

Public Law 96-482
96th Congress

An Act

Oct. 21, 1980

[S. 1156]

To amend and reauthorize the Solid Waste Disposal Act.

Solid Waste
Disposal Act
Amendments of
1980.

42 USC 6901
note.

Definitions.
42 USC 6903.

42 USC 6944.

42 USC 6905.

Regulation
review.
30 USC 1201
note.

30 USC 1201
note.

42 USC 6921.

Administrative
responsibility.

42 USC 6921.

30 USC 1201
note.
Regulations.

42 USC 6911.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Solid Waste Disposal Act Amendments of 1980".

SEC. 2. (a) Section 1004(14) of the Solid Waste Disposal Act is amended to read as follows:

"(14) The term 'open dump' means any facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria promulgated under section 4004 and which is not a facility for disposal of hazardous waste."

(b) Section 1004(19) of such Act is amended to read as follows:

"(19) The term 'recovered material' means waste material and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process."

SEC. 3. Section 1006 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

"(c) INTEGRATION WITH THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977.—(1) No later than 90 days after the date of enactment of the Solid Waste Disposal Act Amendments of 1980, the Administrator shall review any regulations applicable to the treatment, storage, or disposal of any coal mining wastes or overburden promulgated by the Secretary of the Interior under the Surface Mining and Reclamation Act of 1977. If the Administrator determines that any requirement of final regulations promulgated under any section of subtitle C relating to mining wastes or overburden is not adequately addressed in such regulations promulgated by the Secretary, the Administrator shall promptly transmit such determination, together with suggested revisions and supporting documentation, to the Secretary.

"(2) The Secretary of the Interior shall have exclusive responsibility for carrying out any requirement of subtitle C of this Act with respect to coal mining wastes or overburden for which a surface coal mining and reclamation permit is issued or approved under the Surface Mining Control and Reclamation Act of 1977. The Secretary shall, with the concurrence of the Administrator, promulgate such regulations as may be necessary to carry out the purposes of this subsection and shall integrate such regulations with regulations promulgated under the Surface Mining Control and Reclamation Act of 1977."

SEC. 4. (a) The heading for section 2001 of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "AND INTERAGENCY COORDINATING COMMITTEE".

(b) The item in the table of contents relating to section 2001 of such Act is amended by adding the following at the end thereof: "and interagency coordinating committee".

(c) Section 2001 of such Act is amended by inserting "(a) OFFICE OF SOLID WASTE.—" after "2001." and by inserting a new subsection (b) as follows at the end thereof:

Establishment.
42 USC 6911.

"(b) INTERAGENCY COORDINATING COMMITTEE.—(1) There is hereby established an Interagency Coordinating Committee on Federal Resource Conservation and Recovery Activities which shall have the responsibility for coordinating all activities dealing with resource conservation and recovery from solid waste carried out by the Environmental Protection Agency, the Department of Energy, the Department of Commerce, and all other Federal agencies which conduct such activities pursuant to this or any other Act. For purposes of this subsection, the term 'resource conservation and recovery activities' shall include, but not be limited to, all research, development and demonstration projects on resource conservation or energy, or material, recovery from solid waste, and all technical or financial assistance for State or local planning for, or implementation of, projects related to resource conservation or energy or material, recovery from solid waste. The Committee shall be chaired by the Administrator of the Environmental Protection Agency or such person as the Administrator may designate. Members of the Committee shall include representatives of the Department of Energy, the Department of Commerce, the Department of the Treasury, and each other Federal agency which the Administrator determines to have programs or responsibilities affecting resource conservation or recovery.

"Resource conservation and recovery activities."

"(2) The Interagency Coordinating Committee shall include oversight of the implementation of

Oversight functions.

"(A) the May 1979 Memorandum of Understanding on Energy Recovery from Municipal Solid Waste between the Environmental Protection Agency and the Department of Energy;

"(B) the May 30, 1978, Interagency Agreement between the Department of Commerce and the Environmental Protection Agency on the Implementation of the Resource Conservation and Recovery Act; and

"(C) any subsequent agreements between these agencies or other Federal agencies which address Federal resource recovery or conservation activities.

"(3) The Interagency Coordinating Committee shall submit to the Congress by March 1, 1981, and on March 1 each year thereafter, a five-year action plan for Federal resource conservation or recovery activities which shall identify means and propose programs to encourage resource conservation or material and energy recovery and increase private and municipal investment in resource conservation or recovery systems, especially those which provide for material conservation or recovery as well as energy conservation or recovery. Such plan shall describe, at a minimum, a coordinated and nonduplicatory plan for resource recovery and conservation activities for the Environmental Protection Agency, the Department of Energy, the Department of Commerce, and all other Federal agencies which conduct such activities."

