903R81004

The RCRA Subtitle D Program in U.S. EPA Region III

Alternative Means for Continuing State Programs

EPA Contract No. 68-01-6003

August 1981

U.S. EPA Region III
Regional Center for Environmental
Information
1650 Arch Street (3PM52)
Philadelphia, PA 19103

Prepared for:

Air and Hazardous Materials Division
Hazardous Materials, Toxics
and Pesticides Branch
U.S. EPA Region III
Sixth and Walnut Streets
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TABLE OF CONTENTS

1.0 Introduction 1-1

1.1 The State Subtitle D Program in Region III - Past Experience and Prognosis 1-1

1.2 Objectives, Scope, and Methodology of this Study. . . . 1-2

2.0 Alternative Financing Mechanisms for State Subtitle D Programs 2-1

2.1 Continuing Federal Financial Assistance 2-1

2.1.1 Continuing EPA Financial and Technical Support Under RCRA. 2-1

2.1.2 The Appalachian Regional Commission's Program of Solid Waste Management Assistance to Member States 2-3

2.1.3 Other Federal Assistance for State and Local Solid Waste Management Activities 2-4

2.2 State Initiatives for Independent Financing 2-8

2.2.1 Assessing User Fees. 2-8

3.0 Summary and Conclusions. 3-1

APPENDIX A - Excerpt of Appalachian Regional Commission Code on Solid Waste Management Projects A-1

1.0 INTRODUCTION

1.1 THE STATE SUBTITLE D PROGRAM IN REGION III - PAST EXPERIENCE AND PROGNOSIS

EPA's FY 1982 budget contains no Federal financial assistance for State and local solid waste management activities under Subtitle D of RCRA, including completion of State Solid Waste Management Plans and Open Dump Inventories. The phasing out of such funding has been planned and publicized by EPA since 1979, although it was originally envisioned to occur over a five-year period. Congress had intended that the States and localities retain overall responsibility for planning and operating solid waste management programs, with initial assistance from EPA primarily through guidelines and State grants.

EPA recognized, however, that some States in Region III are not yet prepared to take full responsibility for their Subtitle D programs. The States in Region III vary greatly in size, population, economic strength, and resources available for pollution control planning and regulatory programs. State solid waste programs have historically reflected this diversity in Region III, covering a broad range of program development stages at the time of RCRA's enactment. Although, prior to 1976, none of the States in the Region had a program of sufficient sophistication to meet Congress' goals under RCRA, several States had relatively advanced programs requiring few alterations. Others in the Region have had further to go to meet RCRA's objectives.

The States in Region III have responded to Federal guidance and financial support for solid waste management activities. Planning, enforcement, and regulation development activities have all improved in the States, although most of the States have not been as responsive to RCRA initiatives as Congress had envisioned in setting its schedule for RCRA implementation. In evaluating State performance in meeting RCRA objectives, it is important to note that State solid waste agencies must be responsive to the political environment in which they exist and, therefore, must take internal State conditions into account when trying to implement a Federal program initiative. Given the constraints of limited State resources, enabling legislation, and the level of program development prior to RCRA, most States in Region III have made

significant progress in improving the overall level of solid waste management practiced in their respective jurisdictions.

Termination of Federal support for State solid waste programs will seriously affect the States in Region III. At least one State in the Region relied on the grant program for 50 percent of the entire State solid waste program budget. Unless State governments are able to make up the lost funds, most State programs in Region III are unlikely to meet the Congressional aims put forth in RCRA. For several of the more heavily dependent States, termination of these funds will probably mean that much of the progress made to date will be lost, as State plan objectives are unable to be met and enforcement activities decline due to a lack of budgetary measures.

1.2 OBJECTIVES, SCOPE, AND METHODOLOGY FOR THIS STUDY

The purpose of this report is two fold:

(1) to identify possible alternative means for financing State Subtitle D activities at the State level after the termination of the Subtitle D grant program this year; and

(2) to identify ways in which EPA Region III and EPA Headquarters can assist the States in FY 1982 and beyond in implementing Subtitle D.

A companion volume, "The RCRA Subtitle D Program in U.S. EPA Region III, A History and Prognosis," serves as a background, fact-finding study for the present volume. It traces the evolution of solid waste management programs in each of the States in Region III from their origins before the enactment of RCRA, through the development of State Solid Waste Management Plans and conducting of Open Dump Inventories under RCRA Subtitle D, to the likely consequences for these programs in the near future given the termination of Subtitle D State grants this year.

