



**EPA**

# **Controlling Wastes for Public Safety and Resource Conservation**

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EPA is charged by Congress to protect the Nation's land, air and water systems. Under a mandate of national environmental laws focused on air and water quality, solid waste management and the control of toxic substances, pesticides, noise and radiation, the Agency strives to formulate and implement actions which lead to a compatible balance between human activities and the ability of natural systems to support and nurture life.

**Statement of  
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Assistant Administrator for  
Water and Waste Management  
Environmental Protection Agency  
before the  
Committee on Environment and Public Works  
United States Senate  
March 22, 1979**

**I** am pleased to be here today to discuss our progress in implementing the Resource Conservation and Recovery Act of 1976 (RCRA), amending the Solid Waste Disposal Act.

Events of the past year have clearly demonstrated the foresight of the Congress in enacting this critical environmental statute. The tragedy at Love Canal has shown all too clearly the unacceptable costs of improper hazardous waste disposal, both the pain and suffering experienced by more than 200 families evacuated from the site and the staggering financial cost of containing and cleaning up the wastes. Recent months have brought to public attention a continuing succession of incidents of poor and/or illicit management. The hazardous waste program mandated in Subtitle C of RCRA is designed to prevent such mismanagement from occurring in the future.

Less conspicuous but just as pressing are the problems faced by thousands of communities seeking to dispose of their municipal and commercial refuse safely. RCRA requires an inventory of all other-than-hazardous land disposal sites in the United States and the closing or upgrading of all sites classified as open dumps. Many communities are moving to resource recovery, creating energy, and recovering materials as the preferred approach to managing their wastes.

EPA believes that the mandates set forth in RCRA provide a sound approach to our nation's solid waste problems. We have developed a number of proposed amendments which we believe will strengthen and improve the Act. These amendments are presently being reviewed within the Executive Branch. We will transmit them to this Committee as soon as possible.

I have prepared and am submitting for the record a longer statement describing EPA's activities to implement RCRA. With your permission, I will summarize only the major points in that statement and then respond to your questions.

**Schedule for Rulemaking**

As a preliminary matter, I would like to discuss our current schedule for promulgating the major regulations mandated by the Act.

As you know, the Act contains statutory deadlines for certain rulemaking activities. Three environmental

groups, the State of Illinois, and a solid waste management trade association sued EPA in mid-September and early October seeking a court order compelling EPA to promulgate final regulations three to nine months earlier than proposed by EPA.

On January 3, 1979, Judge Gesell found that the EPA "is proceeding in complete good faith and conscientiously to promulgate the regulations in dispute, and that a more expedited schedule does not appear at this stage to be in the public interest . . . ." He established final promulgation dates for the regulations and ordered EPA to file a quarterly statement indicating any departures from the detailed implementation schedules.

EPA regrets that the complexities of the regulatory task did not permit us to meet the statutory deadlines. I can assure you that I share your deep concern about the need to have a regulatory structure in place for managing the growing problem of hazardous waste. After two years of experience with the administration of the statute, I am convinced that the Agency is moving with all dispatch that is prudently possible given the substantive requirements of the Act and the need for rigorous compliance with administrative and legal procedures in the rulemaking process. Nonetheless, I can also assure you that Mr. Costle and I are committed to promulgating final hazardous waste and solid waste regulations within the court ordered schedule.

## **Subtitle C — Hazardous Waste Management**

Subtitle C of RCRA provides for a program to manage hazardous waste from its generation to its ultimate disposal. Subtitle C contemplates the establishment of national standards to assure consistency of hazardous waste management practices across state lines, and the development of strong state hazardous waste management programs compatible with those national regulations. RCRA also provides authority for the Federal government to regulate the management of hazardous waste in a state if that state chooses not to do so.

There are seven specific hazardous waste regulations. Six of these have been proposed. The regulations for Section 3005—Permits for Treatment, Storage, or Disposal of Hazardous Waste—and Section 3006—Authorized State Hazardous Waste Programs—are now being integrated with similar provisions of the NPDES system under the Clean Water Act, and the Underground Injection Control Program under the Safe Drinking Water Act. These integrated regulations are scheduled to be proposed within a few weeks.

