

**Testimony of Christopher Jones
Director, Ohio EPA
before the
Energy and Commerce
Subcommittee on Environment and Hazardous Materials**

July 23, 2003

Good afternoon, Mr. Chairman, and members of the committee. My name is Chris Jones and I am Director of the Ohio Environmental Protection Agency (Ohio EPA). I appreciate the opportunity to provide you with an overview and historical perspective of the interstate waste issue from Ohio's vantage point. I would also like to address several provisions of H.R. 1730 sponsored by Congressman Greenwood and others, that would provide Ohio with many of the tools we need to help us address the interstate waste issue in the future.

As we all know, the transportation and disposal of solid waste across state lines has been a controversial issue for over a decade, and Ohio has not been spared the controversy. The receipt of waste shipments from outside of Ohio first became a serious concern to the State during the late 1980's, when over a short period of time waste imports increased dramatically. From 1986 to 1989, out-of-state waste disposed in Ohio increased from approximately 33,000 tons, representing less than 1% of total disposal, to 3,700,000 tons, representing 20% of total disposal. Although waste imports have decreased significantly from the 1989 levels, Ohio has seen increases in out-of-state waste for each of the last six years and we continue to be aware of the possibility of increased waste receipts from other states in the future. We would note the following reasons for our concern over out-of-state waste:

- With the passage of Ohio's comprehensive solid waste law, H.B. 592, in 1988, Ohio took a proactive step to responsibly manage Ohio's waste by assuring in-state disposal capacity, at state-of-the-art facilities, for solid waste generated in Ohio, and setting state recycling goals. It is only fair that other states take the steps necessary to responsibly manage their own waste, instead of relying on exporting their waste outside of their borders.
- It is difficult or impossible for state and local inspectors to verify that hazardous or untreated infectious waste has not been included in solid waste shipments that are shredded or heavily compacted before being shipped long distances.
- Citizen opposition to landfills that are perceived as servicing primarily out-of-state waste hinders the siting of facilities needed to provide disposal capacity for Ohio's waste.
- Citizens are reluctant to reduce or recycle waste when they believe their efforts will

Attachment 2

OHIO SOLID WASTE IMPORTS AND EXPORTS FOR 2002

Waste received at solid waste facilities in Ohio and sent to facilities in contiguous states

<u>Imports</u>	<u>Exports</u>
New York 800,525 tons	Ohio to Michigan 347,774
Pennsylvania 337,001 tons	Ohio to Kentucky 294,311
New Jersey 274,442 tons	Ohio to West Virginia 172,748
Connecticut 176,064 tons	Ohio to Pennsylvania 56,332
Indiana 142,375 tons	Ohio to Indiana 39,242
New York & New Jersey 121,672 tons	
Massachusetts 104,670 tons	
West Virginia 87,591 tons	
Michigan 60,380 tons	
Kentucky 38,852 tons	
New Hampshire 16,651 tons	
Rhode Island 9,349 tons	
Illinois 4,844 tons	
Maine 1,610 tons	
Maryland 1,078 tons	
12 Other States 2,101 tons	
Total Imports 2,179,210 tons	Total Exports 910,407 tons

Import amounts are from an annual summary of the daily log at facilities accepting solid waste for disposal in Ohio. Export amounts are based on information provided by Ohio EPA's analogous agencies in contiguous states and Ohio's SWMDs.

