to plan and implement long term manage-*
26 *ment measures at Elk Creek Dam to maintain the project*

1 *in an uncompleted state and to take necessary steps to pro-*
2 *vide passive fish passage through the project.*

3 *SEC. 103. The flood control project for Moorefield, West*
4 *Virginia, authorized by section 101(a)(25) of the Water Re-*
5 *sources Development Act of 1990 (Public Law 101–640, 104*
6 *Stat. 4610) is modified to authorize the Secretary of the*
7 *Army to construct the project at a total cost of \$26,200,000,*
8 *with an estimated first Federal cost of \$20,300,000 and an*
9 *estimated first non-Federal cost of \$5,900,000.*

10 *SEC. 104. The project for navigation, Grays Landing*
11 *Lock and Dam, Monongahela River, Pennsylvania (Lock*
12 *and Dam 7 Replacement), authorized by section 301(a) of*
13 *the Water Resources Development Act of 1986 (Public Law*
14 *99–662, 100 Stat. 4110) is modified to authorize the Sec-*
15 *retary of the Army to construct the project at a total cost*
16 *of \$181,000,000, with an estimated first Federal cost of*
17 *\$181,000,000.*

18 *SEC. 105. From the date of enactment of this Act, flood*
19 *control measures implemented under Section 202(a) of Pub-*
20 *lic Law 96–367 shall prevent future losses that would occur*
21 *from a flood equal in magnitude to the April 1977 level*
22 *by providing protection from the April 1977 level or the*
23 *100-year frequency event, whichever is greater.*

24 *SEC. 106. Notwithstanding any other provision of law,*
25 *the Secretary of the Army, acting through the Chief of Engi-*

1 *neers, is authorized to reprogram, obligate and expend such*
2 *additional sums as are necessary to continue construction*
3 *and cover anticipated contract earnings of any water re-*
4 *sources project that received an appropriation or allowance*
5 *for construction in or through an appropriations Act or res-*
6 *olution of the then-current fiscal year or the two fiscal years*
7 *immediately prior to that fiscal year, in order to prevent*
8 *the termination of a contract or the delay of scheduled work.*

9 *SEC. 107. (a) In fiscal year 1997, the Secretary of the*
10 *Army shall advertise for competitive bid at least 7,500,000*
11 *cubic yards of the hooper dredge volume accomplished with*
12 *government owned dredges in fiscal year 1996.*

13 *(b) Notwithstanding the provisions of this section, the*
14 *Secretary is authorized to use the dredge fleet of the Corps*
15 *of Engineers to undertake projects when industry does not*
16 *perform as required by the contract specifications or when*
17 *the bids are more than 25 percent in excess of what the*
18 *Secretary determines to be a fair and reasonable estimated*
19 *cost of a well equipped contractor doing the work or to re-*
20 *spond to emergency requirements.*

21 *SEC. 108. The Corps of Engineers is hereby directed*
22 *to complete the Charleston Riverfront (Haddad) Park*
23 *Project, West Virginia, as described in the design memoran-*
24 *dum approved November, 1992, on a 50–50 cost-share basis*
25 *with the City. The Corps of Engineers shall pay one-half*

1 *of all costs for settling contractor claims on the completed*
2 *project and for completing the wharf. The Federal portion*
3 *of these costs shall be obtained by reprogramming available*
4 *Operations & Maintenance funds. The project cost limita-*
5 *tion in the Project Cooperation Agreement shall be in-*
6 *creased to reflect the actual costs of the completed project.*

7 *TITLE II*

8 *DEPARTMENT OF THE INTERIOR*

9 *CENTRAL UTAH PROJECT*

10 *CENTRAL UTAH PROJECT COMPLETION ACCOUNT*

11 *For the purpose of carrying out provisions of the*
12 *Central Utah Project Completion Act, Public Law 102-575*
13 *(106 Stat. 4605), and for feasibility studies of alternatives*
14 *to the Uintah and Upalco Units, \$42,527,000, to remain*
15 *available until expended, of which \$16,700,000 shall be de-*
16 *posited into the Utah Reclamation Mitigation and Con-*
17 *servation Account: Provided, That of the amounts deposited*
18 *into the Account, \$5,000,000 shall be considered the Federal*
19 *contribution authorized by paragraph 402(b)(2) of the Act*
20 *and \$11,700,000 shall be available to the Utah Reclamation*
21 *Mitigation and Conservation Commission to carry out ac-*
22 *tivities authorized under the Act.*

23 *In addition, for necessary expenses incurred in carry-*
24 *ing out responsibilities of the Secretary of the Interior*

1 *under the Act, \$1,100,000, to remain available until ex-*
2 *pended.*

3 *BUREAU OF RECLAMATION*

4 *For carrying out the functions of the Bureau of Rec-*
5 *lamation as provided in the Federal reclamation laws (Act*
6 *of June 17, 1902, 32 Stat. 388, and Acts amendatory there-*
7 *of or supplementary thereto) and other Acts applicable to*
8 *that Bureau as follows:*

9 *GENERAL INVESTIGATIONS*

10 *For engineering and economic investigations of pro-*
11 *posed Federal reclamation projects and studies of water*
12 *conservation and development plans and activities prelimi-*
13 *nary to the reconstruction, rehabilitation and betterment,*
14 *financial adjustment, or extension of existing projects,*
15 *\$18,105,000, to remain available until expended: Provided,*
16 *That of the total appropriated, the amount for program ac-*
17 *tivities which can be financed by the reclamation fund shall*
18 *be derived from that fund: Provided further, That funds*
19 *contributed by non-Federal entities for purposes similar to*
20 *this appropriation shall be available for expenditure for the*
21 *purposes for which contributed as though specifically appro-*
22 *priated for said purposes, and such amounts shall remain*
23 *available until expended: Provided further, That within*
24 *available funds, \$150,000 is for completion of the feasibility*
25 *study of alternatives for meeting the drinking water needs*

1 *of Cheyenne River Sioux Reservation and surrounding com-*
2 *munities.*

3 *CONSTRUCTION PROGRAM*

4 *(INCLUDING TRANSFER OF FUNDS)*

5 *For construction and rehabilitation of projects and*
6 *parts thereof (including power transmission facilities for*
7 *Bureau of Reclamation use) and for other related activities*
8 *as authorized by law, \$398,596,700, to remain available*
9 *until expended, of which \$23,410,000 shall be available for*
10 *transfer to the Upper Colorado River Basin Fund author-*
11 *ized by section 5 of the Act of April 11, 1956 (43 U.S.C.*
12 *620d), and \$58,325,700 shall be available for transfer to*
13 *the Lower Colorado River Basin Development Fund author-*
14 *ized by section 403 of the Act of September 30, 1968 (43*
15 *U.S.C. 1543), and such amounts as may be necessary shall*
16 *be considered as though advanced to the Colorado River*
17 *Dam Fund for the Boulder Canyon Project as authorized*
18 *by the Act of December 21, 1928, as amended, and that*
19 *\$12,500,000 shall be available for the Mid-Dakota Rural*
20 *Water System: Provided, That of the total appropriated, the*
21 *amount for program activities which can be financed by*
22 *the reclamation fund shall be derived from that fund: Pro-*
23 *vided further, That transfers to the Upper Colorado River*
24 *Basin Fund and Lower Colorado River Basin Development*
25 *Fund may be increased or decreased by transfers within*
26 *the overall appropriation under this heading: Provided fur-*

1 *ther, That funds contributed by non-Federal entities for*
2 *purposes similar to this appropriation shall be available*
3 *for expenditure for the purposes for which contributed as*
4 *though specifically appropriated for said purposes, and*
5 *such funds shall remain available until expended: Provided*
6 *further, That all costs of the safety of dams modification*
7 *work at Coolidge Dam, San Carlos Irrigation Project, Ari-*
8 *zona, performed under the authority of the Reclamation*
9 *Safety of Dams Act of 1978 (43 U.S.C. 506), as amended,*
10 *are in addition to the amount authorized in section 5 of*
11 *said Act: Provided further, That section 301 of Public Law*
12 *102–250, Reclamation States Emergency Drought Relief*
13 *Act of 1991, is amended by inserting “1996, and 1997” in*
14 *lieu of “and 1996”:* *Provided further, That the amount au-*
15 *thorized by section 210 of Public Law 100–557 (102 Stat.*
16 *2791), is amended to \$56,362,000 (October 1996 prices plus*
17 *or minus cost indexing), and funds are authorized to be*
18 *appropriated through the twelfth fiscal year after conserva-*
19 *tion funds are first made available: Provided further, That*
20 *\$1,500,000 shall be available for construction of McCall*
21 *Wastewater Treatment, Idaho facility, and \$1,000,000 shall*
22 *be available for Devils Lake Desalination, North Dakota*
23 *Project.*

24 *OPERATION AND MAINTENANCE*

25 *For operation and maintenance of reclamation*
26 *projects or parts thereof and other facilities, as authorized*

1 *by law; and for a soil and moisture conservation program*
2 *on lands under the jurisdiction of the Bureau of Reclama-*
3 *tion, pursuant to law, \$280,876,000, to remain available*
4 *until expended: Provided, That of the total appropriated,*
5 *the amount for program activities which can be financed*
6 *by the reclamation fund shall be derived from that fund,*
7 *and the amount for program activities which can be derived*
8 *from the special fee account established pursuant to the Act*
9 *of December 22, 1987 (16 U.S.C. 460l-6a, as amended),*
10 *may be derived from that fund: Provided further, That*
11 *funds advanced by water users for operation and mainte-*
12 *nance of reclamation projects or parts thereof shall be depos-*
13 *ited to the credit of this appropriation and may be ex-*
14 *pended for the same purpose and in the same manner as*
15 *sums appropriated herein may be expended, and such ad-*
16 *vances shall remain available until expended: Provided fur-*
17 *ther, That revenues in the Upper Colorado River Basin*
18 *Fund shall be available for performing examination of ex-*
19 *isting structures on participating projects of the Colorado*
20 *River Storage Project.*

21 *BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT*

22 *For the cost of direct loans and/or grants, \$12,290,000,*
23 *to remain available until expended, as authorized by the*
24 *Small Reclamation Projects Act of August 6, 1956, as*
25 *amended (43 U.S.C. 422a-422l): Provided, That such costs,*
26 *including the cost of modifying such loans, shall be as de-*

1 *fined in section 502 of the Congressional Budget Act of*
2 *1974: Provided further, That these funds are available to*
3 *subsidize gross obligations for the principal amount of di-*
4 *rect loans not to exceed \$37,000,000.*

5 *In addition, for administrative expenses necessary to*
6 *carry out the program for direct loans and/or grants,*
7 *\$425,000: Provided, That of the total sums appropriated,*
8 *the amount of program activities which can be financed by*
9 *the reclamation fund shall be derived from the fund.*

10 *CENTRAL VALLEY PROJECT RESTORATION FUND*

11 *For carrying out the programs, projects, plans, and*
12 *habitat restoration, improvement, and acquisition provi-*
13 *sions of the Central Valley Project Improvement Act, such*
14 *sums as may be collected in the Central Valley Project Res-*
15 *toration Fund pursuant to sections 3407(d), 3404(c)(3),*
16 *3405(f) and 3406(c)(1) of Public Law 102-575, to remain*
17 *available until expended: Provided, That the Bureau of Rec-*
18 *lamation is directed to levy additional mitigation and res-*
19 *toration payments totaling \$30,000,000 (October 1992 price*
20 *levels) on a three-year rolling average basis, as authorized*
21 *by section 3407(d) of Public Law 102-575.*

22 *GENERAL ADMINISTRATIVE EXPENSES*

23 *For necessary expenses of general administration and*
24 *related functions in the office of the Commissioner, the Den-*
25 *ver office, and offices in the five regions of the Bureau of*
26 *Reclamation, to remain available until expended,*

1 \$48,307,000, to be derived from the reclamation fund and
 2 to be nonreimbursable pursuant to the Act of April 19, 1945
 3 (43 U.S.C. 377): Provided, That no part of any other ap-
 4 propriation in this Act shall be available for activities or
 5 functions budgeted for the current fiscal year as general ad-
 6 ministrative expenses.

7 *SPECIAL FUNDS*

8 *(TRANSFER OF FUNDS)*

9 *Sums herein referred to as being derived from the rec-*
 10 *lamation fund or special fee account are appropriated from*
 11 *the special funds in the Treasury created by the Act of June*
 12 *17, 1902 (43 U.S.C. 391) or the Act of December 22, 1987*
 13 *(16 U.S.C. 460l-6a, as amended), respectively. Such sums*
 14 *shall be transferred, upon request of the Secretary, to be*
 15 *merged with and expended under the heads herein specified.*

16 *ADMINISTRATIVE PROVISION*

17 *Appropriations for the Bureau of Reclamation shall*
 18 *be available for purchase of not to exceed 6 passenger motor*
 19 *vehicles for replacement only.*

20 *TITLE III*

21 *DEPARTMENT OF ENERGY*

22 *ENERGY PROGRAMS*

23 *ENERGY SUPPLY, RESEARCH AND DEVELOPMENT*

24 *ACTIVITIES*

25 *For expenses of the Department of Energy activities*
 26 *including the purchase, construction and acquisition of*

1 *plant and capital equipment and other expenses necessary*
2 *for energy supply, research and development activities in*
3 *carrying out the purposes of the Department of Energy Or-*
4 *ganization Act (42 U.S.C. 7101, et seq.), including the ac-*
5 *quisition or condemnation of any real property or any fa-*
6 *cility or for plant or facility acquisition, construction, or*
7 *expansion; purchase of passenger motor vehicles (not to ex-*
8 *ceed 24 for replacement only), \$2,764,043,000, to remain*
9 *available until expended: Provided, That \$5,000,000 shall*
10 *be available for research into reducing the costs of convert-*
11 *ing saline water to fresh water.*

12 *URANIUM SUPPLY AND ENRICHMENT ACTIVITIES*

13 *For expenses of the Department of Energy in connec-*
14 *tion with operating expenses; the purchase, construction,*
15 *and acquisition of plant and capital equipment and other*
16 *expenses necessary for uranium supply and enrichment ac-*
17 *tivities in carrying out the purposes of the Department of*
18 *Energy Organization Act (42 U.S.C. 7101, et seq.) and the*
19 *Energy Policy Act (Public Law 102-486, section 901), in-*
20 *cluding the acquisition or condemnation of any real prop-*
21 *erty or any facility or for plant or facility acquisition, con-*
22 *struction, or expansion; purchase of electricity as necessary;*
23 *and the purchase of passenger motor vehicles (not to exceed*
24 *3 for replacement only); \$42,200,000, to remain available*
25 *until expended: Provided, That revenues received by the De-*
26 *partment for uranium programs and estimated to total*

1 \$42,200,000 in fiscal year 1997 shall be retained and used
2 for the specific purpose of offsetting costs incurred by the
3 Department for such activities notwithstanding the provi-
4 sions of 31 U.S.C. 3302(b) and 42 U.S.C. 2296(b)(2): Pro-
5 vided further, That the sum herein appropriated shall be
6 reduced as revenues are received during fiscal year 1997
7 so as to result in a final fiscal year 1997 appropriation
8 from the General Fund estimated at not more than \$0.