Five public hearings concerning the proposed section 3001-3004 regulations were conducted by EPA and the Department of Transportation during February and March in five cities from coast-to-coast. Public response to the proposed regulations was quite extensive. About

1,200 people attended the hearings, and about 250 people made oral presentations. In addition EPA has received hundreds of written comments, many of which are very extensive.

Major issues raised during the public comment period included the following:

1. Subdivision of hazardous wastes into two or more classes based on degree of hazard of the waste, and application of this concept to the conditional exemption of small quantities of waste from the control system and the facility design and operating standards,
2. Availability of facility insurance from the private insurance market,
3. Total exemption of certain waste categories from hazardous waste regulation based on legislative intent, and
4. Administrative and economic burden of the new control program, especially on small businesses.

In anticipation of these issues, EPA has already begun new studies to provide additional information to guide decisionmaking for the final regulations.

In addition to EPA's efforts to develop the national management system for hazardous wastes, the incidents at Love Canal and elsewhere have illuminated a related but distinct problem of hazardous waste management, that pertain to past or present incidents of improper disposal. Unfortunately, the magnitude of this problem was not understood by EPA or the Congress at the time that RCRA was enacted, with the result that RCRA is not well suited to remedying the effects of past disposal practices which are unsound.

The one tool which RCRA does provide is the imminent hazard authority under Section 7003. We believe that Section 7003 authorizes us to take enforcement action against the owner of an active or inactive site if the site is presenting an imminent and substantial danger to human health or the environment. We can effectively exercise this authority where any person contributing to the imminent hazard is financially and otherwise able to remedy it. However, where this circumstance is not present, Section 7003 is not an effective tool.

Nevertheless, we have increased our efforts to use Section 7003 authorities and authorities under other statutes to control past and current problems. The Agency last November launched a campaign to evaluate the status of particular disposal sites which may pose an imminent hazard. These efforts have resulted in a series of actions noted in my written statement. Other Section 7003 cases are in preparation and will be filed as soon as they are completed.

The problem of improper past disposal is made more difficult by the fact that many former waste disposal sites have now been abandoned. In many cases the property used for waste disposal has changed hands; in other cases the companies responsible for the problems are either no longer in business or do not have the resources to pay for cleanup of the sites. As I mentioned earlier, Section 7003 is often not effective in these situations. Further, certain of the sites operating today may very well be abandoned in the future.

At the present time there are no resources at any level of government—Federal, state, or local—to cover the costs of containing or cleaning up some of the most damaging sites. And the potential costs are very large. Based on very limited data, a recent EPA contractor study sought to develop an “order of magnitude” estimate of the number of problem sites nationwide and the costs for cleanup. The contractor concluded that the number of significant problem sites may range between 1,204 and 2,027; that the non-recoverable costs for emergency treatment at these sites may range between \$2.9 and \$4.9 billion; and that the non-recoverable costs for ultimate remedy may range between \$21.1 and \$35.5 billion. While these are the best estimates available at this time, they are very rough estimates and as a result a great many uncertainties remain as to the number of sites requiring cleanup and the associated costs.

EPA is presently working with other Federal agencies on an approach to solving the abandoned site problem. Our current thinking is that a fund should be established for responding to problems caused by abandoned sites as well as spills of oil and hazardous materials. The fund would be used for immediate cleanup and mitigation; permanent remedy; restoration of material resources; and to a limited extent third party damages related to property and some forms of economic livelihood.

With regard to financing the fund, we feel that the burden of responding should be shifted from the general taxpayer to those most closely connected to commercial practices involving the substances in question. Difficult issues involving equitability among parties contributing to the fund and collection and administration of such a fund must be resolved. We expect to develop recommendations on how to establish and administer the fund and to forward a legislative proposal to Congress in May of this year.

