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1977

February 1977

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Everybody's Business

The Resource Conservation and Recovery Act of 1976

U.S. Environmental Protection Agency
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EVERYBODY'S BUSINESS
THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976

To what extent is Federal direction or regulation needed in solid waste management?

On the 21st of October, when the Resource Conservation and Recovery Act of 1976 (RCRA) was signed into law, the answer to this question was provided to all of us.

The new law is one that political scientists cite as evidence that the system works. It is among those laws which reflect the will of active public opinion on a given topic at a given historical moment. Built on the foundation of the Solid Waste Disposal Act of 1965 and the Resource Recovery Act of 1970, the RCRA is the evolutionary product of several years of deliberations and hearings held by a number of committees of both houses of the Congress. It addresses problems and opportunities which are intrinsically a part of the solid waste management issue. It reflects a full awareness of those areas which involve a high level of technical understanding and knowledge as well as those areas of technical uncertainty, and relates both to the social and economic ramifications of improved practice.

The Act reflects the fact that all levels of government, industry and a variety of environmental and other public interest groups had full opportunity to be heard. Both houses of Congress passed it by overwhelming votes.

RCRA integrates the primary thrusts of the two earlier solid waste acts. It acknowledges the interrelation of the resource-use and public health issues associated with land disposal. It mandates a series of actions, requiring effort on the part of all levels of government, industry, and the public--over time--to ensure that progress in protecting health and the environment will not be inhibited

by a failure to move forward in the areas of resource conservation and recovery.

A long hard look at the status of solid waste management reveals that this issue touches the very frontiers of our society's movement toward environmental responsibility; how solid waste influences are dealt with and are, in turn, influenced by far-reaching social and economic issues. These range from the attitudes of the individual citizen and consumer, through how products are extracted, manufactured and marketed, to such complex issues as depletion allowances and international trade policies. It is no wonder that it took a while to achieve this legislation and that the Act does not provide immediate, ready-made solutions to all the varied problems and perplexities that have been debated for so many years. Instead, the Act calls for new patterns of interaction among all levels of government, the assumption of key responsibilities by industry on several fronts, and for meaningful public understanding and participation in all the major activities mandated by the Act.

If the RCRA is examined in light of the recently passed Toxic Substances Act and the Safe Drinking Water Act, it becomes apparent that the Congress reflected a new dimension in public understanding of what is required to improve the environment. This new understanding goes far beyond the relatively simplistic attitudes so popular a decade ago, when many seemed to think that placing stoppers on air pollution stacks and water-polluting outfall pipes would save us from burgeoning environmental problems we had neglected during two centuries of technological and economic achievement.

The RCRA signifies that our country is now ready to face the fact that the land is a natural medium which needs to be protected just as air and water do, and that resource conservation and recovery are a key element in the process of achieving environmental quality.

The sink of last resort is going to disappear as an inexpensive option for hiding mistakes, and in its place environmentally sound procedures for dealing with wastes will emerge. All the provisions of the Act are supportive of this goal. The most urgent, though not the only, necessity is to move rapidly toward controlling the most obviously undesirable portions of the waste stream. Hence, the special emphasis on all aspects of hazardous wastes management.

Subtitle C of the new law brings management of hazardous wastes under Federal-State regulatory control. Hazardous waste is defined in the Act as any waste that "because of its quantity, concentration, or physical, chemical, or infectious characteristics" may seriously threaten public health or the environment. EPA is required to identify these wastes, set standards for their management, from their inception to their disposal, and issue guidelines for State programs over the next year and a half. The standards go into effect 6 months after their promulgation. States are to establish hazardous waste control programs that will meet Federal requirements and issue permits for treatment, storage, and disposal of such wastes. In those States that choose not to do so, Federal regulations will apply. Civil and criminal penalties are established for noncompliance. To assist States in developing and implementing a hazardous waste program \$25 million in grants is authorized to be appropriated for each of fiscal years 1978 and 1979. (Under the Congressional process, actual sums are appropriated later for implementation of the hazardous waste or other provisions of the Act that require funding.)

The new law will increase financial and technical assistance to State, regional, and local agencies for the development of comprehensive programs of environmentally sound disposal, resource recovery, and resource conservation. "Resource conservation" is defined in the Act as "reduction of the amounts of solid waste that are generated,

reduction of overall resource consumption, and utilization of recovered resources." EPA will issue guidelines for State solid waste plans. To facilitate regional planning, EPA guidelines will also be issued for identifying regional areas with common solid waste problems. The amount of Federal funds authorized for grants to States for developing and implementing State and regional plans is \$30 million for fiscal 1978 and \$40 million for fiscal 1979. In addition, \$15 million is authorized to each of those years for grants to regional and local agencies as well as States to implement specific programs that fall within approved State plans.