9 Section 161k. of the Atomic Energy Act of 1954 (42
10 U.S.C. 2201k) with respect to the Paducah Gaseous Diffu-
11 sion Plant, Kentucky, and the Portsmouth Gaseous Diffu-
12 sion Plant, Ohio, the guidelines shall require, at a mini-
13 mum, the presence of an adequate number of security
14 guards carrying side arms at all times to ensure mainte-
15 nance of security at the gaseous diffusion plants.

16 Section 311(b) of the USEC Privatization Act (Public
17 Law 104-134, title III, chapter 1, subchapter A) insert the
18 following:

19 “(3) The Corporation shall pay to the Thrift
20 Savings Fund such employee and agency contribu-
21 tions as are required or authorized by sections 8432
22 and 8351 of title 5, United States Code, for employees
23 who elect to retain their coverage under CSRS or
24 FERS pursuant to paragraph (1).”.

1 *URANIUM ENRICHMENT DECONTAMINATION AND*
2 *DECOMMISSIONING FUND*

3 *For necessary expenses in carrying out uranium en-*
4 *richment facility decontamination and decommissioning,*
5 *remedial actions and other activities of title II of the Atom-*
6 *ic Energy Act of 1954 and title X, subtitle A of the Energy*
7 *Policy Act of 1992, \$205,200,000, to be derived from the*
8 *Fund, to remain available until expended.*

9 *GENERAL SCIENCE AND RESEARCH ACTIVITIES*

10 *For expenses of the Department of Energy activities*
11 *including the purchase, construction and acquisition of*
12 *plant and capital equipment and other expenses necessary*
13 *for general science and research activities in carrying out*
14 *the purposes of the Department of Energy Organization Act*
15 *(42 U.S.C. 7101, et seq.), including the acquisition or con-*
16 *demnation of any real property or facility or for plant or*
17 *facility acquisition, construction, or expansion,*
18 *\$1,000,626,000, to remain available until expended.*

19 *NUCLEAR WASTE DISPOSAL FUND*

20 *For nuclear waste disposal activities to carry out the*
21 *purposes of Public Law 97-425, as amended, including the*
22 *acquisition of real property or facility construction or ex-*
23 *pansion, \$200,028,000, to remain available until expended,*
24 *to be derived from the Nuclear Waste Fund: Provided, That*
25 *no later than June 30, 1998, the Secretary shall provide*
26 *to the President and to the Congress a viability assessment*

1 *of the Yucca Mountain site. The viability assessment shall*
2 *include:*

3 *(1) the preliminary design concept for the criti-*
4 *cal elements for the repository and waste package;*

5 *(2) a total system performance assessment, based*
6 *upon the design concept and the scientific data and*
7 *analysis available by June 30, 1998, describing the*
8 *probable behavior of the repository in the Yucca*
9 *Mountain geological setting relative to the overall sys-*
10 *tem performance standards;*

11 *(3) a plan and cost estimate for the remaining*
12 *work required to complete a license application; and*

13 *(4) an estimate of the costs to construct and op-*
14 *erate the repository in accordance with the design*
15 *concept.*

16 *DEPARTMENTAL ADMINISTRATION*

17 *For salaries and expenses of the Department of Energy*
18 *necessary for Departmental Administration in carrying out*
19 *the purposes of the Department of Energy Organization Act*
20 *(42 U.S.C. 7101, et seq.), including the hire of passenger*
21 *motor vehicles and official reception and representation ex-*
22 *penses (not to exceed \$35,000), \$218,017,000, to remain*
23 *available until expended, plus such additional amounts as*
24 *necessary to cover increases in the estimated amount of cost*
25 *of work for others notwithstanding the provisions of the*
26 *Anti-Deficiency Act (31 U.S.C. 1511, et seq.): Provided,*

1 *That such increases in cost of work are offset by revenue*
2 *increases of the same or greater amount, to remain avail-*
3 *able until expended: Provided further, That moneys received*
4 *by the Department for miscellaneous revenues estimated to*
5 *total \$125,388,000 in fiscal year 1997 may be retained and*
6 *used for operating expenses within this account, and may*
7 *remain available until expended, as authorized by section*
8 *201 of Public Law 95–238, notwithstanding the provisions*
9 *of 31 U.S.C. 3302: Provided further, That the sum herein*
10 *appropriated shall be reduced by the amount of miscellane-*
11 *ous revenues received during fiscal year 1997 so as to result*
12 *in a final fiscal year 1997 appropriation from the General*
13 *Fund estimated at not more than \$92,629,000: Provided*
14 *further, That funds made available by this Act for Depart-*
15 *mental Administration may be used by the Secretary of En-*
16 *ergy to offer employees voluntary separation incentives to*
17 *meet staffing and budgetary reductions and restructuring*
18 *needs through September 30, 1997 consistent with plans ap-*
19 *proved by the Office of Management and Budget. The*
20 *amount of each incentive shall be equal to the smaller of*
21 *the employee’s severance pay, or \$20,000. Voluntary separa-*
22 *tion recipients who accept employment with the Federal*
23 *Government, or enter into a personal services contract with*
24 *the Federal Government within five years after separation*
25 *shall repay the entire amount to the Department of Energy:*

1 *Provided further, That in addition to any other payments*
2 *which it is required to make under subchapter III of chapter*
3 *83 or chapter 84 of title 5, United States Code, the Depart-*
4 *ment of Energy shall remit to the Office of Personnel Man-*
5 *agement for deposit in the Treasury of the United States*
6 *to the credit of the Civil Service Retirement and Disability*
7 *Fund an amount equal to 15 percent of the final basic pay*
8 *of each employee who is covered under subchapter III of*
9 *chapter 83 or chapter 84 of title 5 to whom a voluntary*
10 *separation incentive has been paid under this paragraph.*

11 *OFFICE OF THE INSPECTOR GENERAL*

12 *For necessary expenses of the Office of the Inspector*
13 *General in carrying out the provisions of the Inspector Gen-*
14 *eral Act of 1978, as amended, \$23,103,000, to remain avail-*
15 *able until expended.*

16 *ATOMIC ENERGY DEFENSE ACTIVITIES*

17 *WEAPONS ACTIVITIES*

18 *For Department of Energy expenses, including the*
19 *purchase, construction and acquisition of plant and capital*
20 *equipment and other expenses necessary for atomic energy*
21 *defense weapons activities in carrying out the purposes of*
22 *the Department of Energy Organization Act (42 U.S.C.*
23 *7101, et seq.), including the acquisition or condemnation*
24 *of any real property or any facility or for plant or facility*
25 *acquisition, construction, or expansion; and the purchase*

1 *of passenger motor vehicles (not to exceed 94 for replacement*
2 *only), \$3,988,602,000, to remain available until expended.*

3 *DEFENSE ENVIRONMENTAL RESTORATION AND WASTE*

4 *MANAGEMENT*

5 *For Department of Energy expenses, including the*
6 *purchase, construction and acquisition of plant and capital*
7 *equipment and other expenses necessary for atomic energy*
8 *defense environmental restoration and waste management*
9 *activities in carrying out the purposes of the Department*
10 *of Energy Organization Act (42 U.S.C. 7101, et seq.), in-*
11 *cluding the acquisition or condemnation of any real prop-*
12 *erty or any facility or for plant or facility acquisition, con-*
13 *struction, or expansion; and the purchase of passenger*
14 *motor vehicles (not to exceed 20, of which 19 are for replace-*
15 *ment only), \$5,605,210,000, to remain available until ex-*
16 *pended: Provided, That an additional amount of*
17 *\$182,000,000 is available for privatization initiatives: Pro-*
18 *vided further, That within available funds, up to*
19 *\$2,000,000 is provided for demonstration of stir-melter tech-*
20 *nology developed by the Department and previously in-*
21 *tended to be used at the Savannah River Site. In carrying*
22 *out this demonstration, the Department is directed to seek*
23 *alternative use of this technology in order to maximize the*
24 *investment already made in this technology.*

25 *Of amounts appropriated for the Defense Environ-*
26 *mental Restoration and Waste Management Technology De-*

1 *velopment Program, \$5,000,000 shall be available for the*
2 *electrometallurgical treatment of spent nuclear fuel at Ar-*
3 *gonne National Laboratory.*

4 *OTHER DEFENSE ACTIVITIES*

5 *For Department of Energy expenses, including the*
6 *purchase, construction and acquisition of plant and capital*
7 *equipment and other expenses necessary for atomic energy*
8 *defense, other defense activities, in carrying out the pur-*
9 *poses of the Department of Energy Organization Act (42*
10 *U.S.C. 7101, et seq.), including the acquisition or con-*
11 *demnation of any real property or any facility or for plant*
12 *or facility acquisition, construction, or expansion, and the*
13 *purchase of passenger motor vehicles (not to exceed 2 for*
14 *replacement only), \$1,606,833,000, to remain available*
15 *until expended.*

16 *DEFENSE NUCLEAR WASTE DISPOSAL*

17 *For nuclear waste disposal activities to carry out the*
18 *purposes of Public Law 97-425, as amended, including the*
19 *acquisition of real property or facility construction or ex-*
20 *pansion, \$200,000,000, to remain available until expended.*

21 *POWER MARKETING ADMINISTRATIONS*

22 *OPERATION AND MAINTENANCE, ALASKA POWER*

23 *ADMINISTRATION*

24 *For necessary expenses of operation and maintenance*
25 *of projects in Alaska and of marketing electric power and*
26 *energy, \$4,000,000, to remain available until expended.*

1 *BONNEVILLE POWER ADMINISTRATION FUND*

2 *Expenditures from the Bonneville Power Administra-*
3 *tion Fund, established pursuant to Public Law 93-454, are*
4 *approved for official reception and representation expenses*
5 *in an amount not to exceed \$3,000.*

6 *During fiscal year 1997, no new direct loan obliga-*
7 *tions may be made.*

8 *OPERATION AND MAINTENANCE, SOUTHEASTERN POWER*9 *ADMINISTRATION*

10 *For necessary expenses of operation and maintenance*
11 *of power transmission facilities and of marketing electric*
12 *power and energy pursuant to the provisions of section 5*
13 *of the Flood Control Act of 1944 (16 U.S.C. 825s), as ap-*
14 *plied to the southeastern power area, \$13,859,000, to re-*
15 *main available until expended.*

16 *OPERATION AND MAINTENANCE, SOUTHWESTERN POWER*17 *ADMINISTRATION*

18 *For necessary expenses of operation and maintenance*
19 *of power transmission facilities and of marketing electric*
20 *power and energy, and for construction and acquisition of*
21 *transmission lines, substations and appurtenant facilities,*
22 *and for administrative expenses, including official recep-*
23 *tion and representation expenses in an amount not to ex-*
24 *ceed \$1,500 in carrying out the provisions of section 5 of*
25 *the Flood Control Act of 1944 (16 U.S.C. 825s), as applied*
26 *to the southwestern power area, \$25,210,000, to remain*

1 *available until expended; in addition, notwithstanding the*
2 *provisions of 31 U.S.C. 3302, not to exceed \$3,787,000 in*
3 *reimbursements, to remain available until expended.*

4 *CONSTRUCTION, REHABILITATION, OPERATION AND*
5 *MAINTENANCE, WESTERN AREA POWER ADMINISTRATION*
6 *(INCLUDING TRANSFER OF FUNDS)*

7 *For carrying out the functions authorized by title III,*
8 *section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C.*
9 *7101, et seq.), and other related activities including con-*
10 *servation and renewable resources programs as authorized,*
11 *including official reception and representation expenses in*
12 *an amount not to exceed \$1,500, \$201,582,000, to remain*
13 *available until expended, of which \$172,378,000 shall be de-*
14 *rived from the Department of the Interior Reclamation*
15 *Fund: Provided, That of the amount herein appropriated,*
16 *\$5,432,000 is for deposit into the Utah Reclamation Mitiga-*
17 *tion and Conservation Account pursuant to title IV of the*
18 *Reclamation Projects Authorization and Adjustment Act of*
19 *1992: Provided further, That the Secretary of the Treasury*
20 *is authorized to transfer from the Colorado River Dam*
21 *Fund to the Western Area Power Administration*
22 *\$3,774,000 to carry out the power marketing and trans-*
23 *mission activities of the Boulder Canyon project as pro-*
24 *vided in section 104(a)(4) of the Hoover Power Plant Act*
25 *of 1984, to remain available until expended.*

1 *FALCON AND AMISTAD OPERATING AND MAINTENANCE*2 *FUND*

3 *For operation, maintenance, and emergency costs for*
4 *the hydroelectric facilities at the Falcon and Amistad*
5 *Dams, \$970,000, to remain available until expended, and*
6 *to be derived from the Falcon and Amistad Operating and*
7 *Maintenance Fund of the Western Area Power Administra-*
8 *tion, as provided in section 423 of the Foreign Relations*
9 *Authorization Act, fiscal years 1994 and 1995.*

10 *FEDERAL ENERGY REGULATORY COMMISSION*11 *SALARIES AND EXPENSES*

12 *For necessary expenses of the Federal Energy Regu-*
13 *latory Commission to carry out the provisions of the De-*
14 *partment of Energy Organization Act (42 U.S.C. 7101, et*
15 *seq.), including services as authorized by 5 U.S.C. 3109,*
16 *the hire of passenger motor vehicles, and official reception*
17 *and representation expenses (not to exceed \$3,000),*
18 *\$146,290,000, to remain available until expended: Pro-*
19 *vided, That notwithstanding any other provision of law, not*
20 *to exceed \$146,290,000 of revenues from fees and annual*
21 *charges, and other services and collections in fiscal year*
22 *1997 shall be retained and used for necessary expenses in*
23 *this account, and shall remain available until expended:*
24 *Provided further, That the sum herein appropriated shall*
25 *be reduced as revenues are received during fiscal year 1997*

1 *so as to result in a final fiscal year 1997 appropriation*
2 *from the General Fund estimated at not more than \$0.*

