

*The
Resource
Conservation
and
Recovery
Act of
1976*

*A Summary of
Public Law
94-580*

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This new law amends the Solid Waste Disposal Act to provide for a hazardous waste regulatory program; a program to eliminate open dumping; financial and technical assistance for planning enhanced solid waste management programs; grants to rural communities to improve solid waste management systems; and authority for research, demonstrations, and studies.



SUBTITLE A: GENERAL PROVISIONS



The Act expands the current provisions of the Solid Waste Disposal Act requiring formulation of guidelines for solid waste recovery to include the publication of guidelines on alternative solid waste management practices. The Administrator is directed to issue these guidelines within one year of enactment. They will aid the States and regional authorities in the development of solid waste management plans, especially in regard to compliance with hazardous waste and open dumping control regulations. Descriptions of levels of technical performance, leachate control, ambient air quality, diseases, safety, and aesthetics will be included in similar guidelines published not later than two years after the enactment of this section. See section 1008.



**SUBTITLE B: OFFICE OF SOLID WASTE;
AUTHORITIES OF THE
ADMINISTRATOR**



The new law establishes an Office of Solid Waste within the EPA (headed by a Deputy Assistant Administrator) to oversee the implementation of the hazardous waste and open dumping provisions, in addition to other resource conservation and recovery programs called for under the Act. This Office will be the conduit through which technical and financial assistance will be provided to the States and regional agencies. The Administrator is authorized to prescribe, in consultation with Federal, State, and regional authorities, such regulations as are necessary to carry out his functions under this Act. Each regulation promulgated under this Act shall be reviewed and, where necessary, revised not less frequently than every three years. See section 2002. Upon request the Administrator will dispatch Panels comprised of Federal, State, and local employees or contractors to provide States and local governments with technical assistance. See section 2003. The Administrator will also make available grants equal to 5 percent of the purchase price of tire shredders to private purchasers and public bodies (owing to the peculiar problems of tire disposal by burial or in landfill). See section 2004. The Administrator is to transmit by January 1, each year, a comprehensive and detailed report on all activities of the Office during the preceding fiscal year. See section 2005. For the Office's activities for the 1977 fiscal year, \$35 million

is authorized, with \$38 million for next fiscal year, and \$42 million for the 1979 fiscal year. See section 2006.



SUBTITLE C: HAZARDOUS WASTE MANAGEMENT



One of the primary aspects of the Act is its new controls over hazardous wastes. The law directs the EPA, with eighteen months of enactment, to identify which wastes, are hazardous and in what quantities, qualities, concentrations, and forms of disposal they become a threat to health or the environment. The Governor of any State may also petition to have any substance so listed and the Administrator is then given 90 days in which to act on this petition. See section 3001. Additionally EPA will be required to issue standards for generators and transporters of hazardous wastes, respecting record-keeping, practices, labeling, appropriate containers, use of a manifest system, and reporting of quantities and disposition. Substances listed by both the Administrator and the Secretary of Transportation must be consistent with the requirements of the Hazardous Materials Transportation Act. See sections 3002 and 3003.

Most importantly, persons owning or operating facilities for the treatment and storage of hazardous wastes are required to obtain permits within 90 days after identification and listing. Permit applications must indicate composition, quantities, the rate at which such wastes are to be disposed of, and the location of the disposal site. EPA or States (in jurisdictions having hazardous

waste programs) may revoke permits of nonconforming users. Interim authorization is granted to anyone who has applied for a permit. See section 3005.

Eighteen months after enactment the Administrator must also publish guidelines to enable the States to develop approved hazardous waste programs. States with existing programs may receive interim authorization upon a showing that their programs are substantially equivalent to the Federal program (this temporary authorization lasts for two years). The EPA may withdraw authorization within 90 days of notice of non-conformities. See section 3006.

In order for EPA and State officials to enforce these requirements, the Act authorizes them to inspect facilities, copy records, and obtain samples (information obtained will then be made public). See Section 3007.

Compliance provisions of the law will be enforced through civil and criminal penalties. Civil actions will be commenced in Federal courts for violations extending beyond 30 days for notification, and violators will carry liability for a penalty of \$25,000 for each day of continued non-compliance. Criminal penalties may be imposed on persons transporting hazardous wastes without a permit or making falsifications in labeling and reporting: Penalties of \$25,000 per day or imprisonment for not more than one year authorized. States may not provide for penalties less than those provided under the bill. See section 3008 and 3009.



**SUBTITLE D: STATE OR REGIONAL SOLID
WASTE PLANS**



The EPA, within six months of enactment, is required to publish guidelines identifying areas with common solid waste management problems and appropriate units for planning regional solid waste management services. Such guidelines will consider the size and location of areas as well as the volume of solid waste which they produce. See section 4002(a).

The Agency will, in addition, promulgate within eighteen months after enactment, guidelines to aid States in the development of solid waste management plans. These guidelines will be reviewed frequently and modified where necessary. They will encompass consideration of the varying characteristics of individual States, including quality of groundwaters and ambient air, methods of waste collection, methods for closing and upgrading open dump, markets for recovered material, and types of resource recovery systems. See section 4002(b) and (c).