Five-year action plan, submittal to Congress.

SEC. 5. Section 2002(a) of the Solid Waste Disposal Act is amended as follows:

42 USC 6912.

(1) in paragraph (4), by striking out "and" at the end thereof;

(2) in paragraph (5), by striking the period and inserting in lieu thereof "; and"; and

Authority
delegation.

42 USC 6901
note.
49 USC 1801
note.
42 USC 6916.

Post, p. 2352.

42 USC 6941,
6948, 6949.
42 USC 6921.

42 USC 6921.

Ante, p. 2334.

Disposal site
closings,
program
provisions.

Post, p. 2349.

Publication in
Federal
Register.

Post, p. 2349.

(3) by adding the following new paragraph at the end thereof:
“(6) to delegate to the Secretary of Transportation the performance of any inspection or enforcement function under this Act relating to the transportation of hazardous waste where such delegation would avoid unnecessary duplication of activity and would carry out the objectives of this Act and of the Hazardous Materials Transportation Act.”.

SEC. 6. (a) Section 2006(b) of the Solid Waste Disposal Act is amended by inserting after “subsection (a)” a comma and the phrase “or \$5,000,000 per fiscal year, whichever is less,”.

(b) Section 2006 of such Act is amended by adding the following new subsection at the end thereof:

“(d) STATE AND LOCAL SUPPORT.—Not less than 25 per centum of the total amount appropriated under this title, up to the amount authorized in section 4008(a)(1), shall be used only for purposes of support to State, regional, local, and interstate agencies in accordance with subtitle D of this Act other than section 4008(a)(2) or 4009.”.

SEC. 7. Subsection (b) of section 3001 of the Solid Waste Disposal Act is amended by inserting “(1)” after “(b)” and by adding the following new paragraphs at the end of such subsection:

“(2)(A) Notwithstanding the provisions of paragraph (1) of this subsection, drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy shall be subject only to existing State or Federal regulatory programs in lieu of subtitle C until at least 24 months after the date of enactment of the Solid Waste Disposal Act Amendments of 1980 and after promulgation of the regulations in accordance with subparagraphs (B) and (C) of this paragraph. It is the sense of the Congress that such State or Federal programs should include, for waste disposal sites which are to be closed, provisions requiring at least the following:

“(i) The identification through surveying, platting, or other measures, together with recordation of such information on the public record, so as to assure that the location where such wastes are disposed of can be located in the future; except however, that no such surveying, platting, or other measure identifying the location of a disposal site for drilling fluids and associated wastes shall be required if the distance from the disposal site to the surveyed or platted location to the associated well is less than two hundred lineal feet; and

“(ii) A chemical and physical analysis of a produced water and a composition of a drilling fluid suspected to contain a hazardous material, with such information to be acquired prior to closure and to be placed on the public record.

“(B) Not later than six months after completion and submission of the study required by section 8002(m) of this Act, the Administrator shall, after public hearings and opportunity for comment, determine either to promulgate regulations under this subtitle for drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy or that such regulations are unwarranted. The Administrator shall publish his decision in the Federal Register accompanied by an explanation and justification of the reasons for it. In making the decision under this paragraph, the Administrator shall utilize the information developed or accumulated pursuant to the study required under section 8002(m).

“(C) The Administrator shall transmit his decision, along with any regulations, if necessary, to both Houses of Congress. Such regulations shall take effect only when authorized by Act of Congress.

Transmittal to Congress.

“(3)(A) Notwithstanding the provisions of paragraph (1) of this subsection, each waste listed below shall, except as provided in subparagraph (B) of this paragraph, be subject only to regulation under other applicable provisions of Federal or State law in lieu of this subtitle until at least six months after the date of submission of the applicable study required to be conducted under subsection (f), (n), (o), or (p) of section 8002 of this Act and after promulgation of regulations in accordance with subparagraph (C) of this paragraph:

Waste material regulation.

Post, p. 2349.

“(i) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels.

“(ii) Solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore.

“(iii) Cement kiln dust waste.

“(B)(i) Owners and operators of disposal sites for wastes listed in subparagraph (A) may be required by the Administrator, through regulations prescribed under authority of section 2002 of this Act—

42 USC 6912.

“(I) as to disposal sites for such wastes which are to be closed, to identify the locations of such sites through surveying, platting, or other measures, together with recordation of such information on the public record, to assure that the locations where such wastes are disposed of are known and can be located in the future, and

Disposal site identification.