3 *TITLE IV*

4 *INDEPENDENT AGENCIES*

5 *APPALACHIAN REGIONAL COMMISSION*

6 *For expenses necessary to carry out the programs au-*
7 *thorized by the Appalachian Regional Development Act of*
8 *1965, as amended, notwithstanding section 405 of said Act,*
9 *and for necessary expenses for the Federal Co-Chairman*
10 *and the alternate on the Appalachian Regional Commission*
11 *and for payment of the Federal share of the administrative*
12 *expenses of the Commission, including services as author-*
13 *ized by 5 U.S.C. 3109, and hire of passenger motor vehicles,*
14 *\$165,000,000, to remain available until expended.*

15 *DEFENSE NUCLEAR FACILITIES SAFETY BOARD*

16 *SALARIES AND EXPENSES*

17 *For necessary expenses of the Defense Nuclear Facili-*
18 *ties Safety Board in carrying out activities authorized by*
19 *the Atomic Energy Act of 1954, as amended by Public Law*
20 *100-456, section 1441, \$17,000,000, to remain available*
21 *until expended.*

1 *DELAWARE RIVER BASIN COMMISSION*2 *CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION*

3 *For payment of the United States share of the current*
4 *expenses of the Delaware River Basin Commission, as au-*
5 *thorized by law (75 Stat. 706, 707), \$500,000.*

6 *SALARIES AND EXPENSES*

7 *For expenses necessary to carry out the functions of*
8 *the United States member of the Delaware River Basin*
9 *Commission, as authorized by law (75 Stat. 716), \$342,000.*

10 *INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN*11 *CONTRIBUTION TO INTERSTATE COMMISSION ON THE*12 *POTOMAC RIVER BASIN*

13 *To enable the Secretary of the Treasury to pay in ad-*
14 *vance to the Interstate Commission on the Potomac River*
15 *Basin the Federal contribution toward the expenses of the*
16 *Commission during the current fiscal year in the adminis-*
17 *tration of its business in the conservancy district established*
18 *pursuant to the Act of July 11, 1940 (54 Stat. 748), as*
19 *amended by the Act of September 25, 1970 (Public Law*
20 *91-407), \$508,000.*

21 *NUCLEAR REGULATORY COMMISSION*22 *SALARIES AND EXPENSES*23 *(INCLUDING TRANSFER OF FUNDS)*

24 *For necessary expenses of the Commission in carrying*
25 *out the purposes of the Energy Reorganization Act of 1974,*
26 *as amended, and the Atomic Energy Act of 1954, as amend-*

1 *ed, including the employment of aliens; services authorized*
2 *by 5 U.S.C. 3109; publication and dissemination of atomic*
3 *information; purchase, repair, and cleaning of uniforms; of-*
4 *ficial representation expenses (not to exceed \$20,000); reim-*
5 *bursements to the General Services Administration for secu-*
6 *rity guard services; hire of passenger motor vehicles and*
7 *aircraft, \$471,800,000, to remain available until expended:*
8 *Provided, That of the amount appropriated herein,*
9 *\$11,000,000 shall be derived from the Nuclear Waste Fund,*
10 *subject to the authorization required in this bill under the*
11 *heading, "Nuclear Waste Disposal Fund": Provided further,*
12 *That from this appropriation, transfer of sums may be*
13 *made to other agencies of the Government for the perform-*
14 *ance of the work for which this appropriation is made, and*
15 *in such cases the sums so transferred may be merged with*
16 *the appropriation to which transferred: Provided further,*
17 *That moneys received by the Commission for the cooperative*
18 *nuclear safety research program, services rendered to for-*
19 *eign governments and international organizations, and the*
20 *material and information access authorization programs,*
21 *including criminal history checks under section 149 of the*
22 *Atomic Energy Act may be retained and used for salaries*
23 *and expenses associated with those activities, notwithstand-*
24 *ing 31 U.S.C. 3302, and shall remain available until ex-*
25 *pended: Provided further, That revenues from licensing fees,*

1 *inspection services, and other services and collections esti-*
2 *mated at \$457,300,000 in fiscal year 1997 shall be retained*
3 *and used for necessary salaries and expenses in this ac-*
4 *count, notwithstanding 31 U.S.C. 3302, and shall remain*
5 *available until expended: Provided further, That the funds*
6 *herein appropriated for regulatory reviews and other activi-*
7 *ties pertaining to waste stored at the Hanford site, Wash-*
8 *ington, shall be excluded from license fee revenues, notwith-*
9 *standing 42 U.S.C. 2214: Provided further, That the sum*
10 *herein appropriated shall be reduced by the amount of reve-*
11 *nues received during fiscal year 1997 from licensing fees,*
12 *inspection services and other services and collections, ex-*
13 *cluding those moneys received for the cooperative nuclear*
14 *safety research program, services rendered to foreign govern-*
15 *ments and international organizations, and the material*
16 *and information access authorization programs, so as to re-*
17 *sult in a final fiscal year 1997 appropriation estimated at*
18 *not more than \$14,500,000.*

19 *OFFICE OF INSPECTOR GENERAL*

20 *(INCLUDING TRANSFER OF FUNDS)*

21 *For necessary expenses of the Office of Inspector Gen-*
22 *eral in carrying out the provisions of the Inspector General*
23 *Act of 1978, as amended, including services authorized by*
24 *5 U.S.C. 3109, \$5,000,000, to remain available until ex-*
25 *pended; and in addition, an amount not to exceed 5 percent*

1 *of this sum may be transferred from Salaries and Expenses,*
2 *Nuclear Regulatory Commission: Provided, That notice of*
3 *such transfers shall be given to the Committees on Appro-*
4 *priations of the House and Senate: Provided further, That*
5 *from this appropriation, transfers of sums may be made*
6 *to other agencies of the Government for the performance of*
7 *the work for which this appropriation is made, and in such*
8 *cases the sums so transferred may be merged with the ap-*
9 *propriation to which transferred: Provided further, That*
10 *revenues from licensing fees, inspection services, and other*
11 *services and collections shall be retained and used for nec-*
12 *essary salaries and expenses in this account, notwithstand-*
13 *ing 31 U.S.C. 3302, and shall remain available until ex-*
14 *pended: Provided further, That the sum herein appro-*
15 *priated shall be reduced by the amount of revenues received*
16 *during fiscal year 1997 from licensing fees, inspection serv-*
17 *ices, and other services and collections, so as to result in*
18 *a final fiscal year 1997 appropriation estimated at not*
19 *more than \$0.*

20 *NUCLEAR WASTE TECHNICAL REVIEW BOARD*

21 *SALARIES AND EXPENSES*

22 *For necessary expenses of the Nuclear Waste Technical*
23 *Review Board, as authorized by Public Law 100–203, sec-*
24 *tion 5051, \$2,531,000, to be transferred from the Nuclear*
25 *Waste Fund and to remain available until expended.*

1 *SUSQUEHANNA RIVER BASIN COMMISSION*
2 *CONTRIBUTION TO SUSQUEHANNA RIVER BASIN*
3 *COMMISSION*

4 *For payment of the United States share of the current*
5 *expenses of the Susquehanna River Basin Commission, as*
6 *authorized by law (84 Stat. 1530, 1531), \$300,000.*

7 *SALARIES AND EXPENSES*

8 *For expenses necessary to carry out the functions of*
9 *the United States member of the Susquehanna River Basin*
10 *Commission as authorized by law (84 Stat. 1541),*
11 *\$322,000.*

12 *TENNESSEE VALLEY AUTHORITY*

13 *For the purpose of carrying out the provisions of the*
14 *Tennessee Valley Authority Act of 1933, as amended (16*
15 *U.S.C. ch. 12A), including hire, maintenance, and oper-*
16 *ation of aircraft, and purchase and hire of passenger motor*
17 *vehicles, \$113,000,000, to remain available until expended:*
18 *Provided, That of the funds provided herein, not more than*
19 *\$20,000,000 shall be made available for the Environmental*
20 *Research Center in Muscle Shoals, Alabama: Provided fur-*
21 *ther, That of the funds provided herein, not more than*
22 *\$8,000,000 shall be made available for operation, mainte-*
23 *nance, improvement, and surveillance of Land Between the*
24 *Lakes: Provided further, That of the amount provided here-*
25 *in, not more than \$9,000,000 shall be available for Eco-*
26 *nomic Development activities: Provided further, That none*

1 of the funds provided herein, shall be available for detailed
2 engineering and design or constructing a replacement for
3 Chickamauga Lock and Dam on the Tennessee River Sys-
4 tem.

5 TITLE V

6 GENERAL PROVISIONS

7 SEC. 501. (a) PURCHASE OF AMERICAN-MADE EQUIP-
8 MENT AND PRODUCTS.—It is the sense of the Congress that,
9 to the greatest extent practicable, all equipment and prod-
10 ucts purchased with funds made available in this Act should
11 be American-made.

12 (b) NOTICE REQUIREMENT.—In providing financial as-
13 sistance to, or entering into any contract with, any entity
14 using funds made available in this Act, the head of each
15 Federal agency, to the greatest extent practicable, shall pro-
16 vide to such entity a notice describing the statement made
17 in subsection (a) by the Congress.

18 SEC. 502. The Secretary of the Interior shall extend
19 the construction repayment and water service contracts for
20 the following projects, entered into by the Secretary of the
21 Interior under subsections (d) and (e) of section 9 of the
22 Reclamation Project Act of 1939 (43 U.S.C. 485h) and sec-
23 tion 9(c) of the Act of December 22, 1944 (58 Stat. 891,
24 chapter 665), for a period of 1 additional year after the

1 *dates on which each of the contracts, respectively, would ex-*
2 *pire but for this section:*

3 (1) *The Bostwick District (Kansas portion), Mis-*
4 *souri River Basin Project, consisting of the project*
5 *constructed and operated under the Act of December*
6 *22, 1944 (58 Stat. 887, chapter 665), as a component*
7 *of the Pick-Sloan Missouri Basin Program, situated*
8 *in Republic County, Jewell County, and Cloud Coun-*
9 *ty, Kansas.*

10 (2) *The Bostwick District (Nebraska portion),*
11 *Missouri River Basin Project, consisting of the project*
12 *constructed and operated under the Act of December*
13 *22, 1944 (58 Stat. 887, chapter 665), as a component*
14 *of the Pick-Sloan Missouri Basin Program, situated*
15 *in Harlan County, Franklin County, Webster County,*
16 *and Nuckolls County, Nebraska.*

17 (3) *The Frenchman-Cambridge District, Mis-*
18 *souri River Basin Project, consisting of the project*
19 *constructed and operated under the Act of December*
20 *22, 1944 (58 Stat. 887, chapter 665), as a component*
21 *of the Pick-Sloan Missouri Basin Program, situated*
22 *in Chase County, Frontier County, Hitchcock County,*
23 *Furnas County, and Harlan County, Nebraska.*

24 *SEC. 503. Notwithstanding the provisions of 31 U.S.C.,*
25 *funds made available by this Act to the Department of En-*

1 *ergy shall be available only for the purposes for which they*
2 *have been made available by this Act. The Department of*
3 *Energy shall report monthly to the Committees on Appro-*
4 *priations of the House and Senate on the Department of*
5 *Energy's adherence to the recommendations included in the*
6 *accompanying report.*

7 *SEC. 504. Following section 4(g)(3) of the Northwest*
8 *Power Planning and Conservation Act, insert the following*
9 *new section:*

10 “(4)(g)(4) *INDEPENDENT SCIENTIFIC REVIEW*
11 *PANEL.—(i) The Northwest Power Planning Council*
12 *(Council) shall appoint an Independent Scientific Review*
13 *Panel (Panel), which shall be comprised of eleven members,*
14 *to review projects proposed to be funded through that por-*
15 *tion of the Bonneville Power Administration's (BPA) an-*
16 *nual fish and wildlife budget that implements the Council's*
17 *annual fish and wildlife program. Members shall be ap-*
18 *pointed from a list submitted by the National Academy of*
19 *Sciences: Provided, That Pacific Northwest scientists with*
20 *expertise in Columbia River anadromous and non-anad-*
21 *romous fish and wildlife and ocean experts shall be among*
22 *those represented on the Panel.*

23 “(ii) *SCIENTIFIC PEER REVIEW GROUPS.—The Council*
24 *shall establish Scientific Peer Review Groups (Peer Review*
25 *Groups), which shall be comprised of the appropriate num-*

1 *ber of scientists, from a list submitted by the National Acad-*
2 *emy of Sciences to assist the Panel in making its rec-*
3 *ommendations to the Council for projects to be funded*
4 *through BPA's annual fish and wildlife budget: Provided,*
5 *That Pacific Northwest scientists with expertise in Colum-*
6 *bia River anadromous and non-anadromous fish and wild-*
7 *life and ocean experts shall be among those represented on*
8 *the Peer Review Groups.*

9 “(iii) *CONFLICT OF INTEREST AND COMPENSATION.—*
10 *Panel and Peer Review Group members may be com-*
11 *pensated and shall be considered as special government em-*
12 *ployees subject to 45 CFR 684.10 through 684.22.*

13 “(iv) *PROJECT CRITERIA AND REVIEW.—The Peer Re-*
14 *view Groups, in conjunction with the Panel, shall review*
15 *projects proposed to be funded through BPA's annual fish*
16 *and wildlife budget and make recommendations on matters*
17 *related to such projects, to the Council. Project recommenda-*
18 *tions shall be based on a determination that projects are*
19 *based on sound science principles; benefit fish and wildlife;*
20 *and have a clearly defined objective and outcome with pro-*
21 *visions for monitoring and evaluation of results. The Panel,*
22 *with assistance from the Peer Review Groups, shall review,*
23 *on an annual basis, the results of prior year expenditures*
24 *based upon these criteria and submit its findings to the*
25 *Council for its review.*

1 “(v) *PUBLIC REVIEW.*—Upon completion of the review
2 of projects to be funded through BPA’s annual fish and
3 wildlife budget, the Peer Review Groups shall submit their
4 findings to the Panel. The Panel shall analyze the informa-
5 tion submitted by the Peer Review Groups and submit rec-
6 ommendations on project priorities to the Council. The
7 Council shall make the Panel’s findings available to the
8 public and subject to public comment.

9 “(vi) *RESPONSIBILITIES OF THE COUNCIL.*—The
10 Council shall fully consider the recommendations of the
11 Panel when making its final recommendations of projects
12 to be funded through BPA’s annual fish and wildlife budget,
13 and if the Council does not incorporate a recommendation
14 of the Panel, the Council shall explain in writing its rea-
15 sons for not accepting Panel recommendations. In making
16 its recommendations to BPA, the Council shall: consider the
17 impact of ocean conditions on fish and wildlife populations;
18 and shall determine whether the projects employ cost effec-
19 tive measures to achieve project objectives. The Council,
20 after consideration of the recommendations of the Panel and
21 other appropriate entities shall be responsible for making
22 the final recommendations of projects to be funded through
23 BPA’s annual fish and wildlife budget.