This study is meant to stimulate innovative thinking on ways to maintain state solid waste management programs pursuant to the goals of RCRA Subtitle D. As such, it does not represent official positions held by EPA Region III or EPA Headquarters on matters of EPA policy. Ideas for financing State programs, including means involving Federal financial or technical assistance, were solicited largely from EPA

Region III personnel and State program directors in the Region. These ideas do not necessarily reflect plans being made by EPA or the States, but rather the thoughts of EPA and State staffs on possible means of assistance in the future if policy makers are so inclined.

2.0 ALTERNATIVE FINANCING MECHANISMS FOR STATE SUBTILTE D PROGRAMS

The following sections describe and evaluate several Federal and State initiatives for maintaining State Subtitle D solid waste management programs in FY 1982 and beyond.

2.1 CONTINUING FEDERAL FINANCIAL AND TECHNICAL ASSISTANCE

Federal financial and technical assistance will continue to be available in the near future for State and local solid waste management activities, although in much reduced quantities, and often in a form where solid waste management activities must compete with other pressing needs for public funds. The following pages address three major sources of this assistance: continuing EPA support under RCRA, the Appalachian Regional Commission's program of solid waste management assistance to member States, and other applicable Federal programs.

2.1.1 Continuing EPA Financial and Technical Support Under RCRA

Although EPA's proposed FY 1982 budget does not include Federal funding of State Subtitle D activities, EPA has already begun to implement a contingency strategy composed of a new funds transfer mechanism and existing technical assistance programs.

First, EPA has just recently implemented a "budget deviation" under which any unspent FY 1981 State Subtitle D grant money may be carried over for use throughout FY 1982. This carry-over of funds may represent a significant FY 1982 resource to some of the States in Region III.

Second, EPA has retained a variety of solid waste management technical support programs, although in somewhat reduced form, since the Region is limited to two-tenths of a man-year for Subtitle D activities in FY 1982. If this time commitment does not prove sufficient for review of State plans, a case can be made for reviewing these plans under the Subtitle C program to ensure consistency of the State hazardous waste plans with State solid waste planning. The separation of solid and hazardous wastes along programmatic lines is an artificial one, particularly in light of past waste management practices in which solid and hazardous wastes were managed identically. Therefore, planning for hazardous waste management must be viewed in the broader context of overall solid waste management, and consistency in State planning for solid and hazardous wastes is a key aspect of hazardous waste planning.

Region III will also support State Subtitle D activities through the Technical Assistance Panels program until it is discontinued in

mid-FY 1982. Again, this assistance must be provided in the overall context of hazardous waste management, but can include issues of a Subtitle D nature where they are related to and/or overlap Subtitle C activities. This type of assistance has been successfully provided in the past, and will be valuable to States in that it will assist them in developing a comprehensive approach to waste management, as opposed to single issue, solid or hazardous waste approaches. Several States in the Region have expressed an interest in continued use of Technical Assistance Panels program. This may be accomplished, if sufficient interest exists in the States in the Region, through the reprogramming of a portion of the State's combined Subtitle C grants to provide a technical assistance panels contractor for the Region.

In addition, the Region can continue to carry out its information dissemination role on a time-permitting basis. Most of the States in the Region expressed a desire to continue to receive EPA information on solid waste management, and considered such information very helpful in carrying out their State programs. This report is intended to play a part in the Region's information dissemination program.

Further, the quarterly State Director's Meeting has proven, in past years, to be a very valuable tool for exchanging program ideas and providing constructive criticisms. Although these meetings will, in future years, have a Subtitle C orientation, they can nonetheless be used as a forum for discussions of issues pertaining to comprehensive waste management, of both a Subtitle C and D nature.

Finally, EPA Headquarters assistance will be provided, but it will probably be limited to two areas:

- developing and disseminating solid and hazardous waste information, and
- providing technical assistance to address multi-state or multi-regional solid/hazardous waste management problems.

In the first area, Headquarters has provided substantial assistance in the past in terms of research, summary compilations, and other information documents. In the future, these documents may be geared toward the development of comprehensive waste management, addressing both solid and hazardous waste issues. This assistance is intimately related to the development of a successful hazardous waste program, which presupposes an overall waste management system.

In the other area, EPA Headquarters may continue to provide review and guidance on solid waste matters, particularly as they pertain to the overall solid and hazardous waste management program. This assistance is justified on similar grounds as other forms of assistance, namely, the need to integrate solid and hazardous waste activities in order to implement a successful hazardous waste program. This assistance may be particularly helpful in dealing in solid/hazardous waste problems occurring across regional boundaries, or in addressing problems which may pertain to a number of States across the nation.