“(II) to provide chemical and physical analysis and composition of such wastes, based on available information, to be placed on the public record.

Waste composition and analysis.

“(ii)(I) In conducting any study under subsection (f), (n), (o), or (p), of section 8002 of this Act, any officer, employee, or authorized representative of the Environmental Protection Agency, duly designated by the Administrator, is authorized, at reasonable times and as reasonably necessary for the purposes of such study, to enter any establishment where any waste subject to such study is generated, stored, treated, disposed of, or transported from; to inspect, take samples, and conduct monitoring and testing; and to have access to and copy records relating to such waste. Each such inspection shall be commenced and completed with reasonable promptness. If the officer, employee, or authorized representative obtains any samples prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the sample obtained and if requested a portion of each such sample equal in volume or weight to the portion retained. If any analysis is made of such samples, or monitoring and testing performed, a copy of the results shall be furnished promptly to the owner, operator, or agent in charge.

EPA investigations.
Post, p. 2349.

“(II) Any records, reports, or information obtained from any person under subclause (I) shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof, to which the Administrator has access under this subparagraph if made public, would divulge information entitled to protection under section 1905 of title 18 of the United States Code, the Administrator shall consider such information or particular portion thereof confidential in accordance with the purposes of that section, except that such record, report, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States con-

Information, availability to public.

Disclosure
penalty.

cerned with carrying out this Act. Any person not subject to the provisions of section 1905 of title 18 of the United States Code who knowingly and willfully divulges or discloses any information entitled to protection under this subparagraph shall, upon conviction, be subject to a fine of not more than \$5,000 or to imprisonment not to exceed one year, or both.

Radiation
exposure
prevention.

"(iii) The Administrator may prescribe regulations, under the authority of this Act, to prevent radiation exposure which presents an unreasonable risk to human health from the use in construction or land reclamation (with or without revegetation) of (I) solid waste from the extraction, beneficiation, and processing of phosphate rock or (II) overburden from the mining of uranium ore.

Violations.

"(iv) Whenever on the basis of any information the Administrator determines that any person is in violation of any requirement of this subparagraph, the Administrator shall give notice to the violator of his failure to comply with such requirement. If such violation extends beyond the thirtieth day after the Administrator's notification, the Administrator may issue an order requiring compliance within a specified time period or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

Regulation
determination.

Post, p. 2349.

"(C) Not later than six months after the date of submission of the applicable study required to be conducted under subsection (f), (n), (o), or (p), of section 8002 of this Act, the Administrator shall, after public hearings and opportunity for comment, either determine to promulgate regulations under this subtitle for each waste listed in subparagraph (A) of this paragraph or determine that such regulations are unwarranted. The Administrator shall publish his determination, which shall be based on information developed or accumulated pursuant to such study, public hearings, and comment, in the Federal Register accompanied by an explanation and justification of the reasons for it."

42 USC 6922.

SEC. 8. Section 3002(5) of the Solid Waste Disposal Act is amended by inserting "and any other reasonable means necessary" after "use of a manifest system", and by inserting "and arrives at," after "disposal in".

42 USC 6924.

SEC. 9. Section 3004 of the Solid Waste Disposal Act is amended by inserting after the first sentence thereof "In establishing such standards the Administrator shall, where appropriate, distinguish in such standards between requirements appropriate for new facilities and for facilities in existence on the date of promulgation of such regulations."

42 USC 6925.

SEC. 10. Section 3005(e) of the Solid Waste Disposal Act is amended by striking "facility is in existence on the date of enactment of this Act," and inserting in lieu thereof "facility is in existence on November 19, 1980,".

SEC. 11. Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

"(f) COAL MINING WASTES AND RECLAMATION PERMITS.—Notwithstanding subsection (a) through (e) of this section, any surface coal mining and reclamation permit covering any coal mining wastes or overburden which has been issued or approved under the Surface Mining Control and Reclamation Act of 1977 shall be deemed to be a permit issued pursuant to this section with respect to the treatment, storage, or disposal of such wastes or overburden. Regulations promulgated by the Administrator under this subtitle shall not be

30 USC 1201
note.

applicable to treatment, storage, or disposal of coal mining wastes and overburden which are covered by such a permit."

SEC. 12. (a) Section 3007(a) of the Solid Waste Disposal Act is amended as follows: 42 USC 6927.