24 “(vii) *COST LIMITATION.*—The cost of this provision
25 shall not exceed \$2,000,000 in 1997 dollars.

1 “(viii) *EXPIRATION.*—*This paragraph shall expire on*
2 *September 30, 2000.*”.

3 **SEC. 505. OPPORTUNITY FOR REVIEW AND COMMENT BY**
4 **STATE OF OREGON ON CERTAIN REMEDIAL**
5 **ACTIONS AT HANFORD RESERVATION, WASH-**
6 **INGTON.**

7 (a) *OPPORTUNITY.*—(1) *Subject to subsection (b), the*
8 *Site Manager at the Hanford Reservation, Washington,*
9 *shall, in consultation with the signatories to the Tri-Party*
10 *Agreement, provide the State of Oregon an opportunity to*
11 *review and comment upon any information the Site Man-*
12 *ager provides the State of Washington under the Hanford*
13 *Tri-Party Agreement if the agreement provides for the re-*
14 *view and comment upon such information by the State of*
15 *Washington.*

16 (2) *In order to facilitate the review and comment of*
17 *the State of Oregon under paragraph (1), the Site Manager*
18 *shall provide information referred to in that paragraph to*
19 *the State of Oregon at the same time, or as soon thereafter*
20 *as is practicable, that the Site Manager provides such infor-*
21 *mation to the State of Washington.*

22 (b) *CONSTRUCTION.*—*This section may not be con-*
23 *strued—*

24 (1) *to require the Site Manager to provide the*
25 *State of Oregon sensitive information on enforcement*

1 *under the Tri-Party Agreement or information on the*
2 *negotiation, dispute resolution, or State cost recovery*
3 *provisions of the agreement;*

4 (2) *to require the Site Manager to provide con-*
5 *fidential information on the budget or procurement at*
6 *Hanford under terms other than those provided in the*
7 *Tri-Party Agreement for the transmission of such*
8 *confidential information to the State of Washington;*

9 (3) *to authorize the State of Oregon to partici-*
10 *pate in enforcement actions, dispute resolution, or ne-*
11 *gotiation actions, conducted under the provisions of*
12 *the Tri-Party Agreement;*

13 (4) *to authorize any delay in the implementation*
14 *of remedial, environmental management, or other pro-*
15 *grammatic activities at Hanford; or*

16 (5) *to obligate the Department of Energy to pro-*
17 *vide additional funds to the State of Oregon.”.*

18 **SEC. 506. SENSE OF THE SENATE, HANFORD MEMORANDUM**

19 **OF UNDERSTANDING.**

20 *It is the Sense of the Senate that—*

21 (1) *the State of Oregon has the authority to enter*
22 *into a memorandum of understanding with the State*
23 *of Washington, or a memorandum of understanding*
24 *with the State of Washington and the Site Manager*
25 *of the Hanford Reservation, Washington, in order to*

1 *address issues of mutual concern to such States re-*
2 *garding the Hanford Reservation; and*

3 *(2) such agreements are not expected to create*
4 *any additional obligation of the Department of En-*
5 *ergy to provide funds to the State of Oregon.*

6 **SEC. 507. CORPUS CHRISTI EMERGENCY DROUGHT RELIEF.**

7 *For the purpose of providing emergency drought relief,*
8 *the Secretary of the Interior shall defer all principal and*
9 *interest payments without penalty or accrued interest for*
10 *a period of one year for the city of Corpus Christi, Texas,*
11 *and the Nueces River Authority under contract No. 6-07-*
12 *01-X0675 involving the Nueces River Reclamation Project,*
13 *Texas.*

14 **SEC. 508. CANADIAN RIVER MUNICIPAL WATER AUTHORITY**
15 **EMERGENCY DROUGHT RELIEF.**

16 *The Secretary shall defer all principal and interest*
17 *payments without penalty or accrued interest for a period*
18 *of one year for the Canadian River Municipal Water Au-*
19 *thority under contract No. 14-06-500-485 as emergency*
20 *drought relief to enable construction of additional water*
21 *supply and conveyance facilities.*

22 **SEC. 509. INTERSTATE TRANSPORTATION OF MUNICIPAL**
23 **SOLID WASTE.**

24 *(a) INTERSTATE WASTE.—*

1 (1) *INTERSTATE TRANSPORTATION OF MUNICIPAL*
2 *SOLID WASTE.*—

3 (A) *AMENDMENT.*—*Subtitle D of the Solid*
4 *Waste Disposal Act (42 U.S.C. 6941 et seq.) is*
5 *amended by adding at the end the following new*
6 *section:*

7 **“SEC. 4011. INTERSTATE TRANSPORTATION OF MUNICIPAL**
8 **SOLID WASTE.**

9 “(a) *AUTHORITY TO RESTRICT OUT-OF-STATE MUNIC-*
10 *IPAL SOLID WASTE.*—(1) *Except as provided in paragraph*
11 *(4), immediately upon the date of enactment of this section*
12 *if requested in writing by an affected local government, a*
13 *Governor may prohibit the disposal of out-of-State municipi-*
14 *pal solid waste in any landfill or incinerator that is not*
15 *covered by the exceptions provided in subsection (b) and*
16 *that is subject to the jurisdiction of the Governor and the*
17 *affected local government.*

18 “(2) *Except as provided in paragraph (4), imme-*
19 *diately upon the date of publication of the list required in*
20 *paragraph (6)(C) and notwithstanding the absence of a re-*
21 *quest in writing by the affected local government, a Gov-*
22 *ernor, in accordance with paragraph (5), may limit the*
23 *quantity of out-of-State municipal solid waste received for*
24 *disposal at each landfill or incinerator covered by the excep-*
25 *tions provided in subsection (b) that is subject to the juris-*

1 *diction of the Governor, to an annual amount equal to or*
2 *greater than the quantity of out-of-State municipal solid*
3 *waste received for disposal at such landfill or incinerator*
4 *during calendar year 1993.*

5 “(3)(A) *Except as provided in paragraph (4), any*
6 *State that imported more than 750,000 tons of out-of-State*
7 *municipal solid waste in 1993 may establish a limit under*
8 *this paragraph on the amount of out-of-State municipal*
9 *solid waste received for disposal at landfills and inciner-*
10 *ators in the importing State as follows:*

11 “(i) *In calendar year 1996, 95 percent of the*
12 *amount exported to the State in calendar year 1993.*

13 “(ii) *In calendar years 1997 through 2002, 95*
14 *percent of the amount exported to the State in the*
15 *previous year.*

16 “(iii) *In calendar year 2003, and each succeed-*
17 *ing year, the limit shall be 65 percent of the amount*
18 *exported in 1993.*

19 “(iv) *No exporting State shall be required under*
20 *this subparagraph to reduce its exports to any im-*
21 *porting State below the proportionate amount estab-*
22 *lished herein.*

23 “(B)(i) *No State may export to landfills or inciner-*
24 *ators in any 1 State that are not covered by host commu-*
25 *nity agreements or permits authorizing receipt of out-of-*

1 *State municipal solid waste more than the following*
2 *amounts of municipal solid waste:*

3 “(I) *In calendar year 1996, the greater of*
4 *1,400,000 tons or 90 percent of the amount exported*
5 *to the State in calendar year 1993.*

6 “(II) *In calendar year 1997, the greater of*
7 *1,300,000 tons or 90 percent of the amount exported*
8 *to the State in calendar year 1996.*

9 “(III) *In calendar year 1998, the greater of*
10 *1,200,000 tons or 90 percent of the amount exported*
11 *to the State in calendar year 1997.*

12 “(IV) *In calendar year 1999, the greater of*
13 *1,100,000 tons or 90 percent of the amount exported*
14 *to the State in calendar year 1998.*

15 “(V) *In calendar year 2000, 1,000,000 tons.*

16 “(VI) *In calendar year 2001, 750,000 tons.*

17 “(VII) *In calendar year 2002 or any calendar*
18 *year thereafter, 550,000 tons.*

19 “(ii) *The Governor of an importing State may take*
20 *action to restrict levels of imports to reflect the appropriate*
21 *level of out-of-State municipal solid waste imports if—*

22 “(I) *the Governor of the importing State has no-*
23 *tified the Governor of the exporting State and the Ad-*
24 *ministrator, 12 months prior to taking any such ac-*

1 *tion, of the importing State’s intention to impose the*
2 *requirements of this section;*

3 *“(II) the Governor of the importing State has*
4 *notified the Governor of the exporting State and the*
5 *Administrator of the violation by the exporting State*
6 *of this section at least 90 days prior to taking any*
7 *such action; and*

8 *“(III) the restrictions imposed by the Governor*
9 *of the importing State are uniform at all facilities*
10 *and the Governor of the importing State may only*
11 *apply subparagraph (A) or (B) but not both.*

12 *“(C) The authority provided by subparagraphs (A)*
13 *and (B) shall apply for as long as a State exceeds the per-*
14 *missible levels as determined by the Administrator under*
15 *paragraph (6)(C).*

16 *“(4)(A) A Governor may not exercise the authority*
17 *granted under this section if such action would result in*
18 *the violation of, or would otherwise be inconsistent with,*
19 *the terms of a host community agreement or a permit issued*
20 *from the State to receive out-of-State municipal solid waste.*

21 *“(B) Except as provided in paragraph (3), a Governor*
22 *may not exercise the authority granted under this section*
23 *in a manner that would require any owner or operator of*
24 *a landfill or incinerator covered by the exceptions provided*
25 *in subsection (b) to reduce the amount of out-of-State mu-*

1 *municipal solid waste received from any State for disposal at*
2 *such landfill or incinerator to an annual quantity less than*
3 *the amount received from such State for disposal at such*
4 *landfill or incinerator during calendar year 1993.*

5 “(5) *Any limitation imposed by a Governor under*
6 *paragraph (2) or (3)—*

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

8 “(B) *shall not directly or indirectly discriminate*
9 *against any particular landfill or incinerator within*
10 *the State; and*

11 “(C) *shall not directly or indirectly discriminate*
12 *against any shipments of out-of-State municipal solid*
13 *waste on the basis of place of origin and all such lim-*
14 *itations shall be applied to all States in violation of*
15 *paragraph (3).*

16 “(6) *ANNUAL STATE REPORT.—*

17 “(A) *IN GENERAL.—Within 90 days after enact-*
18 *ment of this section and on April 1 of each year*
19 *thereafter the owner or operator of each landfill or in-*
20 *cinerator receiving out-of-State municipal solid waste*
21 *shall submit to the affected local government and to*
22 *the Governor of the State in which the landfill or in-*
23 *cinerator is located, information specifying the*
24 *amount and State of origin of out-of-State municipal*
25 *solid waste received for disposal during the preceding*

1 *calendar year, and the amount of waste that was re-*
2 *ceived pursuant to host community agreements or*
3 *permits authorizing receipt of out-of-State municipal*
4 *solid waste. Within 120 days after enactment of this*
5 *section and on May 1 of each year thereafter each*
6 *State shall publish and make available to the Admin-*
7 *istrator, the Governor of the State of origin and the*
8 *public, a report containing information on the*
9 *amount of out-of-State municipal solid waste received*
10 *for disposal in the State during the preceding cal-*
11 *endar year.*

12 “(B) *CONTENTS.*—*Each submission referred to*
13 *in this section shall be such as would result in crimi-*
14 *nal penalties in case of false or misleading informa-*
15 *tion. Such information shall include the amount of*
16 *waste received, the State of origin, the identity of the*
17 *generator, the date of the shipment, and the type of*
18 *out-of-State municipal solid waste. States making*
19 *submissions referred to in this section to the Adminis-*
20 *trator shall notice these submissions for public review*
21 *and comment at the State level before submitting*
22 *them to the Administrator.*

23 “(C) *LIST.*—*The Administrator shall publish a*
24 *list of importing States and the out-of-State municipi-*
25 *pal solid waste received from each State at landfills*

1 *or incinerators not covered by host community agree-*
2 *ments or permits authorizing receipt of out-of-State*
3 *municipal solid waste. The list for any calendar year*
4 *shall be published by June 1 of the following calendar*
5 *year.*

6 *For purposes of developing the list required in this section,*
7 *the Administrator shall be responsible for collating and*
8 *publishing only that information provided to the Adminis-*
9 *trator by States pursuant to this section. The Administrator*
10 *shall not be required to gather additional data over and*
11 *above that provided by the States pursuant to this section,*
12 *nor to verify data provided by the States pursuant to this*
13 *section, nor to arbitrate or otherwise entertain or resolve*
14 *disputes between States or other parties concerning inter-*
15 *state movements of municipal solid waste. Any actions by*
16 *the Administrator under this section shall be final and not*
17 *subject to judicial review.*

18 *“(D) SAVINGS PROVISION.—Nothing in this sub-*
19 *section shall be construed to preempt any State re-*
20 *quirement that requires more frequent reporting of in-*
21 *formation.*

22 *“(7) Any affected local government that intends to sub-*
23 *mit a request under paragraph (1) or take formal action*
24 *to enter into a host community agreement after the date*

1 *of enactment of this subsection shall, prior to taking such*
2 *action—*

3 “(A) *notify the Governor, contiguous local gov-*
4 *ernments, and any contiguous Indian tribes;*

5 “(B) *publish notice of the action in a newspaper*
6 *of general circulation at least 30 days before taking*
7 *such action;*

8 “(C) *provide an opportunity for public comment;*
9 *and*

10 “(D) *following notice and comment, take formal*
11 *action on any proposed request or action at a public*
12 *meeting.*

13 “(8) *Any owner or operator seeking a host community*
14 *agreement after the date of enactment of this subsection*
15 *shall provide to the affected local government the following*
16 *information, which shall be made available to the public*
17 *from the affected local government:*

18 “(A) *A brief description of the planned facility,*
19 *including a description of the facility size, ultimate*
20 *waste capacity, and anticipated monthly and yearly*
21 *waste quantities to be handled.*

22 “(B) *A map of the facility site that indicates the*
23 *location of the facility in relation to the local road*
24 *system and topographical and hydrological features*

1 *and any buffer zones and facility units to be acquired*
2 *by the owner or operator of the facility.*

3 “(C) *A description of the existing environmental*
4 *conditions at the site, and any violations of applica-*
5 *ble laws or regulations.*

6 “(D) *A description of environmental controls to*
7 *be utilized at the facility.*

8 “(E) *A description of the site access controls to*
9 *be employed, and roadway improvements to be made,*
10 *by the owner or operator, and an estimate*
11 *of the timing and extent of increased local truck*
12 *traffic.*