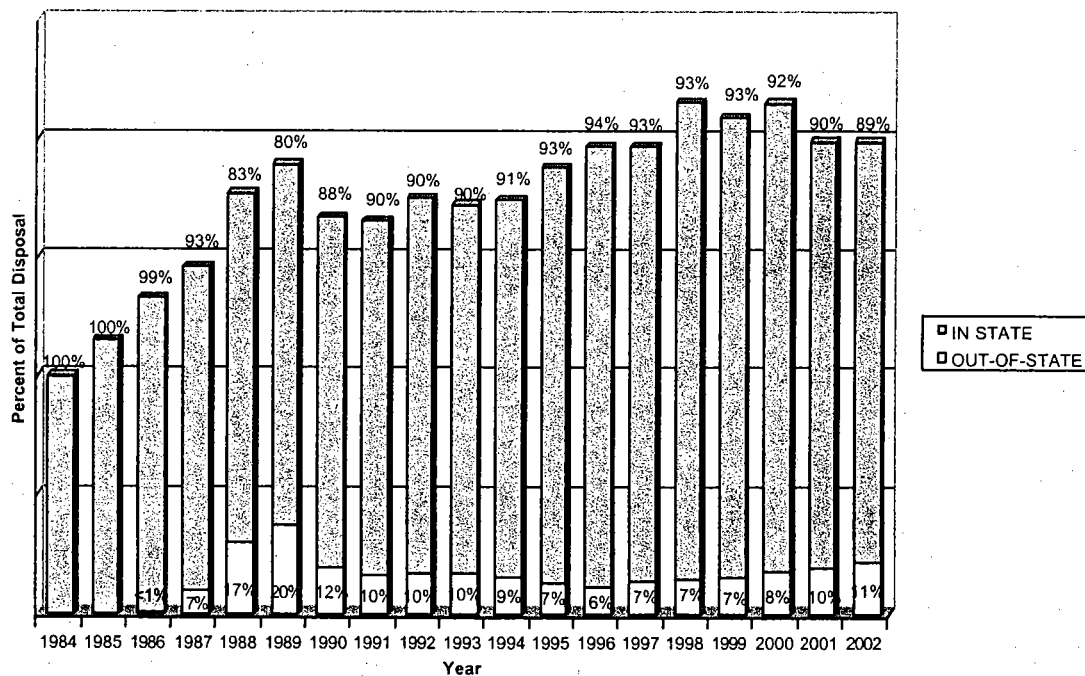
only serve to make room for trash from other states. I've included, with my written testimony, a letter received by Ohio's Governor Bob Taft from a citizen raising this very concern.

Recent Out-of-State Waste Receipts and Trends

In 2002, Ohio received about 2.2 million tons of out-of-state waste, representing about 11% of total waste disposed. While this is a moderate increase from the previous year, it is the sixth year in a row that waste imports have increased in Ohio. The result is a clear trend of increasing imports, from a low of 1.2 million tons received in 1996 to the 2.2 million tons received last year. Prior to 2002, Ohio hadn't seen waste imports exceeding either the 2 million ton or 10% thresholds for over ten years.

Ohio imported the largest amount of waste from New York in 2002, with at least

AMOUNT OF SOLID WASTE RECEIVED AT OHIO LANDFILLS AND INCINERATORS: 1984-2002
By Point of Origin (In State & Out-of-State)



800,525 tons (37% of the total) coming from this point of origin. 337,001 tons were received from Pennsylvania (15% of the total), and 274,442 tons were received from New Jersey (13% of the total). I should also note that an additional 121,672 tons originated from either New York or New Jersey, although because of the way that it was

Attachment 1

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OFFICE OF THE DIRECTOR
OHIO EPA

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Governor Taft
77 South High Street, 30th Floor
Columbus, OH 43215-6117

Dear Governor Taft:

The reason I am writing you has been bothering me for sometime. Starting a few months ago, I began reading articles about the emphasis the state has begun placing on recycling over the past few years. Sounds pretty good to me, save space in Ohio dumps and reduce overall garbage disposal. Yet the funny thing was at the same time, I have been hearing reports of garbage being transported from neighboring states into Ohio landfills. Ironical as it may seem, this issue concerns greatly. Why is it that so much emphasis is placed on companies to increase recycling when the state just makes up for more than this saved space by importing garbage from other states?