- (1) by striking "subtitle" and inserting in lieu thereof "title";
- (2) by striking "maintained by any person" after "establishment or other place";
- (3) by inserting "or has handled" after "otherwise handles";
- (4) by striking "any officer or employee" and inserting in lieu thereof "any officer, employee or representative";
- (5) by striking "duly designated officer employee" and inserting in lieu thereof "duly designated officer, employee or representative";
- (6) by striking "furnish or permit" and inserting in lieu thereof "furnish information relating to such wastes and permit";
- (7) by striking out "such officers or employees" and inserting in lieu thereof "such officers, employees or representatives";
- (8) by inserting "or have been" after "where hazardous wastes are"; and

(9) by striking "officer or employee obtains" and inserting in lieu thereof "officer, employee or representative obtains".

(b) Section 3007(b) of such Act is amended as follows:

- (1) by inserting "or any officer, employee or representative thereof" before "has access under this section";
- (2) by striking "the Administrator (or the State, as the case may be) shall consider such information or portion thereof" and inserting in lieu thereof "such information or particular portion thereof shall be considered";
- (3) by inserting "(1)" before "Any records" and adding at the end thereof the following new paragraphs:

"(2) Any person not subject to the provisions of section 1905 of title 18 of the United States Code who knowingly and willfully divulges or discloses any information entitled to protection under this subsection shall, upon conviction, be subject to a fine of not more than \$5,000 or to imprisonment not to exceed one year, or both.

Information disclosure, penalty.

"(3) In submitting data under this Act, a person required to provide such data may—

Data submittal.

"(A) designate the data which such person believes is entitled to protection under this subsection, and

"(B) submit such designated data separately from other data submitted under this Act.

A designation under this paragraph shall be made in writing and in such manner as the Administrator may prescribe.

"(4) Notwithstanding any limitation contained in this section or any other provision of law, all information reported to, or otherwise obtained by, the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of the Congress, to such committee."; and

Availability to congressional committees.

(4) by inserting "(including records, reports, or information obtained by representatives of the Environmental Protection Agency)".

SEC. 13. Section 3008 of the Solid Waste Disposal Act is amended as follows: 42 USC 6928.

- (1) in subsection (a)(1), by striking "the Administrator shall give notice to the violator of his failure to comply with such requirement. If such violation extends beyond the thirtieth day

after the Administrator's notification," and by inserting "immediately or" after "compliance";

(2) in subsection (a)(2), by striking "thirty days";

(3) in subsection (b), by striking "or any suspension or revocation of a permit" and "or notice of the suspension or revocation";

(4) in subsection (c), by inserting "may include a suspension or revocation of a permit issued under this subtitle, and" after "Any order issued under this section"; and

(5) by striking out subsection (d) and substituting:

"(d) CRIMINAL PENALTIES.—Any person who—

"(1) knowingly transports any hazardous waste identified or listed under this subtitle to a facility which does not have a permit under section 3005 (or 3006 in case of a State program), or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052),

"(2) knowingly treats, stores, or disposes of any hazardous waste identified or listed under this subtitle either—

"(A) without having obtained a permit under section 3005 (or 3006 in the case of a State program) or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052); or

"(B) in knowing violation of any material condition or requirement of such permit;

"(3) knowingly makes any false material statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained, or used for purposes of compliance with this subtitle; or

"(4) knowingly generates, stores, treats, transports, disposes of, or otherwise handles any hazardous waste (whether such activity took place before or takes place after the date of the enactment of this paragraph) and who knowingly destroys, alters, or conceals any record required to be maintained under regulations promulgated by the Administrator under this subtitle

shall, upon conviction, be subject to a fine of not more than \$25,000 (\$50,000 in the case of a violation of paragraph (1) or (2)) for each day of violation, or to imprisonment not to exceed one year (two years in the case of a violation of paragraph (1) or (2)), or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"(e) KNOWING ENDANGERMENT.—Any person who knowingly transports, treats, stores, or disposes of any hazardous waste identified or listed under this subtitle—

"(1)(A) in violation of paragraphs (1) or (2) of subsection (d) of this section, or

"(B) having applied for a permit under section 3005 or 3006, and knowingly either—

"(i) has failed to include in his application material information required under regulations promulgated by the Administrator, or

"(ii) fails to comply with the applicable interim status regulations and standards promulgated pursuant to this subtitle,

who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, and

"(2)(A) if his conduct in the circumstances manifests an unjustified and inexcusable disregard for human life, or

42 USC 6925,
6926.

33 USC 1411.

"(B) if his conduct in the circumstances manifests an extreme indifference for human life.

shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment for not more than 2 years, or both, except that any person who violates subsection (e)(2)(B) shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment for not more than 5 years, or both. A defendant that is an organization shall, upon conviction of violating this subsection, be subject to a fine of not more than \$1,000,000.