## **Subtitle D — State or Regional Solid Waste Plans**

For other-than-hazardous wastes, RCRA very properly recognizes that prime responsibility for environmentally sound disposal and for resource recovery must rest with state and local government. However, RCRA prescribes a limited but important Federal role in moving towards elimination of environmentally unacceptable disposal of solid waste on land.

## **Criteria for Land Disposal**

Under Section 4004, EPA is directed to issue Criteria for classification of all land disposal facilities as either environmentally acceptable or unacceptable. The Criteria were proposed on February 6, 1978. Final promulgation is scheduled for July 1979.

Within one year after promulgation of the Criteria, EPA is to publish an inventory of all unacceptable sites ("open dumps") identified according to the Criteria. We now estimate that several hundred thousand land disposal facilities will have to be evaluated. The one-year period allowed in the law for this undertaking is generally recognized to be insufficient because of the number of facilities and the need to make definitive technical determinations regarding each of them.

The states will evaluate the individual disposal sites with EPA financial and technical assistance. Each state will phase its evaluations according to priorities based on the potential impacts of facilities on health and the environment, the availability of state regulatory powers, and availability of Federal and state resources.

EPA intends to utilize both the authority of RCRA and of Section 405 of the Clean Water Act for the development of an overall regulation on the management of municipal sludge.

## **State Solid Waste Management Plans**

Subtitle D of RCRA includes provisions for the development and implementation of state solid waste management plans.

States are eligible to receive financial assistance under Subtitle D if the state plan has been approved by EPA. The state plan must provide for identification of state, local, and regional responsibilities for solid waste management, the application and enforcement of environmentally sound disposal practices, and the encouragement of resource recovery and conservation.

The guidelines for identification of regions and agencies for solid waste management required by Section 4002(a) were published on May 16, 1977. These guidelines suggest criteria and procedures for the formal identification of regions by Governors and the joint identification by state and local officials of the agencies that will develop and implement the state solid waste management plan.

All states selected state agencies to develop the state plan. In many states, responsibilities in planning were also assigned to county and regional governments. Most states identified counties, cities, and towns as responsible for the implementation of solid waste management plans.

The guidelines for development and implementation of state solid waste plans required in Section 4002(b) were proposed on August 28, 1978. The guidelines are being revised based upon public comment and are scheduled for promulgation in June 1979.

For FY 1978, Federal financial assistance to the states for Subtitle D programs totalled \$10.8 million compared with \$3 million in 1977. For FY 1979, appropriations to the states for Subtitle D activities totalled \$15.2 million. The President's FY 1980 budget requests \$10 million for financial assistance to states under Subtitle D. The budget also indicates that funding of Subtitle D will be phased out over a five year period. This five year program will give the states time to develop alternative funding sources. Some state solid waste programs already support themselves by various user charges; we believe this offers a sound long-term approach. As reported in the latest annual report of the Council on Environmental Quality, our nation presently spends over \$8 billion annually on the management of other-than-hazardous wastes. We believe that it is most appropriate that state user charge systems secure a small proportion of this expenditure and devote the funds to providing a firm and predictable financial foundation for essential regulatory and planning activities at the state, regional, and local level.

## Resource Conservation and Recovery

Conservation and recovery of energy and materials from solid waste is one of the major objectives of RCRA. I would like to describe our programs to assist communities in planning and procuring resource recovery systems.

Progress in implementing resource recovery across the nation is being made, but at a pace so slow that it does not match the growth in waste generation. A major barrier to more rapid implementation is the fact that the procedures involved in implementing resource recovery are unique and complex. These procedures involve a series of technical, marketing, financial, legal, and organizational factors which must be brought together in a comprehensive, well-structured project planning and development process. Problems in many of these areas are often referred to as "institutional" constraints. Thus, despite the pressures of the solid waste problem, cities often fail to accomplish the preparatory steps for the implementation of resource recovery.

To help communities resolve these institutional problems, EPA has developed and is implementing a five-part program:

*Resource Recovery Seminars*—For the past two years EPA has conducted resource recovery seminars in all parts of the nation. These two-day programs are designed for city managers, county commissioners, other state and local officials, and interested citizens. The seminars provide an overview of resource recovery technology and an explanation of the complexities of the resource recovery planning and procurement process and thereby assist local governments in assessing the feasibility of resource recovery approaches in their com-



munity. The seminar program has been extremely well received.