2.1.2 The Appalachian Regional Commission's Program of Solid Waste Management Assistance to Member States

Over the past nine years the Appalachian Regional Commission (ARC) has granted over $20 million, including approximately $4 million last year, to localities in member States for nearly 120 solid waste management activities, including nearly 25 projects last year. ARC member States in Region III include Pennsylvania, Maryland, West Virginia, and Virginia. The types of solid waste management activities eligible for funding include:

- planning of solid waste systems,
- organization and initial operations of multi-county solid waste management agencies,
- land acquisition for sanitary landfill and compaction center sites,
- construction of solid waste collection and disposal facilities,
- operation of collection and disposal systems, and
- equipment for collection and disposal.

Member States may even receive ARC assistance for Subtitle D planning purposes. Eligible grant purposes and grant recipients, including percentages of eligible costs funded, are detailed in Appendix A which contains an excerpt of the ARC Code on solid waste management projects.

Two critical requirements potential grantees must meet in order to be elegible include:

- The applicant must conduct a financial feasibility study to show that a self-sustaining solid waste system will be established with ARC funds.

- The proposed project must be in conformance with current solid waste management planning for the area.

To raise the general level of adequacy of solid waste planning in the region, the ARC has begun to supplement its grants program by providing direct technical assistance on planning activities through an engineering contractor.

Under the ARC program, Congress annually appropriates ARC funds in the form of block grants to each of the member States. The States individually determine how they will allocate their block grants by setting ceilings for various categories of assistance, and identifying priorities in those categories. Local, regional, and State agencies then may apply for solid waste management funds through the State's community economic development program. Each application will be evaluated against the priorities and funding ceilings set by the State for such assistance.

It must be noted, however, that this process does not guarantee the availability of ARC funds for solid waste management purposes, since there are inevitably many other pressing social needs competing with solid waste management for the limited public funds. Also, and more importantly, Congress has directed the ARC to develop a plan for phasing itself out over a period of the next three to five years.

2.1.3 Other Federal Assistance for State and Local Solid Waste Management Activities

The passage of RCRA resulted in the consolidation or elimination of many previously existing Federal solid waste management financial assistance programs, for example Interior's Bureau of Mines extraction solid waste management program and HEW's Bureau of Solid Waste Management.

There may yet exist, however, some Federal programs which potentially provide funding to State and local governments, or to private firms and citizens, for the purposes of improving solid waste management practices. And while these activities contribute indirectly to the accomplishment of Subtitle D goals, it must be noted that assistance from these programs often:

- Is not directed specifically at solid waste management problems - such problems must compete with other pressing needs that governmental units or private entities may use the same public funds for; and
- Cannot be used for the precise same purposes that RCRA Subtitle D funds are used for, namely development of State Solid Waste Management Plans and conducting the State Open Dump Inventories.

Thus, EPA's Subtitle D State Grants pay for solid waste management activities which are mandated by and unique to RCRA Subtitle D.

However, to the extent that there may be other Federal programs which may assist a State or local government or private entity improve its solid waste management practices, and thus aid in meeting the goals of Subtitle D of RCRA, these programs should be noted at least briefly here:

- Solid Waste Management Planning Under Section 208 of the Clean Water Act. Section 208 required area-wide water quality management planning with a special emphasis on analysis of non-point sources. This program could have been used in the past to assist in regional solid waste management planning. Most recently, one State in Region III has unsuccessfully attempted to integrate the two types of planning through a pass-through of "208" funds to a solid waste management agency. In any event, with the possible exception of reprogramming this year's grants for use in next year's work, the "208" program has had its funding almost completely eliminated.
- Co-disposal of Sewage Sludge and Solid Waste Under Section 201 of the Clean Water Act. Resource recovery projects entailing the co-disposal of sewage sludge and solid waste may receive funding under Section 201. The funds received may be used to defray the costs of the sludge processing and combustion equipment. While funding for this program has been cut entirely for FY 1982, substantial amounts of unspent FY 1981 funds may be available for carry-over to FY 1982, depending upon local circumstances.
- Department of Energy Resource Recovery Financial Assistance Programs. The DOE has a legislative mandate and Congressional authorization - but little or no current or planned appropriations - for funding of a number of resource recovery financial assistance programs, including a demonstration grant program for new technology, alternative fuel production projects assistance, a loan guarantee program for waste-to-energy projects in communities with low credit ratings, a limited price support program for energy recovery

projects in the first several years of operation, and an "entitlements" program for municipal waste-to-energy projects.

- Small Business Administration Energy Loan Program and Pollution Loan Program. The SBA maintains these two loan programs to provide lower interest loans to qualifying small businesses for use in developing pollution control and energy savings projects or the purchase of related equipment. Access to these loans is limited by geographically applied annual funding ceilings for each loan program, under which priorities are set for different types of projects.