13 “(F) *A list of all required Federal, State, and*
14 *local permits.*

15 “(G) *Any information that is required by State*
16 *or Federal law to be provided with respect to any vio-*
17 *lations of environmental laws (including regulations)*
18 *by the owner and operator, the disposition of enforce-*
19 *ment proceedings taken with respect to the violations,*
20 *and corrective measures taken as a result of the*
21 *proceedings.*

22 “(H) *Any information that is required by State*
23 *or Federal law to be provided with respect to compli-*
24 *ance by the owner or operator with the State solid*
25 *waste management plan.*

1 “(b) *EXCEPTIONS TO AUTHORITY TO PROHIBIT OUT-*
2 *OF-STATE MUNICIPAL SOLID WASTE.—(1) The authority to*
3 *prohibit the disposal of out-of-State municipal solid waste*
4 *provided under subsection (a)(1) shall not apply to landfills*
5 *and incinerators in operation on the date of enactment of*
6 *this section that—*

7 “(A) *received during calendar year 1993 docu-*
8 *mented shipments of out-of-State municipal solid*
9 *waste; and*

10 “(B)(i) *in the case of landfills, are in compliance*
11 *with all applicable Federal and State laws and regu-*
12 *lations relating to operation, design and location*
13 *standards, leachate collection, ground water monitor-*
14 *ing, and financial assurance for closure and post-clo-*
15 *sure and corrective action; or*

16 “(ii) *in the case of incinerators, are in compli-*
17 *ance with the applicable requirements of section 129*
18 *of the Clean Air Act (42 U.S.C. 7429) and applicable*
19 *State laws and regulations relating to facility design*
20 *and operations.*

21 “(2) *A Governor may not prohibit the disposal of out-*
22 *of-State municipal solid waste pursuant to subsection*
23 *(a)(1) at facilities described in this subsection that are not*
24 *in compliance with applicable Federal and State laws and*

1 *regulations unless disposal of municipal solid waste gen-*
2 *erated within the State at such facilities is also prohibited.*

3 “(c) *ADDITIONAL AUTHORITY TO LIMIT OUT-OF-*
4 *STATE MUNICIPAL SOLID WASTE.—(1) In any case in*
5 *which an affected local government is considering entering*
6 *into, or has entered into, a host community agreement and*
7 *the disposal or incineration of out-of-State municipal solid*
8 *waste under such agreement would preclude the use of mu-*
9 *nicipal solid waste management capacity described in*
10 *paragraph (2), the Governor of the State in which the af-*
11 *ected local government is located may prohibit the execu-*
12 *tion of such host community agreement with respect to that*
13 *capacity.*

14 “(2) *The municipal solid waste management capacity*
15 *referred to in paragraph (1) is that capacity—*

16 “(A) *that is permitted under Federal or State*
17 *law;*

18 “(B) *that is identified under the State plan; and*

19 “(C) *for which a legally binding commitment be-*
20 *tween the owner or operator and another party has*
21 *been made for its use for disposal or incineration of*
22 *municipal solid waste generated within the region*
23 *(identified under section 4006(a)) in which the local*
24 *government is located.*

25 “(d) *COST RECOVERY SURCHARGE.—*

1 “(1) *AUTHORITY.*—A State described in para-
2 graph (2) may adopt a law and impose and collect
3 a cost recovery charge on the processing or disposal
4 of out-of-State municipal solid waste in the State in
5 accordance with this subsection.

6 “(2) *APPLICABILITY.*—The authority to impose a
7 cost recovery surcharge under this subsection applies
8 to any State that on or before April 3, 1994, imposed
9 and collected a special fee on the processing or dis-
10 posal of out-of-State municipal solid waste pursuant
11 to a State law.

12 “(3) *LIMITATION.*—No such State may impose or
13 collect a cost recovery surcharge from a facility on
14 any out-of-State municipal solid waste that is being
15 received at the facility under 1 or more contracts en-
16 tered into after April 3, 1994, and before the date of
17 enactment of this section.

18 “(4) *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 (6) and in no
22 event may exceed \$1.00 per ton of waste.

23 “(5) *USE OF SURCHARGE COLLECTED.*—All cost
24 recovery surcharges collected by a State covered by
25 this subsection shall be used to fund those solid waste

1 *management programs administered by the State or*
2 *its political subdivision that incur costs for which the*
3 *surcharge is collected.*

4 “(6) *CONDITIONS.—(A) Subject to subparagraphs*
5 *(B) and (C), a State covered by this subsection may*
6 *impose and collect a cost recovery surcharge on the*
7 *processing or disposal within the State of out-of-State*
8 *municipal solid waste if—*

9 “(i) *the State demonstrates a cost to the*
10 *State arising from the processing or disposal*
11 *within the State of a volume of municipal solid*
12 *waste from a source outside the State;*

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

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

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

1 *agreed payments to a State or its political subdivi-*
2 *sion in connection with the generation, transpor-*
3 *tation, treatment, processing, or disposal of solid*
4 *waste.*

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

9 *“(7) DEFINITIONS.—As used in this subsection:*

10 *“(A) The term ‘costs’ means the costs in-*
11 *curred by the State for the implementation of its*
12 *laws governing the processing or disposal of mu-*
13 *nicipal solid waste, limited to the issuance of*
14 *new permits and renewal of or modification of*
15 *permits, inspection and compliance monitoring,*
16 *enforcement, and costs associated with technical*
17 *assistance, data management, and collection of*
18 *fees.*

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

1 “(e) SAVINGS CLAUSE.—Nothing in this section shall
2 be interpreted or construed—

3 “(1) to have any effect on State law relating to
4 contracts; or

5 “(2) to affect the authority of any State or local
6 government to protect public health and the environ-
7 ment through laws, regulations, and permits, includ-
8 ing the authority to limit the total amount of municipi-
9 pal solid waste that landfill or incinerator owners or
10 operators within the jurisdiction of a State may ac-
11 cept during a prescribed period: Provided That such
12 limitations do not discriminate between in-State and
13 out-of-State municipal solid waste, except to the ex-
14 tent authorized by this section.

15 “(f) DEFINITIONS.—As used in this section:

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

19 “(i) the public body created by State law
20 with responsibility to plan for municipal solid
21 waste management, a majority of the members of
22 which are elected officials, for the area in which
23 the facility is located or proposed to be located;
24 or

1 “(ii) the elected officials of the city, town,
2 township, borough, county, or parish exercising
3 primary responsibility over municipal solid
4 waste management or the use of land in the ju-
5 risdiction in which the facility is located or is
6 proposed to be located.

7 “(B)(i) Within 90 days after the date of enact-
8 ment of this section, a Governor may designate and
9 publish notice of which entity listed in clause (i) or
10 (ii) of subparagraph (A) shall serve as the affected
11 local government for actions taken under this section
12 and after publication of such notice.

13 “(ii) If a Governor fails to make and publish no-
14 tice of such a designation, the affected local govern-
15 ment shall be the elected officials of the city, town,
16 township, borough, county, parish, or other public
17 body created pursuant to State law with primary ju-
18 risdiction over the land or the use of land on which
19 the facility is located or is proposed to be located.

20 “(C) For purposes of host community agreements
21 entered into before the date of publication of the no-
22 tice, the term means either a public body described in
23 subparagraph (A)(i) or the elected officials of any of
24 the public bodies described in subparagraph (A)(ii).

1 “(2) *HOST COMMUNITY AGREEMENT.*—*The term*
2 *‘host community agreement’ means a written, legally*
3 *binding document or documents executed by duly au-*
4 *thorized officials of the affected local government that*
5 *specifically authorizes a landfill or incinerator to re-*
6 *ceive municipal solid waste generated out of State,*
7 *but does not include any agreement to pay host com-*
8 *munity fees for receipt of waste unless additional ex-*
9 *press authorization to receive out-of-State waste is*
10 *also included.*

11 “(3) *The term ‘out-of-State municipal solid*
12 *waste’ means, with respect to any State, municipal*
13 *solid waste generated outside of the State. Unless the*
14 *President determines it is inconsistent with the North*
15 *American Free Trade Agreement and the General*
16 *Agreement on Tariffs and Trade, the term shall in-*
17 *clude municipal solid waste generated outside of the*
18 *United States. Notwithstanding any other provision*
19 *of law, generators of municipal solid waste outside the*
20 *United States shall possess no greater right of access*
21 *to disposal facilities in a State than United States*
22 *generators of municipal solid waste outside of that*
23 *State.*

24 “(4) *The term ‘municipal solid waste’ means*
25 *refuse (and refuse-derived fuel) generated by the gen-*

1 *eral public or from a residential, commercial, institu-*
2 *tional, or industrial source (or any combination*
3 *thereof), consisting of paper, wood, yard wastes, plas-*
4 *tics, leather, rubber, or other combustible or non-*
5 *combustible materials such as metal or glass (or any*
6 *combination thereof). The term ‘municipal solid*
7 *waste’ does not include—*

8 *“(A) any solid waste identified or listed as*
9 *a hazardous waste under section 3001;*

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

17 *“(C) any metal, pipe, glass, plastic, paper,*
18 *textile, or other material that has been separated*
19 *or diverted from municipal solid waste (as other-*
20 *wise defined in this paragraph) and has been*
21 *transported into a State for the purpose of recy-*
22 *cling or reclamation;*

23 *“(D) any solid waste that is—*

24 *“(i) generated by an industrial facil-*
25 *ity; and*

1 “(ii) transported for the purpose of
2 treatment, storage, or disposal to a facility
3 that is owned or operated by the generator
4 of the waste, or is located on property
5 owned by the generator of the waste, or is
6 located on property owned by a company in
7 which the generator of the waste has an
8 ownership interest;

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

12 “(F) any industrial waste that is not iden-
13 tical to municipal solid waste (as otherwise de-
14 fined in this paragraph) with respect to the
15 physical and chemical state of the industrial
16 waste, and composition, including construction
17 and demolition debris;

18 “(G) any medical waste that is segregated
19 from or not mixed with municipal solid waste
20 (as otherwise defined in this paragraph); or

21 “(H) any material or product returned
22 from a dispenser or distributor to the manufac-
23 turer for credit, evaluation, or possible reuse.

24 “(5) The term ‘compliance’ means a pattern or
25 practice of adhering to and satisfying standards and

1 *requirements promulgated by the Federal or a State*
2 *government for the purpose of preventing significant*
3 *harm to human health and the environment. Actions*
4 *undertaken in accordance with compliance schedules*
5 *for remediation established by Federal or State en-*
6 *forcement authorities shall be considered compliance*
7 *for purposes of this section.*

8 *“(6) The terms ‘specifically authorized’ and ‘spe-*
9 *cifically authorizes’ refer to an explicit authorization,*
10 *contained in a host community agreement or permit,*
11 *to import waste from outside the State. Such author-*
12 *ization may include a reference to a fixed radius sur-*
13 *rounding the landfill or incinerator that includes an*
14 *area outside the State or a reference to any place of*
15 *origin, reference to specific places outside the State, or*
16 *use of such phrases as ‘regardless of origin’ or ‘outside*
17 *the State’. The language for such authorization may*
18 *vary as long as it clearly and affirmatively states the*
19 *approval or consent of the affected local government*
20 *or State for receipt of municipal solid waste from*
21 *sources outside the State.*

22 *“(g) IMPLEMENTATION AND ENFORCEMENT.—Any*
23 *State may adopt such laws and regulations, not inconsis-*
24 *ent with this section, as are necessary to implement and*
25 *enforce this section, including provisions for penalties.”.*

1 (B) *TABLE OF CONTENTS AMENDMENT.*—
2 *The table of contents in section 1001 of the Solid*
3 *Waste Disposal Act (42 U.S.C. prec. 6901) is*
4 *amended by adding at the end of the items relat-*
5 *ing to subtitle D the following new item:*

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

6 (2) *NEEDS DETERMINATION.*—*The Governor of a*
7 *State may accept, deny or modify an application for*
8 *a municipal solid waste management facility permit*
9 *if—*

10 (A) *it is done in a manner that is not in-*
11 *consistent with the provisions of this section;*

12 (B) *a State law enacted in 1990 and a reg-*
13 *ulation adopted by the governor in 1991 specifi-*
14 *cally requires the permit applicant to dem-*
15 *onstrate that there is a local or regional need*
16 *within the State for the facility; and*

17 (C) *the permit applicant fails to dem-*
18 *onstrate that there is a local or regional need*
19 *within the State for the facility.*

20 (b) *FLOW CONTROL.*—

21 (1) *STATE AND LOCAL GOVERNMENT CONTROL OF*
22 *MOVEMENT OF MUNICIPAL SOLID WASTE AND RECY-*
23 *CLABLE MATERIAL.*—*Subtitle D of the Solid Waste*
24 *Disposal Act (42 U.S.C. 6941 et seq.), as amended by*

1 subsection (a)(1)(A), is amended by adding after sec-
2 tion 4011 the following new section:

3 **“SEC. 4012. STATE AND LOCAL GOVERNMENT CONTROL OF**
4 **MOVEMENT OF MUNICIPAL SOLID WASTE AND**
5 **RECYCLABLE MATERIAL.**

6 “(a) *DEFINITIONS.*—*In this section:*

7 “(1) *DESIGNATE; DESIGNATION.*—*The terms ‘des-*
8 *ignate’ and ‘designation’ refer to an authorization by*
9 *a State, political subdivision, or public service au-*
10 *thority, and the act of a State, political subdivision,*
11 *or public service authority in requiring or contrac-*
12 *tually committing, that all or any portion of the mu-*
13 *nicipal solid waste or recyclable material that is gen-*
14 *erated within the boundaries of the State, political*
15 *subdivision, or public service authority be delivered to*
16 *waste management facilities or facilities for recyclable*
17 *material or a public service authority identified by*
18 *the State, political subdivision, or public service au-*
19 *thority.*

20 “(2) *FLOW CONTROL AUTHORITY.*—*The term*
21 *‘flow control authority’ means the authority to control*
22 *the movement of municipal solid waste or voluntarily*
23 *relinquished recyclable material and direct such solid*
24 *waste or voluntarily relinquished recyclable material*

1 *to a designated waste management facility or facility*
2 *for recyclable material.*

3 “(3) *MUNICIPAL SOLID WASTE.*—*The term ‘mu-*
4 *nicipal solid waste’ means—*

5 “(A) *solid waste generated by the general*
6 *public or from a residential, commercial, institu-*
7 *tional, or industrial source, consisting of paper,*
8 *wood, yard waste, plastics, leather, rubber, and*
9 *other combustible material and noncombustible*
10 *material such as metal and glass, including resi-*
11 *due remaining after recyclable material has been*
12 *separated from waste destined for disposal, and*
13 *including waste material removed from a septic*
14 *tank, septage pit, or cesspool (other than from*
15 *portable toilets); but*

16 “(B) *does not include—*

17 “(i) *waste identified or listed as a haz-*
18 *ardous waste under section 3001 of this Act*
19 *or waste regulated under the Toxic Sub-*
20 *stances Control Act (15 U.S.C. 2601 et seq.);*

21 “(ii) *waste, including contaminated*
22 *soil and debris, resulting from a response*
23 *action taken under section 104 or 106 of the*
24 *Comprehensive Environmental Response,*
25 *Compensation, and Liability Act of 1980*

1 (42 U.S.C. 9604, 9606) or any corrective
2 action taken under this Act;

3 “(iii) medical waste listed in section
4 11002;

5 “(iv) industrial waste generated by
6 manufacturing or industrial processes, in-
7 cluding waste generated during scrap proc-
8 essing and scrap recycling;

9 “(v) recyclable material; or

10 “(vi) sludge.