In order for a State plan to be approved, it must identify responsibilities of State, local, regional authorities in carrying out the plan, show the distribution of Federal funds, and specify the strategy for coordinating regional planning. Each plan must also prohibit the establishment of new open dumps and require that all non-hazardous wastes be either used for resource recovery or disposed of in sanitary landfills. Existing open dumps will be improved or phased-out. Plans will also provide a basis for such regulatory authority as

will be required by the States to implement the program. See section 4003.

Within one year after enactment, the EPA will promulgate regulations setting forth criteria for determining which facilities will be classified as sanitary landfills and which as open dumps. Open dumps are prohibited except in situations where a compliance schedule is arrived at pursuant to an approved State plan. See section 4004. The Agency, in cooperation with the Bureau of Census, will then publish an inventory of all open dumps within the U.S. See section 4005.

The Governor of each State, within six months after publication of the guidelines, will identify areas within each State which will constitute regional solid waste management units. Six months later, each Governor will identify an agency to implement the State plan. See section 4006(a) and (b). Since it is possible that designated regions may be interstate in nature, Governors of neighboring States may agree upon regional boundaries. Six months after such regions are identified, agencies will be established to develop their plans. See section 4006(c).

The EPA has six months to approve or disapprove of a submitted State plan, but the Administrator will retain the option of revising or correcting approved plans from time to time. Plans which are not revised to conform to minimum requirements will, after notice and opportunity for public hearing, lose their approval. See section 4007(a).

EPA can issue grants for the implementation of solid waste management programs for plan development and implementation. In fiscal year 1978 \$30 million is authorized and \$40 million in fiscal 1979


for States in the development and implementation process. For fiscal 1978 and 1979 \$15 million is authorized for "implementation" grants available to States, counties, municipalities and intermunicipal agencies, and State and local public solid waste management authorities.

This can be done to provide assistance in the form of facility feasibility studies, expert consultation, market studies, legal expenses and other fiscal or economic investigations or studies. The monies cannot be used for construction, or acquisition of land. See section 4007(b) and (c). Sums will be allotted to the States in ratio to population.


"Special Communities", with low populations and high levels of solid waste disposal, will be identified by the EPA and the States and will be eligible for grants to be used for conversion, improvement, consolidation or construction of solid waste disposal facilities. For each of the fiscal years 1978 and 1979, \$2,500,000 is authorized for this purpose. See section 4008.

For each of the fiscal years 1978 and 1979, \$25 million is authorized to provide grants for "rural communities" assistance. These communities are defined as municipalities with populations of five thousand or less, or counties with a population of ten thousand or less, or less than twenty persons per square mile and not within a metropolitan area. Grants will be used to upgrade solid waste management facilities and will be apportioned by the EPA to the States on a population ratio basis. See section 4009.

For each of fiscal years 1978 and 1979, \$25 million is authorized to the States to implement these hazardous waste provisions. See section 3011.



**SUBTITLE E: DUTIES OF THE SECRETARY
OF COMMERCE
IN RESOURCE RECOVERY
AND CONSERVATION**



This portion of the Act directs the Secretary of Commerce to stimulate broader commercialization of proven resource recovery technologies by providing accurate specifications for recovered materials, and encouraging the development of markets for *recovered materials*. Working through the National Bureau of Standards, the Secretary of Commerce will within two years after enactment publish guidelines for the development of specifications for the classification of recovered materials and will identify the geographical location of existing or potential markets for recovered materials. The Secretary will also be empowered to evaluate the commercial feasibility for resource recovery facilities. See sections 5001-5004.



SUBTITLE F: FEDERAL RESPONSIBILITIES



Each Federal agency instrumentality will be subject to all procedural, as well as substantive requirements, including those imposed by State and local jurisdiction. Federal employees and officers will not be immune from injunctive enforcement of these requirements. The President, however, may exempt any solid waste management facility under the auspices of the Executive

Branch from compliance with substantive and procedural requirements if he determines it to be in the paramount interest of the United States to do so. Such an exemption may last no longer than one year but may be extended for an additional year upon a new determination by the President. See section 6001.

Two years after enactment each Federal procurement agency will be required to procure only those items composed of the highest percentage of recovered materials. This provision will apply to all procurement items exceeding \$10,000 in purchase prices. Exemptions from this requirement will be provided for procurement items which are not available within a reasonable amount of time or which fail to meet reasonable performance standards. Agencies now generating energy from fossil fuels, or supplementary fuels, will be required to exercise this capacity to the greatest extent possible. See section 6002.

All Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items procured by Federal agencies will be required to determine whether such specifications conform with the recovered materials requirement no later than eighteen months after enactment. See section 6002.

This Subtitle also directs the EPA to prepare, and update as appropriate, guidelines to aid procuring agencies in complying with the recovered materials requirement. Such guidelines will contain information as to the availability and sources of supply of such materials. This procurement policy will be coordinated by the Office of Procurement Policy in the Executive Office of the President, in cooperation with the EPA. See section 6002.

All Federal agencies having functions

relating to solid or hazardous waste will be required to cooperate with EPA in implementing this Act and may be required to provide appropriate resources to EPA upon its request on a reimbursable basis. See section 6003.