***Development of State Resource Recovery***

***Capability***—Under the planning guidelines mandated by Section 4002, EPA is encouraging the development at the state level of a capability to assist communities in the implementation of resource recovery systems. Several states and territories, including Connecticut, Massachusetts, Wisconsin, and Puerto Rico, have an authority or other governmental unit which can assist local communities in the planning and development of resource recovery systems. We believe that this capability should be developed in every state and are helping to support it through the Subtitle D state grants.

***Planning and Procurement Grants to Local Govern-***

***ment***—As part of his Urban Policy, President Carter in March 1978 proposed a new program of grants to communities to assist them in the implementation of resource recovery systems. The program is designed to help cities move effectively through the difficult and complex planning and procurement process by providing financial assistance to hire capable in-house program managers and secure necessary consultative services.

The Urban Policy financial assistance program is based on the premise that effective project planning and development will result in timely and successful implementation of facilities and/or source separation approaches without Federal funding of design, land, equipment, or construction. Though the capital costs of larger resource recovery plants are substantial, experience has shown that debt financing is available through normal channels for well conceived projects.

Congress appropriated \$15 million for this assistance program for FY 1979. Over 200 communities applied. Sixty-eight communities have been selected. EPA is now working with each community to develop a specific work plan and budget. The President's FY 1980 budget requests \$14.0 million for the second year of this program.

***Technical Assistance Panels***—Under Section 2003 of RCRA, the Congress mandated the creation of a technical assistance panels program designed to provide state and local governments upon request with technical assistance on solid waste management, resource recovery, and resource conservation problems. A variety of types of assistance are available under this program. Each EPA Regional Office has a prime contractor and subcontractors capable of providing assistance on any solid waste management problem. In addition, EPA has developed peer-matching relationships with seven public interest groups. Under the peer-matching program, an official with experience on a particular problem can

travel to assist another community or state which is facing a similar problem. Assistance by EPA personnel is also available under the technical assistance panels program.

We will allocate expert assistance from the technical assistance panels program to each of the sixty-eight communities selected under the Urban Policy grants program.

*Evaluations*—To assure that the latest information on resource recovery technology is available, EPA has an active evaluation program which seeks to develop information on the technology, technical reliability, economics, and environmental performance of operating resource recovery systems. That information is then disseminated to the public through the resource recovery seminars and the technical assistance panels program and through EPA publications.

EPA is aware of the critical importance of coordinating and integrating its resource recovery program with the programs of the Department of Commerce and the Department of Energy. In May 1978, we concluded an Interagency Agreement with the Department of Commerce defining respective roles and establishing a basis for close cooperation. Similarly, we are in the final stages of concluding a Memorandum of Understanding with the Department of Energy. The latter agreement defines distinct but complementary roles for the Department of Energy and EPA which will assist us in moving cooperatively towards the joint goal of rapid implementation of resource recovery in the United States.

## Siting of Waste Management Facilities

In order to achieve RCRA's objectives, solid waste management facilities must be provided for recovery, storage, treatment, and disposal of wastes. Yet across the nation it is becoming more and more difficult to secure sites for these facilities. Although the problem is most acute when siting facilities to dispose of hazardous wastes, significant difficulties are encountered when siting any solid waste facility, including those designed for resource recovery. The major stumbling block is public opposition. EPA is engaged in a number of activities designed to better understand and help to alleviate public opposition to siting, which are set forth in our written statement.

## Research

The research and development program was, for several years, focused toward the problems of municipal solid waste management. As the Agency's concern for hazardous waste control has increased since 1973, the research and development activities have been realigned toward hazardous waste problems. Fiscal Year 1979

marked the initiation of a program specifically concerned with industrial hazardous wastes. We estimate, at the present time, that approximately 80 percent of the program is directed toward the technologies required for managing and controlling hazardous waste. Our written statement describes specific efforts of our research program which have supported the development of regulations.