- Department of Housing and Urban Development Community Development Block Grant Program. HUD's Community Development Block Grants (CDBG's) can be used to finance the physical parts of a municipal solid waste management system, including development of solid waste processing and disposal facilities and purchase of related equipment. These funds are available, however, only for facilities located in or serving areas in which CDBG's are being used to plan for community development or housing. While funding levels will be slightly lower for FY 1982 than for FY 1981, the future for CDBG's seems to be steady. (Due to severe restrictions on their use, the related Urban Development Action Grants could be used to fund solid waste management activities only under very rare circumstances.)

- Farmers' Home Administration Community Facilities Loan Program. Under this program, any rural public or non-profit agency may apply for a rural community facilities loan to be used for any aspect of solid waste management, except for system planning. (A separate Agriculture Department program providing rural planning assistance may be accessible for solid waste management planning purposes, and may bear further research on a case-by-case basis as to available funding levels and eligibility requirements.) Unfortunately, however, the program's assistance for development of any rural infra structural facilities has been cut back significantly. The FY 1981 loan program budget of approximately $250 million has been reduced by about one-half. Further, solid waste management facilities will have to compete with 30 to 40 other types of community facilities with some, especially health and fire safety facilities, receiving a much higher priority than solid waste facilities.

Again, the programs described above, for the most part, involve competition by solid waste management activities with other pressing needs for limited and currently dwindling Federal financial assistance. Also, in no case cited here are these funds effectively available for the

precise same purposes as state Subtitle D Grant funds are, namely for formulation of State Solid Waste Management Plans and for conducting the Open Dump Inventory. These additional Federal programs and funding possibilities are identified here with these cautions. Interested individuals or organizations should research the available funding levels and eligibility requirements on a case-by-case basis, since both may vary depending on individual circumstances, and since so many Federal financial assistance programs are in a state of flux at present.

2.2. STATE INITIATIVES FOR INDEPENDENT FINANCING

EPA's proposed FY 1982 budget includes no Federal financial assistance to support State and local solid waste management activities specified under RCRA Subtitle D.

The previous section identified a number of ways in which the Federal government may continue to provide other forms of technical and financial assistance in the near future to solid waste management activities at the state and local level. It was also noted, however, that the great majority of this potential Federal assistance is either available in competition with other important social needs for public funds, and/or is not available to accomplish the precise same objectives as those set out in Subtitle D.

The phasing out of Federal financial assistance under Subtitle D, although it has come somewhat earlier than 1984 as originally envisioned, has been planned and announced by EPA since 1979 (memo to State Solid Waste Directors from the Assistant Administrator for Water and Waste Management, January 20, 1979). In any event, Congress originally intended that State and local governments retain overall responsibility for planning and operating solid waste management programs. EPA's role was to assist States in formulating and implementing State Solid Waste Management Plans through the provision of guidelines and financial assistance.

2.2.1 Assessing User Fees

Recognizing, however, the earliness of the Subtitle D funding phaseout, and the political unpopularity of increasing State's general revenues for solid waste management, it will be necessary for most States to examine and develop as soon as possible alternative means of financing their solid waste management programs. The best and most likely such financing mechanism, despite its similar political unpopularity with State legislatures (especially those in States with a strong home rule philosophy), is a system of assessing fees from users of solid waste management facilities.

This concept has been endorsed and communicated to the States by EPA in the January 1979 memo to State Directors mentioned earlier, in an August 1979 survey of State user fee regulations, in two case studies of user fee systems published in November 1979 and January 1980, as well as in both FY 1981

and proposed FY 1982 EPA budgets. The General Accounting Office (GAO) also recommended user fees for hazardous and solid waste management, respectively, in January 1979 and July 1981 reports. The remainder of this discussion on user fee systems draws heavily on this more recent GAO report, and the reader is referred to it for more details.*

The August 1979 EPA survey concluded that six states assess permit (user) fees for both the construction and operation of solid waste management facilities, and that 12 States (including one State on Region III) levy user fees to partially defray the costs of review and surveillance of hazardous waste management activities. Other States have assessed user fees to finance air and water pollution control programs, as well.

At least one other State in Region III is contemplating the use of a fee system to partially support its Subtitle C program, thus allowing it to reduce its Subtitle C grant request and, correspondingly, its State match. The State solid waste agency plans to request the legislature to use the matching funds saved to support its solid waste program.

The 1981 GAO report cited earlier lists several concerns about implementing a fee system, however, which were noted by State solid waste management officials during a GAO survey:

- Some State agencies are expressly prohibited by State statute from charging fees or cannot levy fees unless specifically authorized by State law.
- Resistance from disposer groups required to pay fees could be politically difficult to overcome.
- A fee plus normal disposal charges may increase the amount of illegal hazardous waste dumping taking place.
- Such a system may be difficult or costly to administer.
- If a State implements a fee system, it may cause wastes to be exported to the States that do not have fee systems or that have lower disposal charges.