Additionally, all Executive agencies which have jurisdiction over solid waste disposal facilities or land on which such facilities are located must comply with all guidelines and requirements of the Act. See section 6004.



SUBTITLE G: MISCELLANEOUS PROVISIONS



Any employee who has failed or caused to be filed any proceeding under this Act may not be discriminated against or fired from his work on the basis of such institution of proceedings. Any person who feels that he/she has been affected in violation of this restriction may apply within thirty days to the Secretary of Labor for a review of the incident. A "clean hands" exception is included here, however, providing that no employee who, acting without direction from his employer, deliberately violates any requirement of the Act may come under the protection of this section. See section 7001.

Any person may also commence a citizen suit against any person (including the U.S. government) who is alleged to be in violation of any permit, standard, or regulation under the Act or against the Administrator for alleged failure to perform any duty under the Act which is not discretionary. Plaintiff is required to give sixty days

notice of the violation to the Administrator, to the State in which the alleged violation occurred, and to any alleged violator. If not included as a party, the Administrator may intervene in the suit as a matter of right. See section 7002.

The Administrator may bring suit to *enjoin any handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which is presenting an imminent hazard to public health or the environment.* See section 7003. Any person may also petition the Administrator for the promulgation, amendment, or repeal of any regulation under the Act. The Administrator is charged with developing minimum guidelines for public participation in the *revision, implementation, and enforcement of any regulation under the Act.* See section 7004. Should any portion of the Act be invalidated, the unaffected portion of the law will remain valid. See section 7005. The Act also provides for judicial review of final regulations in the United States Court of Appeals for the District of Columbia. See section 7006.

EPA is authorized to make grants to *and contracts with eligible organizations (agencies or groups which are deemed capable of carrying out a project) for training supervisory personnel for solid waste disposal and resource recovery facilities; and the Administrator is directed to investigate and study the need for additional trained State and local personnel necessary to implement the Act.* See section 7007. No such grant may be made to any private profit-making organization. See section 7008. Also, no grant will be made unless the applicant organization adheres to prevailing labor standards in wages and rates (*as determined by the Secretary of Labor*). See section 7009.



**SUBTITLE H: RESEARCH, DEVELOPMENT,
DEMONSTRATION AND
INFORMATION**



After consultation with EPA and ERDA, EPA will conduct and encourage studies and research on financing solid waste programs, health effects of solid waste disposal, marketing of recovered resources, production of fuel from solid waste, collection of solid waste, resource recovery source separation systems, land disposal practices, sludge, hazardous waste and the effect of burning solid waste on air quality. See section 8001.

EPA will also assist and demonstrate research projects and pilot systems developed without Federal assistance. Energy-related projects will be carried out in accordance with the May 7, 1976 Interagency Agreement between EPA and ERDA (they will be conducted jointly, following which project responsibility will be assigned to one agency). ERDA will retain responsibility for energy-related portions of projects for recovery of synthetic fuels and EPA will assume responsibility for the environmental, economic, and institutional aspects of solid waste projects. The EPA will be allowed to detail agency personnel to the instrumentalities eligible for assistance under this section. See section 8001.

The Agency will study and publish reports on glass and plastic waste, and will anticipate future changes in composition of the waste stream. EPA will likewise study small-scale and low technology systems, front-end source separation technologies

mining wastes, sludge, discarded tires, the economics of resource recovery facility development, and the hazards of bird congregations near landfills. The Administrator will also serve as Chairman of a Resource Conservation Committee (comprised of various agency heads) which will study resource conservation with respect to economic incentives and disincentives and product changes. To carry out the Committee's effort \$2 million is authorized and \$8 million is authorized in fiscal years 1978 and 1979 to finance the studies. See section 8002.

EPA will also collect, develop, and evaluate information on costs of waste collection, waste management practices, recovery of energy from waste, waste reduction, new technologies for resource recovery, hazardous waste control, sanitary landfills, markets for recovered materials, and research and development projects involving solid waste. The Administrator will, in addition, establish a Central Reference Library for information dealing with these concerns and for collection of model accounting systems. The Agency will develop a recommended model cost and revenue accounting system applicable to the solid waste management programs of State and local governments and will also publish model codes for use by State and local agencies. This subtitle further provides that no representative of EPA may, in an official capacity, lobby for resource recovery or resource conservation as a policy alternative for enactment by State and local governments. See section 8003.

EPA is given authority to enter into contracts with public agencies or with private persons for construction and operation of full-scale demonstration facilities or provide financial assistance in the form of

grants for new or improved technologies. EPA may make no obligation with respect to this provision after ten years from enactment nor may it make any expenditure of funds for this section more than 14 years after enactment. An attempt will be made under this provision for cost sharing with all State and local persons and instrumentalities involved. See section 8004.

The Agency will also conduct special studies on markets for energy recovered from solid waste, methods of disposal which will conserve energy, the use of Federal procurement to develop market demand, recommended economic incentives, agricultural waste management and mining, and the effect of Barriers to acquisition of disposal sites. It may then implement demonstration projects to test study findings. See section 8005.

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