For a State to be eligible for these grants, its solid waste plan must meet minimum criteria. Among them is inclusion of a requirement that all solid waste be utilized for resource recovery, disposed of in a sanitary landfill, or disposed of in some other environmentally sound manner. The plan must also provide for the closing or upgrading of all existing open dumps.

Criteria for identifying open dumps and for identifying sanitary landfills are to be published by EPA no later than October 1977, and the Agency is to conduct a national inventory of all open dumps within the 12 months that follow. The Act mandates that all open dumps throughout the country must be closed or upgraded by 1983 and forbids the creation of new dumps. Special grant assistance to help meet these new requirements for land disposal facilities will be available for rural communities. Twenty-five million dollars for fiscal 1978 and 1979 is authorized for assistance to rural areas.

Grants to a limited number of "special communities" are also authorized. These are to be communities of less than 25,000 population, most of whose solid waste comes from outside their boundaries, causing serious environmental problems.

Recognizing that States and many local governments will face

very difficult problems in meeting the goals and requirements of this legislation, the Act provides for technical assistance teams, called "Resource Recovery and Conservation Panels," that will be available to State and local governments on request. The teams will be prepared to assist in upgrading collection and disposal as well as in developing resource recovery and resource conservation systems. We expect to field these teams from our Regional Offices, where they can gain familiarity with conditions in specific geographic areas.

Wide general authority is conferred by the law for studies, research and development, demonstrations, training, and information activities. The authorization for these functions totals \$45 million for fiscal 1978. The objective is to strengthen and increase the technological base, available expertise, and public understanding that must underlie State and local programs in order for them to succeed.

Demonstrations in resource recovery and improved solid waste disposal facilities are authorized. Studies are required in many specific areas, including sludge management, source separation, agricultural and mining wastes, actions to reduce waste generation, collection methods, incentives for recycling, the imposition of disposal charges on products, and the problems of acquiring land for solid waste management facilities.

In the task of building up the technology for solid waste management, the Office of Solid Waste will continue to share responsibility with EPA's Office of Research and Development. In the energy recovery projects, EPA and the Energy Research and Development Administration are required to work out cooperative arrangements. The commercialization of proven resource recovery technology is assigned by the Act to the Department of Commerce.

A large-scale study of resource conservation will be under-

taken by an interagency committee headed by the EPA Administrator. The study will cover the effects of current public policies on resource use and the consequences for the environment and society, and the potential effects of proposed measures, particularly the imposition of disposal charges on products.

In the provisions for information activities, special emphasis is placed on rapid dissemination of information, on public education programs, and a central reference library of solid waste management data and other materials. Efforts are required not only to inform the public but also to promote their participation in the development of Federal and State regulations, guidelines, and programs.

The authorization for the Office of Solid Waste for general administration of the programs under this Act is \$35 million for fiscal 1977--more than double the previous year's appropriation--\$38 million for fiscal 1978, and \$42 million for fiscal 1979. At least 20 percent of this is to be used for the Resource Conservation and Recovery Panels described earlier and at least 30 percent for carrying out the hazardous waste program.

These are the major provisions of the law. It is obvious from the nature and number of specified activities and the increased authorizations for funding that national perceptions of solid waste management issues have undergone major changes.

Perhaps of greatest significance is the heightened concern about threats to health and environment from hazardous wastes and from inadequately controlled land disposal. This concern has developed from damage incidents, from investigations of recent years, and from the realization that pollution controls to protect air, waterways, and oceans are resulting in rapidly mounting loads of residues destined for the land, a heretofore largely unprotected medium. The provisions in the Act for Federal regulation of

hazardous wastes and the prohibition of open dumping are the strongest in the Act, and are unprecedented in Federal legislation in the field of solid waste management. The Act clearly provides for State administration and enforcement, with Federal power serving as a necessary backstop where States fail to act. The provisions for assistance to the States for developing programs that meet basic standards make that quite clear.

For the first time, sludges are specifically included in the definition of solid waste in the legislation. Sewage sludge disposal is already a perplexing, expensive problem for many cities, and by 1985, the quantity of sewage sludge generated is expected to double as a result of improved wastewater treatment. Sludge is prominent among those wastes that scientists and engineers believe can be converted from a problem to an environmental asset. Its value as a soil conditioner for nonfood-chain use is widely known. Since some sludges contain heavy metals and other contaminants, the use of sludge for food crops requires careful analyses including testing of both the sludge and the soil prior to applications. Identifying safe, economic, and acceptable means of sludge disposal and utilization is a matter of high priority for EPA.

Sludge management represents only one of many instances in the field of waste management where, partly in response to environmental problems of disposal, attention has increasingly turned to means of utilizing waste as a resource.