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*Report to the Honorable Albert Gore, Jr., House of Representatives, Solid Waste Disposal Practices:--Open Dumps Not Identified,-- States Face Funding Problems, by the U.S. General Accounting Office, July 23, 1981 (No. CED-81-131).

- States do not want the burden of establishing a fee system until their programs are fully developed, generally within 2 to 5 years.
- State legislatures may use the revenues generated by a fee system for other programs.

It must be noted, though,that California has been able to overcome most of these potential problems with its hazardous waste fee system.

While user fee systems may encounter some political unpopularity in States with a strong home rule philosophy, and there may be some difficulties in implementing such a system, it is believed to be the most viable alternative financing mechanism available for solid waste management activities, especially given the current situation with regard to Federal financial assistance in this area.

3.0 SUMMARY AND CONCLUSIONS

EPA's proposed FY 1982 budget includes no Federal financial assistance under RCRA Subtitle D for State and local solid waste management activities. The elimination of State Subtitle D grants accelerates the planned five-year phase-out of such assistance announced by EPA in 1979. As originally intended by Congress, States and localities will retain full responsibility for planning and operating their own solid waste management programs. Recognizing the earliness of the phase-out of Subtitle D funding, and the unaccommodating political and financial situation in some of the States in Region III, EPA has undertaken a search for innovative ways in which State programs may be maintained which support the objectives of Subtitle D.

Federal financial and technical assistance, on the one hand, will continue to be available in the near future for State and local solid waste management activities. To ensure some continuity in financial assistance, EPA recently announced a budget deviation that will allow States to carry-over any unspent FY 1981 State Subtitle D grant money for use throughout FY 1982. EPA technical assistance will also continue to be provided through both EPA Region III and Headquarters for the review of State Solid Waste Management Plans, the Technical Assistance Panels program (until mid-FY 1982), the quarterly State Directors Meetings, and on-going dissemination of technical information. However, unless ways can be found to integrate the needed assistance with the Subtitle C program, these services will be furnished only in a somewhat reduced fashion.

The Applachian Regional Commission (ARC) has for the past nine years provided member States and their localities with financial and technical assistance on all matters of solid waste management, ranging from system planning and administration, through land acquisition and equipment purchase, to construction and operation of collection and disposal systems. While these funds have been subtantial, it is noted that they are annually appropriated by Congress as block grants and that solid waste purposes must compete with many other pressing needs for their expenditure. Also, Congress has directed ARC to develop a plan to phase itself out in three to five years.

Other financial assistance for State and local solid waste management activities may theoretically still be provided through any of a number of Federal programs, including:

- o areawide water quality management planning under Section 208 of the Clean Water Act,
- o co-disposal of sewage sludge and solid waste under Section 201 of the Clean Water Act,
- o DOE's various energy recovery financial assistance programs,
- o SBA's energy and pollution loan programs,
- o HUD's community development block grant program, and
- o FmHA's community facilities loan program.

None of these programs is directed specifically at solid waste management, however, and, again, solid waste activities must compete with many other urgent social problems for the limited public funds. Also, few, if any, of these programs can be used to fund the precise same solid waste activities as those mandated by RCRA Subtitle D, namely, development of State Solid Waste Management Plans and completion of State Open Dump Inventories. They may, however, bear further research on funding levels and eligibility requirements on a case-by-case basis, since these may vary depending on circumstances, and since Federal assistance programs are in a state of flux at present.

Even taken as a whole, then, these Federal programs will not be sufficient to fill the gap left by elimination of EPA's Subtitle D State grants. The States will have to begin searching for new ways to finance their solid waste management programs. Since increasing general revenues to cover new solid waste expenditures would be politically unrealistic in most Region III States, the financing mechanism which deserves the most serious consideration is that of assessing fees from the actual users of solid waste facilities. This system has been strongly recommended by the EPA and GAO since 1979, and has been used successfully by a number of States to support solid and hazardous waste programs, as well as numerous other pollution control efforts over the past several years. While these systems may be politically unpopular in States with a strong home rule philosophy, and may encounter some difficulties in implementation, they are recommended as the most viable alternative mechanism currently available for financing State solid waste management activities.

APPENDIX A

Excerpt of Appalachian Regional Commission Code on Solid Waste Management Projects

APPALACHIAN REGIONAL COMMISSION

ARC CODE
(Excerpt)

The following is an excerpt from the Appalachian Regional Commission Code as it pertains to solid waste management projects. It explains the types of solid waste management projects funded by ARC and gives the requirements necessary to obtain such funding.