Therefore, my concern to you and why I have written this letter is as follows: Keep Ohio clean. Leave other state's trash in their own hands. Do you really want to become the dumping ground for other states waste? Neither do I. Allow our land to be free from garbage, free from the stench that blows from the dumps, and clean! Although those states probably pay Ohio money to take their trash, might the cost of clean up from ground and soil contamination not offset this income, as well as polluting our beautiful state. Therefore, I am asking you to please consider the recommendation. I would greatly appreciate it if you could please send a reply to my comments. Thank you.

Sincerely

Nathan Strong

Nathan Strong

reported we cannot distinguish a specific state or origin.

Over the last seven years, imports from these three states have accounted for 65% to 74% of the total amount of out-of-state disposal in Ohio. New York and Pennsylvania have been the top two states exporting waste to Ohio over this period of time.

A more detailed analysis of the origin of out-of-state waste disposed in Ohio yields interesting results. For the purposes of this analysis, Ohio EPA has considered waste originating from contiguous states and the western two-thirds of Pennsylvania to be "short-haul", and waste originating from the eastern one-third of Pennsylvania and all non-contiguous states to be "long haul." Using these definitions, 73% of out-of-state waste received in 2002 would be considered long-haul waste.

A more detailed examination of out-of-state waste just from New York is also interesting. Out of the total of 800,525 tons of waste that we know was received from New York, 519,321 tons (65%) was received from the New York City area. The tonnage received from New York City accounted for 24% of all out-of-state waste disposed in Ohio in 2002. This total could be even higher, since we don't know the exact origin of a large amount of waste coming from within New York, and there is an additional amount of waste that originated from either New York or New Jersey for which we cannot distinguish a specific state of origin.

Landfills Receiving Out-of-State Waste

Over the past several years, the vast majority of waste imports have been received by two Ohio landfills: BFI Carbon Limestone in Mahoning County, and AWS American Landfill in Stark County. In 2000 Carbon Limestone received 42% of the out-of-state waste disposed in Ohio. American Landfill received 20% of the out-of-state waste disposed in Ohio.