11 “(4) *PUBLIC SERVICE AUTHORITY.*—The term
12 ‘public service authority’ means—

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

17 “(B) other body created pursuant to State
18 law; or

19 “(C) an authority that was issued a certifi-
20 cate of incorporation by a State corporation
21 commission established by a State constitution.

22 “(5) *PUT OR PAY AGREEMENT.*—(A) The term
23 ‘put or pay agreement’ means an agreement that obli-
24 gates or otherwise requires a State or political sub-
25 division to—

1 “(i) deliver a minimum quantity of municipi-
2 pal solid waste to a waste management facility;
3 and

4 “(ii) pay for that minimum quantity of
5 municipal solid waste even if the stated mini-
6 mum quantity of municipal solid waste is not
7 delivered within a required period of time.

8 “(B) For purposes of the authority conferred by
9 subsections (b) and (c), the term ‘legally binding pro-
10 vision of the State or political subdivision’ includes a
11 put or pay agreement that designates waste to a
12 waste management facility that was in operation on
13 or before December 31, 1988 and that requires an ag-
14 gregate tonnage to be delivered to the facility during
15 each operating year by the political subdivisions
16 which have entered put or pay agreements designat-
17 ing that waste management facility.

18 “(C) The entering into of a put or pay agree-
19 ment shall be considered to be a designation (as de-
20 fined in subsection (a)(1)) for all purposes of this
21 title.

22 “(6) *RECYCLABLE MATERIAL*.—The term ‘recy-
23 clable material’ means material that has been sepa-
24 rated from waste otherwise destined for disposal (at
25 the source of the waste or at a processing facility) or

1 *has been managed separately from waste destined for*
2 *disposal, for the purpose of recycling, reclamation,*
3 *composting of organic material such as food and yard*
4 *waste, or reuse (other than for the purpose of inciner-*
5 *ation).*

6 “(7) *WASTE MANAGEMENT FACILITY.*—*The term*
7 *‘waste management facility’ means a facility that col-*
8 *lects, separates, stores, transports, transfers, treats,*
9 *processes, combusts, or disposes of municipal solid*
10 *waste.*

11 “(b) *AUTHORITY.*—

12 “(1) *IN GENERAL.*—*Each State, political sub-*
13 *division of a State, and public service authority may*
14 *exercise flow control authority for municipal solid*
15 *waste and for recyclable material voluntarily relin-*
16 *quished by the owner or generator of the material that*
17 *is generated within its jurisdiction by directing the*
18 *municipal solid waste or recyclable material to a*
19 *waste management facility or facility for recyclable*
20 *material, if such flow control authority—*

21 “(A)(i) *had been exercised prior to May 15,*
22 *1994, and was being implemented on May 15,*
23 *1994, pursuant to a law, ordinance, regulation,*
24 *or other legally binding provision of the State or*
25 *political subdivision; or*

1 “(i) had been exercised prior to May 15,
2 1994, but implementation of such law, ordi-
3 nance, regulation, or other legally binding provi-
4 sion of the State or political subdivision was
5 prevented by an injunction, temporary restrain-
6 ing order, or other court action, or was sus-
7 pended by the voluntary decision of the State or
8 political subdivision because of the existence of
9 such court action;

10 “(B) has been implemented by designating
11 before May 15, 1994, the particular waste man-
12 agement facilities or public service authority to
13 which the municipal solid waste or recyclable
14 material is to be delivered, which facilities were
15 in operation as of May 15, 1994, or were in op-
16 eration prior to May 15, 1994 and were tempo-
17 rarily inoperative on May 15, 1994.

18 “(2) *LIMITATION.*—The authority of this section
19 extends only to the specific classes or categories of mu-
20 nicipal solid waste to which flow control authority re-
21 quiring a movement to a waste management facility
22 was actually applied on or before May 15, 1994 (or,
23 in the case of a State, political subdivision, or public
24 service authority that qualifies under subsection (c),
25 to the specific classes or categories of municipal solid

1 *waste for which the State, political subdivision, or*
2 *public service authority prior to May 15, 1994, had*
3 *committed to the designation of a waste management*
4 *facility).*

5 *“(3) LACK OF CLEAR IDENTIFICATION.—With re-*
6 *gard to facilities granted flow control authority under*
7 *subsection (c), if the specific classes or categories of*
8 *municipal solid waste are not clearly identified, the*
9 *authority of this section shall apply only to municipi-*
10 *pal solid waste generated by households.*

11 *“(4) DURATION OF AUTHORITY.—With respect to*
12 *each designated waste management facility, the au-*
13 *thority of this section shall be effective until the later*
14 *of—*

15 *“(A) the end of the remaining life of a con-*
16 *tract between the State, political subdivision, or*
17 *public service authority and any other person re-*
18 *garding the movement or delivery of municipal*
19 *solid waste or voluntarily relinquished recyclable*
20 *material to a designated facility (as in effect*
21 *May 15, 1994);*

22 *“(B) completion of the schedule for payment*
23 *of the capital costs of the facility concerned (as*
24 *in effect May 15, 1994); or*

1 “(C) *the end of the remaining useful life of*
2 *the facility (as in existence on the date of enact-*
3 *ment of this section), as that remaining life may*
4 *be extended by—*

5 “(i) *retrofitting of equipment or the*
6 *making of other significant modifications to*
7 *meet applicable environmental requirements*
8 *or safety requirements;*

9 “(ii) *routine repair or scheduled re-*
10 *placement of equipment or components that*
11 *does not add to the capacity of a waste*
12 *management facility; or*

13 “(iii) *expansion of the facility on land*
14 *that is—*

15 “(I) *legally or equitably owned, or*
16 *under option to purchase or lease, by*
17 *the owner or operator of the facility;*
18 *and*

19 “(II) *covered by the permit for the*
20 *facility (as in effect May 15, 1994).*

21 “(5) *ADDITIONAL AUTHORITY.—*

22 “(A) *APPLICATION OF PARAGRAPH.—This*
23 *paragraph applies to a State or political sub-*
24 *division of a State that, on or before January 1,*
25 *1984—*

1 “(i) adopted regulations under State
2 law that required the transportation to, and
3 management or disposal at, waste manage-
4 ment facilities in the State, of—

5 “(I) all solid waste from residen-
6 tial, commercial, institutional, or in-
7 dustrial sources (as defined under
8 State law); and

9 “(II) recyclable material volun-
10 tarily relinquished by the owner or
11 generator of the recyclable material;
12 and

13 “(ii) as of January 1, 1984, had im-
14 plemented those regulations in the case of
15 every political subdivision of the State.

16 “(B) *AUTHORITY.*—Notwithstanding any-
17 thing to the contrary in this section (including
18 subsection (m)), a State or political subdivision
19 of a State described in subparagraph (A) may
20 continue to exercise flow control authority (in-
21 cluding designation of waste management facili-
22 ties in the State that meet the requirements of
23 subsection (c)) for all classes and categories of
24 solid waste that were subject to flow control on
25 January 1, 1984.

1 “(6) *FLOW CONTROL ORDINANCE.*—*Notwith-*
2 *standing anything to the contrary in this section, but*
3 *subject to subsection (m), any political subdivision*
4 *which adopted a flow control ordinance in November*
5 *1991, and designated facilities to receive municipal*
6 *solid waste prior to April 1, 1992, may exercise flow*
7 *control authority until the end of the remaining life*
8 *of all contracts between the political subdivision and*
9 *any other persons regarding the movement or delivery*
10 *of municipal solid waste or voluntarily relinquished*
11 *recyclable material to a designated facility (as in ef-*
12 *fect May 15, 1994). Such authority shall extend only*
13 *to the specific classes or categories of municipal solid*
14 *waste to which flow control authority was actually*
15 *applied on or before May 15, 1994. The authority*
16 *under this subsection shall be exercised in accordance*
17 *with section 4012(b)(4).*

18 “(c) *COMMITMENT TO CONSTRUCTION.*—

19 “(1) *IN GENERAL.*—*Notwithstanding subsection*
20 *(b)(1) (A) and (B), any political subdivision of a*
21 *State may exercise flow control authority under sub-*
22 *section (b), if—*

23 “(A)(i) *the law, ordinance, regulation, or*
24 *other legally binding provision specifically pro-*

1 *vides for flow control authority for municipal*
2 *solid waste generated within its boundaries; and*

3 *“(i) such authority was exercised prior to*
4 *May 15, 1995, and was being implemented on*
5 *May 15, 1994.*

6 *“(B) prior to May 15, 1994, the political*
7 *subdivision committed to the designation of the*
8 *particular waste management facilities or public*
9 *service authority to which municipal solid waste*
10 *is to be transported or at which municipal solid*
11 *waste is to be disposed of under that law, ordi-*
12 *nance, regulation, plan, or legally binding provi-*
13 *sion.*

14 *“(2) FACTORS DEMONSTRATING COMMITMENT.—*
15 *A commitment to the designation of waste manage-*
16 *ment facilities or public service authority is dem-*
17 *onstrated by 1 or more of the following factors:*

18 *“(A) CONSTRUCTION PERMITS.—All permits*
19 *required for the substantial construction of the*
20 *facility were obtained prior to May 15, 1994.*

21 *“(B) CONTRACTS.—All contracts for the*
22 *substantial construction of the facility were in*
23 *effect prior to May 15, 1994.*

24 *“(C) REVENUE BONDS.—Prior to May 15,*
25 *1994, revenue bonds were presented for sale to*

1 *specifically provide revenue for the construction*
2 *of the facility.*

3 “(D) *CONSTRUCTION AND OPERATING PER-*
4 *MITS.—The State or political subdivision sub-*
5 *mitted to the appropriate regulatory agency or*
6 *agencies, on or before May 15, 1994, substan-*
7 *tially complete permit applications for the con-*
8 *struction and operation of the facility.*

9 “(d) *FORMATION OF SOLID WASTE MANAGEMENT DIS-*
10 *TRICT TO PURCHASE AND OPERATE EXISTING FACILITY.—*
11 *Notwithstanding subsection (b)(1) (A) and (B), a solid*
12 *waste management district that was formed by a number*
13 *of political subdivisions for the purpose of purchasing and*
14 *operating a facility owned by 1 of the political subdivisions*
15 *may exercise flow control authority under subsection (b)*
16 *if—*

17 “(1) *the facility was fully licensed and in oper-*
18 *ation prior to May 15, 1994;*

19 “(2) *prior to April 1, 1994, substantial negotia-*
20 *tions and preparation of documents for the formation*
21 *of the district and purchase of the facility were com-*
22 *pleted;*

23 “(3) *prior to May 15, 1994, at least 80 percent*
24 *of the political subdivisions that were to participate*
25 *in the solid waste management district had adopted*

1 *ordinances committing the political subdivisions to*
2 *participation and the remaining political subdivi-*
3 *sions adopted such ordinances within 2 months after*
4 *that date; and*

5 *“(3) the financing was completed, the acquisition*
6 *was made, and the facility was placed under oper-*
7 *ation by the solid waste management district by Sep-*
8 *tember 21, 1994.*

9 *“(e) CONSTRUCTED AND OPERATED.—A political sub-*
10 *division of a State may exercise flow control authority for*
11 *municipal solid waste and for recyclable material volun-*
12 *tarily relinquished by the owner or generator of the mate-*
13 *rial that is generated within its jurisdiction if—*

14 *“(1) prior to May 15, 1994, the political subdivi-*
15 *sion—*

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

1 “(B) entered into contracts with a public
2 service authority or its operator to deliver or
3 cause to be delivered to the public service author-
4 ity substantially all of the disposable municipal
5 solid waste that is generated or collected by or
6 within the control of the political subdivision,
7 which imposed flow control pursuant to a law,
8 ordinance, regulation, or other legally binding
9 provision and where outstanding revenue bonds
10 were issued in the name of public service au-
11 thorities for waste management facilities; and

12 “(2) prior to May 15, 1994, the public service
13 authority—

14 “(A) issued the revenue bonds or had issued
15 on its behalf by a State entity for the construc-
16 tion of municipal solid waste facilities to which
17 the political subdivision’s municipal solid waste
18 is transferred or disposed; and

19 “(B) commenced operation of the facilities.
20 The authority under this subsection shall be exercised in
21 accordance with section 4012(b)(4).