At the end of the section is a copy of ARC Resolution No. 512, dated September 17, 1980, which updates and broadens certain provisions of this portion of the Code.

Section 200C-10 Solid Waste Projects.

Section 200C-10.1. General. The Commission will provide Appalachian Act assistance for projects involving solid waste collection and disposal only to the extent, and on the conditions specified in this Section 200C-10; Provided that inasmuch as applications for assistance for projects for solid waste (including both disposal and collection) may be considered under Sections 202, 214 and 302 of the Act to the extent provided in this section and those sections, the applicable provisions of Chapters 202, 214 and 302 governing the specific type of assistance sought must also be satisfied.

Section 200C-10.2. Necessity for Financial Feasibility Study. No Appalachian Act assistance (other than for planning as provided under Section 200C-10.4) shall be approved for a solid waste project unless it has been shown, through a financial feasibility study, that a self-sustaining solid waste system will be established with such Appalachian Act assistance and can be successfully operated and continued without Federal assistance after such Appalachian Act assistance is terminated.

Section 200C-10.3. General Criteria. Except as provided in Section 200C-10.4

for planning and Section 200C-10.5 for preoperation administration, the Commission will approve assistance for solid waste projects only where it is shown that:

(1) the applicant is a general purpose unit of government or a combination of such units; or a Local Development District certified under Section 301 of the Act; or a Section 202 Health Demonstration Grantee, Provided, that such Grantee has been designated by the appropriate general purpose units of government as the agency to carry out overall supervisory and administration responsibilities for operation of a solid waste system;

(2) all governmental jurisdictions which will be benefited by the project have adopted, or shall have adopted prior to the release of any grant funds, ordinances prohibiting the dumping of solid wastes and requiring disposition through the solid waste system being assisted or through other methods permitted by law and not detrimental to the environment;

(3) appropriate State and/or local public health agencies have been consulted concerning the potential health and environmental hazards from the implementation of such solid waste project and have approved the safeguards to be established to eliminate such hazards;

(4) the sanitary landfill site and the plan of operations to be conducted thereon are in accord with all governing State and local standards and have been approved by appropriate State and local agencies;

(5) the landfill sites selected for the solid waste disposal project have the capacity of receiving the solid waste of the project's contemplated service area for a period of at least five (5) years; and

(6) the project will be carried out in substantial accord with a plan for the solid waste system which includes such items as:

(a) the delineation of waste sheds;

(b) identification of landfill sites and their characteristics;

(c) *provisions designed to assure development of an operating, adequate waste collection system within six months of start of landfill operations;*

(d) *dump closure and residual waste cleanup procedures;*

(e) *identification of how the health and environmental hazards from the existing practices and those possible from the proposed system have been adequately considered and their effects minimized;*

(f) *a general financing and management plan for the system on a permanent basis; and*

(g) *provisions assuring compliance with the appropriate Federal, State and local laws or regulations governing solid waste disposal systems.*

Section 200C-10.4. Planning Solid Waste Systems.

(1) Definition. For the purpose of this section, planning is defined as the process of developing a planning document that provides, for a defined geopolitical area, a comprehensive analysis of existing solid waste systems (including disposal and collection), extended consideration of alternatives for, and a set of detailed recommendations to create, the most efficient and financially feasible integrated collection and disposal system for that area, in compliance with existing State and local legislation.

(2) Sources/Percentages/Eligible Costs. Appalachian Act assistance shall be available under Sections 202 and 302, for, or to increase the federal contribution for, not to exceed 75 percent of the costs incurred in planning as defined in (1) above, including costs for presentation of the plan developed to public officials and civic leaders of the area, on the conditions specified in this Section 200C-10.4 and applicable provisions of Chapters 202 and 302.

(3) Planning Work Program - Requirement for Consideration of General Criteria. Only those applications for planning grants shall be approved which contain

planning work programs showing that appropriate consideration will be given to the requirements of Sections 200C-10.2 and 200C-10.3 in the planning process.

(4) Requirement for Multicounty Area Planning. Consideration will be given only to those applicants for assistance for the development of solid waste plans for multicounty areas. For the purpose of this Section 200C-10 multicounty shall mean two or more counties; Provided that the Commission may, upon a demonstration by an applicant that it will not be feasible for such applicant county or smaller area to be served efficiently by a solid waste system for a multicounty area, approve an application for a planning grant for such county or smaller area.

(5) Section 302 Assistance - Applicability of State Research Provision. Applications for planning grants under Section 302 shall be approved in accordance with the provisions governing State research projects in Sections 302B-4, 302B-5 and 302B-6.