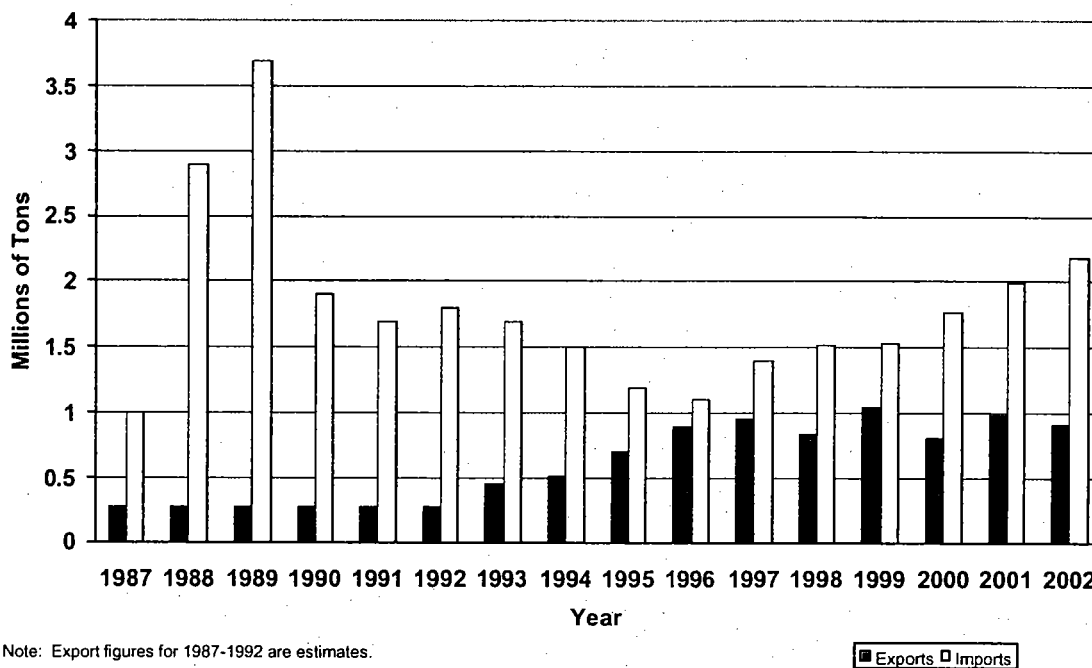
Ohio Waste Exports

It should also be noted that Ohio exports waste to it's neighboring states. In 2002, Ohio exported 910,407 tons of solid waste, making Ohio a net importer of 1,268,803 tons. Over the last seven years, Ohio has exported in the range of 800,000 to 1,000,000 tons of waste to neighboring states each year. (1999 was the first and only year that Ohio waste exports exceeded one million tons.)

Speaking for Ohio, HR 1730 will provide our state with the tools we need to help protect us in the future against what we perceive to be a strong potential for increased shipments of out-of-state waste across our borders. Again, I appreciate the opportunity to provide testimony on this issue and would be happy to provide any additional information the committee may need as you continue to deliberate on this important issue.

In the early nineties, Ohio exported significantly less waste than it is currently exporting. In fact, we would estimate that Ohio exported as little as 270,000 tons in 1992; since then it has risen to current levels. However, I would note that these export increases should be viewed with some caution. Until recently, it was difficult or impossible to get

Comparison of Ohio Solid Waste Imports and Exports



accurate data from adjacent states regarding the receipt of waste from Ohio. Because of this, it is difficult to tell whether the increases in Ohio exports are due to an actual increase in exports or simply better access to data.

In general, the export numbers we have been able to obtain indicate that the majority of Ohio's exports, more than 65% historically, go to Michigan and Kentucky (71% in 2002).

Ohio's Vulnerability to Out-of-State Waste

Several factors contribute to Ohio's vulnerability to out-of-state waste. The issue that brought this topic once again to the forefront for Ohio was the March, 2001 closure of New York City's Fresh Kills Landfill which handled around 3.5 million tons of garbage annually. Historic waste flow patterns indicated that Virginia, Pennsylvania, and Ohio would eventually be the most likely recipients of this waste. This is not the only factor

limit could be no lower than 20%. Both of these provisions provide an option to the states which we believe could prove to be helpful to Ohio in the future, though not to a great extent at this time.

Cost-Recovery Surcharge on Out-of-State Waste

HR 1730 allows states to impose a \$2.00 per ton surcharge on out-of-state waste to recover costs incurred associated with the processing or disposal of out-of-state waste. While utilizing this provision seems appealing, I cannot tell you today that Ohio will take advantage of this funding option. As Ohio currently assesses a state fee of \$2.00 per ton to all waste, not just out-of-state waste, I would not expect that we would be able to justify an additional \$2.00/ton for waste coming from other states, especially our border states.

Annual Report

The legislation requires that the owner/operator of each landfill receiving out of state waste shall submit a report to the appropriate Governor indicating the amount of out of state waste that the facility received during that year. Ideally, Ohio would like to see an additional requirement included in this bill for waste haulers to accurately report to receiving facilities the state and county of origin and the type of waste (i.e. C&DD, MSW, industrial) being disposed. Such a requirement would then extend to the facilities to accurately record the same information and include it in the report to the Governor as well.

Conclusion

In closing, I would like to applaud the efforts of Congressman Greenwood for his steadfast efforts to develop legislation to assist those states who are feeling the threat of increased out-of-state waste shipments. I would also like to thank Congressman Gillmor, hailing from Ohio, for holding hearings on this issue and inviting me to participate today.

We see a clear trend of increased waste imports into Ohio and we feel that Ohio continues to remain vulnerable to increases in the future. Ohio, like many other states, has taken very proactive steps to responsibly manage our waste by assuring in-state disposal capacity, improving our regulations to require that landfill facilities are protective of human health and the environment, and setting state recycling goals to lessen our long-term dependence on landfills for the management of solid waste. Despite these efforts, however, we are unable to provide our citizens with protection from the receipt of unreasonable amounts of out-of-state waste. We need Congress to act on this issue in order to give states the ability to set reasonable limits on waste imports.

leading to our concern. There are several reasons why Ohio is vulnerable to future increases in out-of-state waste from New York or elsewhere.