22 “(f) *STATE-MANDATED DISPOSAL SERVICES.*—A polit-
23 ical subdivision of a State may exercise flow control author-
24 ity for municipal solid waste and for recyclable material
25 voluntarily relinquished by the owner or generator of the

1 *material that is generated within its jurisdiction if, prior*
2 *to May 15, 1994, the political subdivision—*

3 “(1) *was responsible under State law for provid-*
4 *ing for the operation of solid waste facilities to serve*
5 *the disposal needs of all incorporated and unincor-*
6 *porated areas of the county;*

7 “(2) *is required to initiate a recyclable materials*
8 *recycling program in order to meet a municipal solid*
9 *waste reduction goal of at least 30 percent;*

10 “(3) *has been authorized by State statute to exer-*
11 *cise flow control authority and had implemented the*
12 *authority through the adoption or execution of a law,*
13 *ordinance, regulation, contract, or other legally bind-*
14 *ing provision;*

15 “(4) *had incurred, or caused a public service au-*
16 *thority to incur, significant financial expenditures to*
17 *comply with State law and to repay outstanding*
18 *bonds that were issued specifically for the construc-*
19 *tion of solid waste management facilities to which the*
20 *political subdivision’s waste is to be delivered; and*

21 “(5) *the authority under this subsection shall be*
22 *exercised in accordance with section 4012(b)(4).*

23 “(g) *STATE SOLID WASTE DISTRICT AUTHORITY.—A*
24 *solid waste district or a political subdivision of a State may*
25 *exercise flow control authority for municipal solid waste*

1 *and for recyclable material voluntarily relinquished by the*
2 *owner or generator of the material that is generated within*
3 *its jurisdiction if—*

4 “(1) *the solid waste district, political subdivision*
5 *or municipality within said district is currently re-*
6 *quired to initiate a recyclable materials recycling*
7 *program in order to meet a municipal solid waste re-*
8 *duction goal of at least 30 percent by the year 2005,*
9 *and uses revenues generated by the exercise of flow*
10 *control authority strictly to implement programs to*
11 *manage municipal solid waste, other than develop-*
12 *ment of incineration; and*

13 “(2) *prior to May 15, 1994, the solid waste dis-*
14 *trict, political subdivision or municipality within*
15 *said district—*

16 “(A) *was responsible under State law for*
17 *the management and regulation of the storage,*
18 *collection, processing, and disposal of solid*
19 *wastes within its jurisdiction;*

20 “(B) *was authorized by State statute (en-*
21 *acted prior to January 1, 1992) to exercise flow*
22 *control authority, and subsequently adopted or*
23 *sought to exercise the authority through a law,*
24 *ordinance, regulation, regulatory proceeding,*

1 *contract, franchise, or other legally binding pro-*
2 *vision; and*

3 “(C) *was required by State statute (enacted*
4 *prior to January 1, 1992) to develop and imple-*
5 *ment a solid waste management plan consistent*
6 *with the State solid waste management plan,*
7 *and the district solid waste management plan*
8 *was approved by the appropriate State agency*
9 *prior to September 15, 1994.*

10 “(h) *STATE-AUTHORIZED SERVICES AND LOCAL PLAN*
11 *ADOPTION.—A political subdivision of a State may exercise*
12 *flow control authority for municipal solid waste and for*
13 *recyclable material voluntarily relinquished by the owner*
14 *or generator of the material that is generated within its*
15 *jurisdiction if, prior to May 15, 1994, the political subdivi-*
16 *sion—*

17 “(1) *had been authorized by State statute which*
18 *specifically named the political subdivision to exercise*
19 *flow control authority and had implemented the au-*
20 *thority through a law, ordinance, regulation, con-*
21 *tract, or other legally binding provision; and*

22 “(2) *had adopted a local solid waste manage-*
23 *ment plan pursuant to State statute and was re-*
24 *quired by State statute to adopt such plan in order*
25 *to submit a complete permit application to construct*

1 *a new solid waste management facility proposed in*
2 *such plan; and*

3 *“(3) had presented for sale a revenue or general*
4 *obligation bond to provide for the site selection, per-*
5 *mitting, or acquisition for construction of new facili-*
6 *ties identified and proposed in its local solid waste*
7 *management plan; and*

8 *“(4) includes a municipality or municipalities*
9 *required by State law to adopt a local law or ordi-*
10 *nance to require that solid waste which has been left*
11 *for collection shall be separated into recyclable, reus-*
12 *able or other components for which economic markets*
13 *exist; and*

14 *“(5) is in a State that has aggressively pursued*
15 *closure of substandard municipal landfills, both by*
16 *regulatory action and under statute designed to pro-*
17 *tect deep flow recharge areas in counties where pota-*
18 *ble water supplies are derived from sole source*
19 *aquifers.*

20 *“(i) RETAINED AUTHORITY.—*

21 *“(1) REQUEST.—On the request of a generator of*
22 *municipal solid waste affected by this section, a State*
23 *or political subdivision may authorize the diversion*
24 *of all or a portion of the solid waste generated by the*
25 *generator making the request to an alternative solid*

1 *waste treatment or disposal facility, if the purpose of*
2 *the request is to provide a higher level of protection*
3 *for human health and the environment or reduce po-*
4 *tential future liability of the generator under Federal*
5 *or State law for the management of such waste, unless*
6 *the State or political subdivision determines that the*
7 *facility to which the municipal solid waste is pro-*
8 *posed to be diverted does not provide a higher level of*
9 *protection for human health and the environment or*
10 *does not reduce the potential future liability of the*
11 *generator under Federal or State law for the manage-*
12 *ment of such waste.*

13 *“(2) CONTENTS.—A request under paragraph (1)*
14 *shall include information on the environmental suit-*
15 *ability of the proposed alternative treatment or dis-*
16 *posal facility and method, compared to that of the*
17 *designated facility and method.*

18 *“(j) LIMITATIONS ON REVENUE.—A State or political*
19 *subdivision may exercise flow control authority under sub-*
20 *section (b), (c), (d), or (e) only if the State or political sub-*
21 *division certifies that the use of any of its revenues derived*
22 *from the exercise of that authority will be used for solid*
23 *waste management services or related landfill reclamation.*

24 *“(k) REASONABLE REGULATION OF COMMERCE.—A*
25 *law, ordinance, regulation, or other legally binding provi-*

1 *sion or official act of a State or political subdivision, as*
2 *described in subsection (b), (c), (d), or (e), that implements*
3 *flow control authority in compliance with this section shall*
4 *be considered to be a reasonable regulation of commerce ret-*
5 *roactive to its date of enactment or effective date and shall*
6 *not be considered to be an undue burden on or otherwise*
7 *considered as impairing, restraining, or discriminating*
8 *against interstate commerce.*

9 “(l) *EFFECT ON EXISTING LAWS AND CONTRACTS.—*

10 “(1) *ENVIRONMENTAL LAWS.—Nothing in this*
11 *section shall be construed to have any effect on any*
12 *other law relating to the protection of human health*
13 *and the environment or the management of municipal*
14 *solid waste or recyclable material.*

15 “(2) *STATE LAW.—Nothing in this section shall*
16 *be construed to authorize a political subdivision of a*
17 *State to exercise the flow control authority granted by*
18 *this section in a manner that is inconsistent with*
19 *State law.*

20 “(3) *OWNERSHIP OF RECYCLABLE MATERIAL.—*
21 *Nothing in this section—*

22 “(A) *authorizes a State or political subdivi-*
23 *sion of a State to require a generator or owner*
24 *of recyclable material to transfer recyclable ma-*
25 *terial to the State or political subdivision; or*

1 “(B) prohibits a generator or owner of recy-
2 clable material from selling, purchasing, accept-
3 ing, conveying, or transporting recyclable mate-
4 rial for the purpose of transformation or re-
5 manufacture into usable or marketable material,
6 unless the generator or owner voluntarily made
7 the recyclable material available to the State or
8 political subdivision and relinquished any right
9 to, or ownership of, the recyclable material.

10 “(m) REPEAL.—(1) Notwithstanding any provision of
11 this title, authority to flow control by directing municipal
12 solid waste or recyclable materials to a waste management
13 facility shall terminate on the date that is 30 years after
14 the date of enactment of this Act.

15 “(2) This section and the item relating to this section
16 in the table of contents for subtitle D of the Solid Waste
17 Disposal Act are repealed effective as of the date that is
18 30 years after the date of enactment of this Act.

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

23 “(1) on the date of enactment of this Act, is list-
24 ed on the National Priorities List under the Com-

1 *prehensive Environmental, Response, Compensation*
 2 *and Liability Act (42 U.S.C. 9601 et seq.); or*

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

7 (2) *TABLE OF CONTENTS AMENDMENT.—The*
 8 *table of contents for subtitle D in section 1001 of the*
 9 *Solid Waste Disposal Act (42 U.S.C. prec. 6901), as*
 10 *amended by subsection (a)(1)(B), is amended by add-*
 11 *ing after the item relating to section 4011 the follow-*
 12 *ing new item:*

 “*Sec. 4012. State and local government control of movement of municipal solid waste and recyclable material.*”.

13 (c) *GROUND WATER MONITORING.—*

14 (1) *AMENDMENT OF SOLID WASTE DISPOSAL*
 15 *ACT.—Section 4010(c) of the Solid Waste Disposal*
 16 *Act (42 U.S.C. 6949a(c)) is amended—*

17 (A) *by striking “CRITERIA.—Not later” and*
 18 *inserting the following: “CRITERIA.—*

19 *“(1) IN GENERAL.—Not later”;* and

20 (B) *by adding at the end the following new*
 21 *paragraph:*

22 “(2) *ADDITIONAL REVISIONS.—Subject to para-*
 23 *graph (2), the requirements of the criteria described*
 24 *in paragraph (1) relating to ground water monitor-*

1 *ing shall not apply to an owner or operator of a new*
2 *municipal solid waste landfill unit, an existing mu-*
3 *nicipal solid waste landfill unit, or a lateral expan-*
4 *sion of a municipal solid waste landfill unit, that dis-*
5 *poses of less than 20 tons of municipal solid waste*
6 *daily, based on an annual average, if—*

7 *“(A) there is no evidence of ground water*
8 *contamination from the municipal solid waste*
9 *landfill unit or expansion; and*

10 *“(B) the municipal solid waste landfill unit*
11 *or expansion serves—*

12 *“(i) a community that experiences an*
13 *annual interruption of at least 3 consec-*
14 *utive months of surface transportation that*
15 *prevents access to a regional waste manage-*
16 *ment facility; or*

17 *“(ii) a community that has no prac-*
18 *ticable waste management alternative and*
19 *the landfill unit is located in an area that*
20 *annually receives less than or equal to 25*
21 *inches of precipitation.*

22 *“(3) PROTECTION OF GROUND WATER RE-*
23 *SOURCES.—*

24 *“(A) MONITORING REQUIREMENT.—A State*
25 *may require ground water monitoring of a solid*

1 waste landfill unit that would otherwise be ex-
2 empt under paragraph (2) if necessary to protect
3 ground water resources and ensure compliance
4 with a State ground water protection plan,
5 where applicable.

6 “(B) *METHODS.*—If a State requires
7 ground water monitoring of a solid waste land-
8 fill unit under subparagraph (A), the State may
9 allow the use of a method other than the use of
10 ground water monitoring wells to detect a release
11 of contamination from the unit.

12 “(C) *CORRECTIVE ACTION.*—If a State finds
13 a release from a solid waste landfill unit, the
14 State shall require corrective action as appro-
15 priate.

16 “(4) *ALASKA NATIVE VILLAGES.*—Upon certifi-
17 cation by the Governor of the State of Alaska that ap-
18 plication of the requirements of the criteria described
19 in paragraph (1) to a solid waste landfill unit of a
20 Native village (as defined in section 3 of the Alaska
21 Native Claims Settlement Act (16 U.S.C. 1602)) or
22 unit that is located in or near a small, remote Alaska
23 village would be infeasible, or would not be cost-effec-
24 tive, or is otherwise inappropriate because of the re-
25 mote location of the unit, the State may exempt the

1 *unit from some or all of those requirements. This sub-*
2 *section shall apply only to solid waste landfill units*
3 *that dispose of less than 20 tons of municipal solid*
4 *waste daily, based on an annual average.*

5 *“(5) NO-MIGRATION EXEMPTION.—*

6 *“(A) IN GENERAL.—Ground water monitor-*
7 *ing requirements may be suspended by the Direc-*
8 *tor of an approved State for a landfill operator*
9 *if the operator demonstrates that there is no po-*
10 *tential for migration of hazardous constituents*
11 *from the unit to the uppermost aquifer during*
12 *the active life of the unit and the post-closure*
13 *care period.*

14 *“(B) CERTIFICATION.—A demonstration*
15 *under subparagraph (A) shall—*

16 *“(i) be certified by a qualified ground-*
17 *water scientist and approved by the Direc-*
18 *tor of an approved State.*

19 *“(C) GUIDANCE.—Not later than 6 months*
20 *after the date of enactment of this paragraph, the*
21 *Administrator shall issue a guidance document*
22 *to facilitate small community use of the no mi-*
23 *gration exemption under this paragraph.*

24 *“(6) FURTHER REVISIONS OF GUIDELINES AND*
25 *CRITERIA.—Not later than April 9, 1997, the Admin-*

1 *istrator shall promulgate revisions to the guidelines*
2 *and criteria promulgated under this subchapter to*
3 *allow States to promulgate alternate design, operat-*
4 *ing, landfill gas monitoring, financial assurance, and*
5 *closure requirements for landfills which receive 20*
6 *tons or less of municipal solid waste per day based*
7 *on an annual average: Provided That such alternate*
8 *requirements are sufficient to protect human health*
9 *and the environment.”.*

10 (2) *REINSTATEMENT OF REGULATORY EXEMP-*
11 *TION.—It is the intent of section 4010(c)(2) of the*
12 *Solid Waste Disposal Act, as added by paragraph (1),*
13 *to immediately reinstate subpart E of part 258 of*
14 *title 40, Code of Federal Regulations, as added by the*
15 *final rule published at 56 Federal Register 50798 on*
16 *October 9, 1991.*

17 (d) *STATE OR REGIONAL SOLID WASTE PLANS.—*

18 (1) *FINDING.—Section 1002(a) of the Solid*
19 *Waste Disposal Act (42 U.S.C. 6901(a)) is amend-*
20 *ed—*

21 (A) *by striking the period at the end of*
22 *paragraph (4) and inserting “; and”; and*

23 (B) *by adding at the end the following:*

24 “(5) *that the Nation’s improved standard of liv-*
25 *ing has resulted in an increase in the amount of solid*

1 *waste generated per capita, and the Nation has not*
2 *given adequate consideration to solid waste reduction*
3 *strategies.”.*

4 (2) *OBJECTIVE OF SOLID WASTE DISPOSAL*
5 *ACT.—Section 1003(a) of the Solid Waste Disposal*
6 *Act (42 U.S.C. 6902(a)) is amended—*

7 (A) *by striking “and” at the end of para-*
8 *graph (10);*

9 (B) *by striking the period at the end of*
10 *paragraph (11) and inserting “; and”; and*

11 (C) *by adding at the end the following:*

12 *“(12) promoting local and regional planning*
13 *for—*

14 *“(A) effective solid waste collection and dis-*
15 *posal; and*

16 *“(B) reducing the amount of solid waste*
17 *generated per capita through the use of solid*
18 *waste reduction strategies.”.*

19 (3) *NATIONAL POLICY.—Section 1003(b) of the*
20 *Solid Waste Disposal Act (42 U.S.C. 6902(b)) is*
21 *amended by inserting “solid waste and” after “gen-*
22 *eration of”.*

23 (4) *OBJECTIVE OF SUBTITLE D OF SOLID WASTE*
24 *DISPOSAL ACT.—Section 4001 of the Solid Waste Dis-*
25 *posal Act (42 U.S.C. 6941) is amended by inserting*

1 *“promote local and regional planning for effective*
2 *solid waste collection and disposal and for reducing*
3 *the amount of solid waste generated per capita*
4 *through the use of solid waste reduction strategies,*
5 *and” after “objectives of this subtitle are to”.*

6 (5) *DISCRETIONARY STATE PLAN PROVISIONS.—*
7 *Section 4003 of the Solid Waste Disposal Act (42*
8 *U.S.C. 6943) is amended by adding at the end the fol-*
9 *lowing:*

10 *“(e) DISCRETIONARY PLAN PROVISIONS RELATING TO*
11 *SOLID WASTE REDUCTION GOALS, LOCAL AND REGIONAL*
12 *PLANS, AND ISSUANCE OF SOLID WASTE MANAGEMENT*
13 *PERMITS.—Except as provided in section 4011(a)(4), a*
14 *State plan submitted under this subtitle may include, at*
15 *the option of the State, provisions for—*

16 *“(1) establishment of a State per capita solid*
17 *waste reduction goal, consistent with the goals and*
18 *objectives of this subtitle; and*

19 *“(2) establishment of a program that ensures*
20 *that local and regional plans are consistent with*
21 *State plans and are developed in accordance with sec-*
22 *tions 4004, 4005, and 4006.”.*

23 (6) *PROCEDURE FOR DEVELOPMENT AND IMPLE-*
24 *MENTATION OF STATE PLANS.—Section 4006(b) of the*
25 *Solid Waste Disposal Act (42 U.S.C. 6946(b)) is*

1 amended by inserting “and discretionary plan provi-
2 sions” after “minimum requirements”.