(6) Time Limitation. Appalachian Act assistance under either Section 202 or Section 302 will not be made available to support planning activities for more than 12 months and, notwithstanding Chapter 202, not more than one planning grant will be made for planning a solid waste system for any area, Provided that nothing in this section shall be construed as preventing recipients of planning grants under Chapter 202, or Chapter 302A from using such assistance for environmental planning which may include planning for solid waste projects.

Section 200C-10.5. Organization and Initial Operations.

(1) Definition and Eligible Costs. Appalachian Act assistance shall be available for costs incurred in establishing a multicounty agency with overall supervisory and administrative authority or multicounty arrangements for the operation of the solid waste system, including such items as the legal steps to constitute the organization as a legal entity under appropriate State law, the development of accounting systems and methods of record keeping and

billing, negotiation of agreements with participating jurisdictions for provision of financial support for the solid waste system, selection and recruitment of personnel, preparation of specifications and bid invitations for equipment, preparation and negotiation of contracts for site designs and dump closings, preparation of engineering plans for collection and disposal sites, regional-level administration of disposal site preparation, and of collection site preparation, and detailed planning for placement of rural bulk containers.

(2) Sources/Percentages. Appalachian Act assistance shall be available, under Sections 202 and 302, for, or to increase the Federal contribution for, not to exceed 75 percent of organization and initial operations costs defined in (1) above, on conditions specified in this Section 200C-10.5 and applicable provisions of Sections 202 and 302.

(3) Time Limitation. Appalachian Act assistance shall be made available to support organization and initial operations administrative activities until receipt of first wastes at the landfill site but in no event for a period greater than 12 months.

(4) Limitation to Multicounty Agency Projects. Appalachian Act assistance for activities described in Section 200C-10.5(1) shall be made available only for the purpose of establishing and carrying out functions of a multicounty (as defined in Section 200C-10.4(4)) agency or a multicounty arrangement, according to a plan meeting the provisions of Section 200C-10.3 approved by ARC.

Section 200C-10.6. Land: Sources/Percentage. Appalachian Act assistance under Sections 202 and 214 shall be available for, or to increase the Federal contribution for, not to exceed 80 percent of the costs of acquiring land necessary for the sanitary landfill operations and compaction center sites of the disposal system.

Section 200C-10.7. Construction.

(1) Construction Related to Solid Waste Disposal - Definition. Disposal related construction includes work relating to the establishment of: (a) landfill

sites including such work as building of the permanent access road within the landfill site (but excluding subsequent temporary ramps within the operational area); original preparation of the site for receipt of solid wastes, such as clearing and leveling, and installation of drainage facilities and fencing; erecting site office building, equipment and tool shed; and installation of sewage and sanitary facilities and utilities; and (b) compaction/temporary storage sites and facilities, including such work as building of permanent access road and dumping ramp; preparation of site for, and installation of, compacted waste and temporary storage containers and compaction equipment; and constructing office and equipment buildings, sewage and sanitary facilities and utilities at such compaction center sites and work relating to dump-closings such as extinguishing fires, baiting, covering, reseeding or other erosion prevention, sealing off access and posting of signs.

(2) Construction Related to Solid Waste Collection - Definition. Collection-related construction is defined as work related to the preparation of collection sites specified in the solid waste system plan as approved by ARC, such as clearing, leveling of site, provision of an all-weather base on the site and off-site construction of maintenance buildings to house and maintain the transport vehicles necessary to the rural bulk container collection system.

(3) Assistance for Construction: Sources/Percentages. Appalachian Act assistance for disposal-related and/or collection-related construction under Sections 202 and 214 of the Act ordinarily will not (i) exceed 50 percent of the total eligible costs of such construction as defined in (1) and (2) or (ii) increase the Federal share, in conjunction with assistance available under any other Federal basic grant program, to more than 50 percent of the total eligible costs of such construction; Provided that applications for greater assistance, increasing the total Federal share up to a maximum of 80 percent of the eligible costs under Section 202 and 214 will be considered for any construction component upon the submission of appropriate documentation of need in the manner provided

for supplemental grants in Section 214-2.7 of this Code.

Section 200C-10.8. Operations Costs.

(A) Disposal Operations Costs.