First, Ohio has ample permitted landfill space to receive the waste. In 2002, Ohio had around 574 million cubic yards of permitted municipal waste landfill capacity. At current usage rates, this equates to about 30 years of capacity. If all pending landfill permit applications are ultimately approved, Ohio could have an additional 10 years or more of permitted capacity in the near future.

More important than capacity, in our estimation, are Ohio's relatively low tipping fees. According to various reports, Ohio's average tipping fee appears to be more than ten dollars per ton lower than Virginia, and more than twenty dollars lower than Pennsylvania and New York.

Approximate Cost Per Ton Tipping Fees

	New York	Pennsylvania	Virginia	Ohio
Average Tipping Fee	\$50.00	\$50.00	\$40.00	\$28.00

In fact, the discrepancy is probably even greater. We are aware of instances where waste contracts have been issued in Ohio for rates significantly lower than \$20.00 per ton.

Finally, Ohio's vulnerability to out-of-state waste is dependant on the total cost to dispose of waste in Ohio, which is a function of both Ohio's tipping fees and the cost to transport the waste into the State. While we have no specific data related to transportation costs, we can make certain observations. First, northeast Ohio, the area of the State that receives the bulk of out-of-state waste, is serviced by a number of east-west interstate highways, providing relatively direct routes from the east coast into Ohio. Second, as we observe the receipt of waste from at least eleven different east coast states, it is clear that the transportation of waste into Ohio from the eastern U.S. is not cost prohibitive.

For these three reasons: landfill capacity; low tipping fees; and direct highway routes from the east coast; plus the fact that Ohio has now seen a six-year trend of increased out-of-state waste imports, Ohio remains very concerned about our vulnerability to future increases in out-of-state waste receipts.

Ohio EPA's Position on Provisions of H.B. 1730

Despite the fact current levels of waste imports into Ohio are not an immediate concern, because of our permitted capacity which will currently last over 30 years, Ohio's relatively low tipping fees, and proximity to the east coast leaves the state vulnerable to increased waste imports in the future. Accordingly, we strongly support mechanisms to protect the State from unreasonable future increases in out-of-state waste. From our perspective, this is the most important of all the out-of-state waste issues and one which we believe is addressed through the provisions of H.R. 1730. I would like to briefly discuss our thoughts on some of the concepts contained in H.R. 1730.

Presumptive Ban

We believe our goal of having the ability to control future increases in out-of-state waste will be met in large part by the presumptive ban that prohibits the receipt of out-of-state municipal solid waste at all existing facilities unless they meet one of a number of criteria, including "host community agreements."

We support the exceptions to the ban as outlined in the bill. We would note, however, that the term "host community agreement" is defined in such a way that in Ohio, it will generally apply only to agreements between facilities and solid waste management districts. It will generally not apply to agreements between facilities and local municipal or township governments, which is what we would commonly consider to be a "host community agreement". The result, for Ohio, is that SWMDs will have clear and exclusive authority to allow receipt of out-of-state waste via host community agreements.

Freeze Authority

This provision allows a state to freeze the level of out-of-state waste received at a solid waste landfill or incinerator at 1993 levels. Twenty landfills in Ohio received out-of-state waste in 1993, and fifteen of them are still open.

This provision also allows affected local governments to impose an equivalent freeze at particular facilities under certain circumstances. We would suggest one possible modification to this provision. It would be helpful, if an affected local government exercised this authority, for the local government to notify the State of this action. Therefore, we would suggest that a notification requirement be added to this provision.

Permit Denial and Permit Caps

This provision allows a state to pass a law allowing for a permit denial if there is no local or regional need for the facility. This provision also allows a state to pass a law setting a percentage limit on the amount of out-of-state waste that new facilities or expanded facilities could receive. Limitation would apply to all new or expanded facilities, and the