Federal assistance for planning and building resource recovery facilities is available under the Act for State, regional, and local solid waste programs, and as demonstration grants. No large financing mechanisms or loan guarantee provisions were included in the Act, but in view of the current level of technology and the unpredictability of markets for recovered products, the emphasis on regional and state-

wide planning and on demonstrations and evaluations at the Federal level is appropriate. Source separation methods for materials recovery are also cited for support and study, and though lacking the glamour of the large-scale technological systems that depend in large measure on energy recovery for their economic viability, source separation approaches may one day be regarded as the most effective means of recovering materials from the waste stream.

Waste reduction is clearly recognized in the Act as one of the processes that make up sound solid waste management. One of the goals of Federal assistance to State and local programs is to encourage resource conservation, and it is a required subject of studies and information dissemination activities. Further development of methods and policies in resource conservation are needed. Much of the interest in this area has in the past been concentrated on returnable packaging, but there are many other issues, relating to measures of greater and lesser economic scope, that also must be resolved. The studies required by the Act of public policies related to resource use, including the concept of placing disposal charges on products and thereby creating economic incentives to avoid waste, should contribute substantially to a better understanding of the directions in which this country should move to promote optimum resource use.

The new law thus addresses issues in solid waste management that have relatively recently come to the fore in the public consciousness. It also carries forward the continuing emphasis on the State program as a major key to successfully unlocking the opportunities inherent in waste problems. The provisions of the new Act for planning and program grants, technical assistance, research and demonstrations, and information collection and dissemination should all serve to enlarge the capabilities of both

State and local government to fulfill their increased responsibilities.

The Office of Solid Waste in EPA is involved in the complexities of getting the RCRA Act under way. The nature of RCRA also demands the involvement of other components of EPA. These include, in addition to air, water, pesticides, and toxic substances components, the Office of Planning and Management, the Offices of General Counsel and Enforcement, the Office of Regional and Intergovernmental Operations, and several activities under the supervision of the Assistant Administrator for Research and Development. The last mentioned is especially important. Major needs in this field depend on a variety of research efforts cited in Subtitle H of the Act.

But of course this is not EPA's Act, it is the public's. The far-ranging issues influenced by solid waste management cannot be properly characterized, let alone resolved, if the only active participants in the process are the people who regularly read the technical literature. The framers of the Act understood this very well and made it clear that solid waste is everybody's business. Hence they called for rapid information dissemination, public education, and public participation programs.

The public information and public participation requirements of this legislation will be taken very seriously. EPA's regional offices will play a major role in this activity, to ensure full State and local governmental involvement and benefit. On December 16, 1976 the first informal Public Participation Meeting was held in Washington, D.C. to give representatives of major governmental, industrial, environmental, and other organizations the opportunity to give their preliminary views, attitudes, and suggestions on the planning and implementation of the RCRA.

The Act takes note of what is known, but just as certainly of

what isn't known. Moreover, since scientific knowledge by its very nature is always incomplete, public awareness, understanding, and participation, are absolutely essential. Without it, EPA would have little chance of defining and regulating hazardous wastes, and even less of upgrading land disposal overall, phasing out the use of open dumps, and bringing into existence a new magnitude of activity in the areas of resource recovery and conservation.

This field is one in which, until quite recently, few of the practitioners really thought of themselves as being governed by the same environmental and public health considerations which have long applied to other environmental problems, such as air pollution. The new Act makes it clear that this is an illusion which must be cast off.

Consider two quotations from Dr. Leroy E. Burney, who was Surgeon General of the U.S. Public Health Service in 1958, when the first National Conference on Air Pollution was held, three years after the first Federal Air Pollution Act was passed.

Dr. Burney said:

"In law, the suspect is innocent until his guilt has been proved beyond reasonable doubt. In the protection of human health, such absolute proof often comes late. To wait for it is to invite disaster, or at least to suffer unnecessarily through long periods of time. Many years ago, before anyone had seen a germ, or positively identified a single causative agent of epidemic diseases, farsighted leaders observed the association between epidemics and filth. Wherever they had sufficient foresight to act on this circumstantial evidence, they made striking progress. Cleaning up the city filth resulted in better health. Years later, they found out why.

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"I suggest that our present position with respect to contemporary problems, especially those relating to the urban environment, may be parallel to that of Pasteur's predecessors."

Later on, in that same address. Dr. Burney made another statement which also seems particularly pertinent to our situation in solid waste management today. He said:

"The problems that come as byproducts of our almost unbelievable material progress demand everybody's skills and knowledge. More than that, they demand genuine cooperation. We can no longer ask, Who's going to be in charge? or Who's going to get the credit? We must ask: How can we most effectively work together?"