3 (e) *GENERAL PROVISIONS.*—

4 (1) *BORDER STUDIES.*—

5 (A) *DEFINITIONS.*—*In this paragraph:*

6 (i) *ADMINISTRATOR.*—*The term “Ad-*
7 *ministrator” means the Administrator of*
8 *the Environmental Protection Agency.*

9 (ii) *MAQUILADORA.*—*The term*
10 *“maquiladora” means an industry located*
11 *in Mexico along the border between the*
12 *United States and Mexico.*

13 (iii) *SOLID WASTE.*—*The term “solid*
14 *waste” has the meaning provided the term*
15 *under section 1004(27) of the Solid Waste*
16 *Disposal Act (42 U.S.C. 6903(27)).*

17 (B) *IN GENERAL.*—

18 (i) *STUDY OF SOLID WASTE MANAGE-*
19 *MENT ISSUES ASSOCIATED WITH NORTH*
20 *AMERICAN FREE TRADE AGREEMENT.*—*As*
21 *soon as practicable after the date of enact-*
22 *ment of this Act, the Administrator is au-*
23 *thorized to conduct a study of solid waste*
24 *management issues associated with in-*
25 *creased border use resulting from the imple-*

1 *mentation of the North American Free*
2 *Trade Agreement.*

3 *(ii) STUDY OF SOLID WASTE MANAGE-*
4 *MENT ISSUES ASSOCIATED WITH UNITED*
5 *STATES-CANADA FREE-TRADE AGREE-*
6 *MENT.—As soon as practicable after the*
7 *date of enactment of this Act, the Adminis-*
8 *trator may conduct a similar study focused*
9 *on border traffic of solid waste resulting*
10 *from the implementation of the United*
11 *States-Canada Free-Trade Agreement, with*
12 *respect to the border region between the*
13 *United States and Canada.*

14 *(C) CONTENTS OF STUDY.—A study con-*
15 *ducted under this paragraph shall provide for*
16 *the following:*

17 *(i) A study of planning for solid waste*
18 *treatment, storage, and disposal capacity*
19 *(including additional landfill capacity) that*
20 *would be necessary to accommodate the gen-*
21 *eration of additional household, commercial,*
22 *and industrial wastes by an increased pop-*
23 *ulation along the border involved.*

1 (ii) *A study of the relative impact on*
2 *border communities of a regional siting of*
3 *solid waste storage and disposal facilities.*

4 (iii) *In the case of the study described*
5 *in subparagraph (B)(i), research concerning*
6 *methods of tracking of the transportation*
7 *of—*

8 (I) *materials from the United*
9 *States to maquiladoras; and*

10 (II) *waste from maquiladoras to a*
11 *final destination.*

12 (iv) *In the case of the study described*
13 *in subparagraph (B)(i), a determination of*
14 *the need for solid waste materials safety*
15 *training for workers in Mexico and the*
16 *United States within the 100-mile zone*
17 *specified in the First Stage Implementation*
18 *Plan Report for 1992–1994 of the Inte-*
19 *grated Environmental Plan for the Mexico-*
20 *United States Border, issued by the Admin-*
21 *istrator in February 1992.*

22 (v) *A review of the adequacy of exist-*
23 *ing emergency response networks in the bor-*
24 *der region involved, including the adequacy*
25 *of training, equipment, and personnel.*

1 (vi) *An analysis of solid waste man-*
2 *agement practices in the border region in-*
3 *volved, including an examination of meth-*
4 *ods for promoting source reduction, recy-*
5 *cling, and other alternatives to landfills.*

6 (D) *SOURCES OF INFORMATION.—In con-*
7 *ducting a study under this paragraph, the Ad-*
8 *ministrator shall, to the extent allowable by law,*
9 *solicit, collect, and use the following information:*

10 (i) *A demographic profile of border*
11 *lands based on census data prepared by the*
12 *Bureau of the Census of the Department of*
13 *Commerce and, in the case of the study de-*
14 *scribed in subparagraph (B)(i), census data*
15 *prepared by the Government of Mexico.*

16 (ii) *In the case of the study described*
17 *in subparagraph (B)(i), information from*
18 *the United States Customs Service of the*
19 *Department of the Treasury concerning*
20 *solid waste transported across the border be-*
21 *tween the United States and Mexico, and*
22 *the method of transportation of the waste.*

23 (iii) *In the case of the study described*
24 *in subparagraph (B)(i), information con-*

1 cerning the type and volume of materials
2 used in maquiladoras.

3 (iv)(I) Immigration data prepared by
4 the Immigration and Naturalization Serv-
5 ice of the Department of Justice.

6 (II) In the case of the study described
7 in subparagraph (B)(i), immigration data
8 prepared by the Government of Mexico.

9 (v) Information relating to the infra-
10 structure of border land, including an ac-
11 counting of the number of landfills,
12 wastewater treatment systems, and solid
13 waste treatment, storage, and disposal fa-
14 cilities.

15 (vi) A listing of each site in the border
16 region involved where solid waste is treated,
17 stored, or disposed of.

18 (vii) In the case of the study described
19 in subparagraph (B)(i), a profile of the in-
20 dustries in the region of the border between
21 the United States and Mexico.

22 (E) CONSULTATION AND COOPERATION.—In
23 carrying out this paragraph, the Administrator
24 shall consult with the following entities in re-
25 viewing study activities:

1 (i) *With respect to reviewing the study*
2 *described in subparagraph (B)(i), States*
3 *and political subdivisions of States (includ-*
4 *ing municipalities and counties) in the re-*
5 *gion of the border between the United States*
6 *and Mexico.*

7 (ii) *The heads of other Federal agencies*
8 *(including the Secretary of the Interior, the*
9 *Secretary of Housing, the Secretary of*
10 *Health and Human Services, the Secretary*
11 *of Transportation, and the Secretary of*
12 *Commerce) and with respect to reviewing*
13 *the study described in subparagraph (B)(i),*
14 *equivalent officials of the Government of*
15 *Mexico.*

16 (F) *REPORTS TO CONGRESS.*—*On comple-*
17 *tion of the studies under this paragraph, the Ad-*
18 *ministrator shall, not later than 2 years after the*
19 *date of enactment of this Act, submit to the ap-*
20 *propriate committees of Congress reports that*
21 *summarize the findings of the studies and pro-*
22 *pose methods by which solid waste border traffic*
23 *may be tracked, from source to destination, on*
24 *an annual basis.*

1 (G) *BORDER STUDY DELAY.*—*The conduct*
2 *of the study described in subparagraph (B)(ii)*
3 *shall not delay or otherwise affect completion of*
4 *the study described in subparagraph (B)(i).*

5 (H) *FUNDING.*—*If any funding needed to*
6 *conduct the studies required by this paragraph is*
7 *not otherwise available, the president may trans-*
8 *fer to the administrator, for use in conducting*
9 *the studies, any funds that have been appro-*
10 *priated to the president under section 533 of the*
11 *North American Free Trade Agreement Imple-*
12 *mentation Act (19 U.S.C. 3473) that are in ex-*
13 *cess of the amount needed to carry out that sec-*
14 *tion. States that wish to participate in study*
15 *will be asked to contribute to the costs of the*
16 *study. The terms of the cost share shall be nego-*
17 *tiated between the Environmental Protection*
18 *Agency and the State.”.*

19 (2) *STUDY OF INTERSTATE HAZARDOUS WASTE*
20 *TRANSPORT.*—

21 (A) *DEFINITION OF HAZARDOUS WASTE.*—
22 *In this paragraph, the term “hazardous waste”*
23 *has the meaning provided in section 1004 of the*
24 *Solid Waste Disposal Act (42 U.S.C. 6903).*

1 (B) *STUDY.*—not later than 3 years after
2 the date of enactment of this act, the adminis-
3 trator of the environmental protection agency
4 shall conduct a study, and report to congress on
5 the results of the study, to determine—

6 (i) the quantity of hazardous waste
7 that is being transported across state lines;
8 and

9 (ii) the ultimate disposition of the
10 transported waste.

11 (3) *STUDY OF INTERSTATE SLUDGE TRANS-*
12 *PORT.*—

13 (A) *DEFINITIONS.*—In this paragraph:

14 (i) *SEWAGE SLUDGE.*—The term “sew-
15 age sludge”—

16 (I) means solid, semisolid, or liq-
17 uid residue generated during the treat-
18 ment of domestic sewage in a treat-
19 ment works; and

20 (II) includes—

21 (i) domestic septage;

22 (ii) scum or a solid removed
23 in a primary, secondary, or ad-
24 vanced wastewater treatment
25 process; and

1 (iii) material derived from
2 sewage sludge (as otherwise de-
3 fined in this clause); but

4 (III) does not include—

5 (i) ash generated during the
6 firing of sewage sludge (as other-
7 wise defined in this clause) in a
8 sewage sludge incinerator; or

9 (ii) grit or screenings gen-
10 erated during preliminary treat-
11 ment of domestic sewage in a
12 treatment works.

13 (ii) *SLUDGE*.—The term “sludge” has
14 the meaning provided in section 1004 of the
15 Solid Waste Disposal Act (42 U.S.C. 6903).

16 (B) *STUDY*.—Not later than 3 years after
17 the date of enactment of this act, the adminis-
18 trator of the environmental protection agency
19 shall conduct a study, and report to congress on
20 the results of the study, to determine—

21 (i) the quantity of sludge (including
22 sewage sludge) that is being transported
23 across state lines; and

24 (ii) the ultimate disposition of the
25 transported sludge.

1 **SEC. 510. SENSE OF SENATE REGARDING UNITED STATES**
2 **SEMICONDUCTOR TRADE AGREEMENT.**

3 (a) *FINDINGS.*—

4 (1) *The United States-Japan Semiconductor*
5 *Trade Agreement is set to expire on July 31, 1996;*

6 (2) *The Governments of the United States and*
7 *Japan are currently engaged in negotiations over the*
8 *terms of a new United States-Japan agreement on*
9 *semiconductors;*

10 (3) *The President of the United States and the*
11 *Prime Minister of Japan agreed at the G-7 Summit*
12 *in June that their two governments should conclude*
13 *a mutually acceptable outcome of the semiconductor*
14 *dispute by July 31, 1996, and that there should be a*
15 *continuing role for the two governments in the new*
16 *agreement;*

17 (4) *The current United States-Japan Semi-*
18 *conductor Trade Agreement has put in place both gov-*
19 *ernment-to-government and industry-to-industry*
20 *mechanisms which have played a vital role in allow-*
21 *ing cooperation to replace conflict in this important*
22 *high technology sector such as by providing for joint*
23 *calculation of foreign market share in Japan, deter-*
24 *rence of dumping, and promotion of industrial co-*
25 *operation in the design-in of foreign semiconductor*
26 *devices;*

1 (5) *Despite the increased foreign share of the*
2 *Japanese semiconductor market since 1986, a gap*
3 *still remains between the share United States and*
4 *other foreign semiconductor makers are able to cap-*
5 *ture in the world market outside of Japan through*
6 *their competitiveness and the sales of these suppliers*
7 *in the Japanese market, and that gap is consistent*
8 *across the full range of semiconductor products as*
9 *well as a full range of end-use applications;*

10 (6) *The competitiveness and health of the United*
11 *States semiconductor industry is of critical impor-*
12 *tance to the United States' overall economic well-*
13 *being as well as the nation's high technology defense*
14 *capabilities;*

15 (7) *The economic interests of both the United*
16 *States and Japan are best served by well-functioning,*
17 *open markets and deterrence of dumping in all sec-*
18 *tors, including semiconductors;*

19 (8) *The Government of Japan continues to op-*
20 *pose an agreement that (A) ensures continued calcula-*
21 *tion of foreign market share in Japan according to*
22 *the formula set forth in the current agreement, and*
23 *(B) provides for continuation of current measures to*
24 *deter renewed dumping of semiconductors in the*
25 *United States and in the third country markets; and*

1 (9) *The United States Senate on June 19, 1996,*
2 *unanimously adopted a sense of the Senate resolution*
3 *that the President should take all necessary and ap-*
4 *propriate actions to ensure the continuation of a gov-*
5 *ernment-to-government United States-Japan semi-*
6 *conductor trade agreement before the current agree-*
7 *ment expires on July 31, 1996.*

8 (b) *SENSE OF SENATE.—It is the sense of the Senate*
9 *that if a new United States-Japan Semiconductor Agree-*
10 *ment is not concluded by July 31, 1996, that (1) ensures*
11 *continued calculation of foreign market share in Japan ac-*
12 *ording to the formula set forth in the current agreement,*
13 *and (2) provides for continuation of current measures to*
14 *deter renewed dumping of semiconductors in the United*
15 *States and in third country markets, the President shall—*

16 (A) *Direct the Office of the United States Trade*
17 *Representative and the Department of Commerce to*
18 *establish a system to provide for unilateral United*
19 *States Government calculation and publication of the*
20 *foreign share of the Japanese semiconductor market,*
21 *according to the formula set forth in the current*
22 *agreement;*

23 (B) *Report to the Congress on a quarterly basis*
24 *regarding the progress, or lack thereof, in increasing*

1 *foreign market access to the Japanese semiconductor*
2 *market; and*

3 *(C) Take all necessary and appropriate actions*
4 *to ensure that all United States trade laws with re-*
5 *spect to foreign market access and injurious dumping*
6 *are expeditiously and vigorously enforced with respect*
7 *to U.S.-Japan semiconductor trade, as appropriate.*

8 *This Act may be cited as the “Energy and Water De-*
9 *velopment Appropriations Act, 1997”.*

Attest:

Secretary.

104TH CONGRESS
2^D SESSION

H. R. 3816

AMENDMENT

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