(1) Defined: Disposal operation costs are defined as costs incurred in: (a) the process of receiving wastes at the landfill site, spreading such wastes in the site, compacting such wastes and covering them with soil, and of eventual reseeding or other action to prevent erosion of the filled areas within the site and include such items as landfill personnel salaries, fringe benefits, landfill office consumable supplies, temporary landfill improvements materials and non-permanent construction (ramps, metal lathing, gravel, etc.) equipment maintenance and repairs, fuel, emergency leasing of backup equipment, equipment depreciation if deposited in a sinking fund, travel expenses for training purposes, consultant service for technical assistance concerning operations, landfill liability insurance, and erosion control materials actually used in the first year; and (b) the process of receiving, compacting and storing wastes at waste compaction/ temporary storage centers, and transferring such compacted wastes to a landfill site, and include such items as compacting center personnel salaries, etc., center maintenance costs, and fuel and maintenance for transfer trucks.

(2) Sources/Percentages. Appalachian Act assistance shall be available, only under Section 202 and only for, or to increase the Federal contribution for, not to exceed 50 percent of the operating costs of a solid waste disposal system in the first year of its operations, and only to the extent that such operations cannot be funded in the first year through local taxes, fees or other sources of revenue, including user charges. Such assistance shall be limited to one year of operations; provided this limitation shall not preclude a continuation grant for any Section 202 solid waste project approved prior to October 20, 1971, upon the express understanding that it would be eligible for a continuation grant (or grants) for one or more subsequent years.

(B) Collection/Operation Costs.

(1) Defined. Collection operation costs are defined as costs incurred in the provision of collection system services, such as door-to-door collection, bulk container collection, and all transportation of wastes to a disposal site. These costs include personnel costs, vehicle maintenance and fuel costs, container maintenance and depreciation, etc.

(2) Ineligibility. The costs of operating collection systems shall not be eligible for Appalachian Act assistance.

Section 200C-10.9. Equipment Costs.

(1) Disposal Equipment -- Definition/Eligible Costs. Eligible disposal equipment costs include costs of: (a) equipment necessary to the efficient and legal operation of a sanitary landfill, such as heavy waste handling machinery, bulldozers, scales, tools for related equipment maintenance and tools for general disposal site maintenance tasks, utilities, the fair rental value of landfill office equipment; and (b) equipment necessary for compaction/temporary storage centers such as large (e.g., 40-cubic-yard) compacted waste storage containers, and related compaction equipment, related maintenance tools and transfer trucks (for transporting containers filled with compacted material to landfill sites).

(2) Collection Equipment -- Definition/Eligible Costs. Eligible collection equipment costs are defined as costs of equipment only for rural collection systems, such as four- to eight-cubic-yard solid waste bulk containers, bulk container trailers, bulk container service trucks and related maintenance tools and vehicles.

(3) Sources/Percentages. Appalachian Act assistance shall be available for equipment costs of solid waste disposal and collection systems under Sections 202 and 214, for, or to increase the Federal contribution for, not to exceed 80 percent of the total cost of the equipment.

(4) Identification in Solid Waste System Plan. Appalachian Act assistance shall be available only for costs of equipment identified in the solid waste system planning document, and approved by the ARC as being appropriate to meet the area's needs for an efficient and legal solid waste system.

APPALACHIAN REGIONAL COMMISSION

RESOLUTION NUMBER 512
September 17, 1980

A RESOLUTION Concerning Assistance for Solid Waste Projects

Section 1. Project Criteria.

1. No grant will be approved for a solid waste project unless disposal laws and regulations will be enforced.

2. The Commission will continue to encourage projects that are regional in scope. However, when geographical or institutional impediments make it impractical to establish projects on a regional basis, projects serving individual communities may receive Appalachian assistance.

3. Urban and rural communities may receive Appalachian assistance for solid waste projects.

4. Section 200C-10.3(6) is amended to also require the submission of a location map showing the delineation of waste sheds, including locations of all existing public and private dumps.

Section 2. Funding Criteria.

1. Land Acquisition and Equipment. Total Federal share (including Appalachian assistance) shall not exceed 80 percent of the total eligible project cost.

Section 3. Technical Assistance. To help assure financial and operational success of solid waste management projects, States are encouraged to make full use of the broadened Commission policy on technical assistance to:

a. develop a comprehensive statewide strategy for solid waste management that includes assurances of adequate enforcement and long-term funding;

b. develop a plan for solid waste projects appropriate for a particular area that reflects ARC experience by emphasizing proper administration, enforcement and financial adequacy;

c. provide professional advice and guidance to provide operations and administration;

d. assist State regulatory agencies in the implementation of solid waste management projects; and

e. plan resource recovery projects in communities with sufficient population density to warrant economically acceptable recycling efforts.

Section 4. Elimination of Conflicting Code Provisions. All Code provisions inconsistent with this resolution are repealed.

Section 5. Effective Date. This resolution will be effective October 1, 1980.

APPROVED: September 17, 1980
Secretary to the Commission

HENRY H. KREVOR
Executive Director