Penalties.

"(f) SPECIAL RULES.—For the purposes of subsection (e)—

"(1) A person's state of mind is knowing with respect to—

"(A) his conduct, if he is aware of the nature of his conduct;

"(B) an existing circumstance, if he is aware or believes that the circumstance exists; or

"(C) a result of his conduct, if he is aware or believes that his conduct is substantially certain to cause danger of death or serious bodily injury.

"(2) In determining whether a defendant who is a natural person knew that his conduct placed another person in imminent danger of death or serious bodily injury—

"(A) the person is responsible only for actual awareness or actual belief that he possessed; and

"(B) knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant;

Provided, That in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information.

"(3) It is an affirmative defense to a prosecution that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

"(A) an occupation, a business, or a profession; or

"(B) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent.

The defendant may establish an affirmative defense under this subsection by a preponderance of the evidence.

"(4) All general defenses, affirmative defenses, and bars to prosecution that may apply with respect to other Federal criminal offenses may apply under subsection (e) and shall be determined by the courts of the United States according to the principles of common law as they may be interpreted in the light of reason and experience. Concepts of justification and excuse applicable under this section may be developed in the light of reason and experience.

"(5) The term 'organization' means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

"Organization."

"(6) The term 'serious bodily injury' means—

"Serious bodily injury."

"(A) bodily injury which involves a substantial risk of death;

"(B) unconsciousness;

"(C) extreme physical pain;

“(D) protracted and obvious disfigurement; or

“(E) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

“(g) CIVIL PENALTY.—Any person who violates any requirement of this subtitle shall be liable to the United States for a civil penalty in an amount not to exceed \$25,000 for each such violation. Each day of such violation shall, for purposes of this subsection, constitute a separate violation.”.

42 USC 6929.

SEC. 14. Section 3009 of the Solid Waste Disposal Act is amended by adding at the end thereof the following new sentence: “Nothing in this title shall be construed to prohibit any State or political subdivision thereof from imposing any requirements, including those for site selection, which are more stringent than those imposed by such regulations.”.

42 USC 6930.

SEC. 15. Section 3010(a) of the Solid Waste Disposal Act is amended by striking out “or revision” and by inserting the following at the end of the first sentence thereof: “In revising any regulation under section 3001 identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste subject to this subtitle, the Administrator may require any person referred to in the preceding sentence to file with the Administrator (or with States having authorized hazardous waste permit programs under section 3006) the notification described in the preceding sentence.”.

42 USC 6921.

42 USC 6926.

42 USC 6931.

SEC. 16. Section 3011 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

“(c) ACTIVITIES INCLUDED.—State hazardous waste programs for which grants may be made under subsection (a) may include (but shall not be limited to) planning for hazardous waste treatment, storage and disposal facilities, and the development and execution of programs to protect health and the environment from inactive facilities which may contain hazardous waste.”.

SEC. 17. (a) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new sections at the end thereof:

“HAZARDOUS WASTE SITE INVENTORY

42 USC 6933.

“SEC. 3012. (a) STATE INVENTORY PROGRAMS.—Each State shall, as expeditiously as practicable, undertake a continuing program to compile, publish, and submit to the Administrator an inventory describing the location of each site within such State at which hazardous waste has at any time been stored or disposed of. Such inventory shall contain—

42 USC 6925.

“(1) a description of the location of the sites at which any such storage or disposal has taken place before the date on which permits are required under section 3005 for such storage or disposal;

“(2) such information relating to the amount, nature, and toxicity of the hazardous waste at each such site as may be practicable to obtain and as may be necessary to determine the extent of any health hazard which may be associated with such site;

“(3) the name and address, or corporate headquarters of, the owner of each such site, determined as of the date of preparation of the inventory;

“(4) an identification of the types or techniques of waste treatment or disposal which have been used at each such site; and

“(5) information concerning the current status of the site, including information respecting whether or not hazardous waste is currently being treated or disposed of at such site (and if not, the date on which such activity ceased) and information respecting the nature of any other activity currently carried out at such site.

For purposes of assisting the States in compiling information under this section, the Administrator shall make available to each State undertaking a program under this section such information as is available to him concerning the items specified in paragraphs (1) through (5) with respect to the sites within such State, including such information as the Administrator is able to obtain from other agencies or departments of the United States and from surveys and studies carried out by any committee or subcommittee of the Congress. Any State may exercise the authority of section 3007 for purposes of this section in the same manner and to the same extent as provided in such section in the case of States having an authorized hazardous waste program, and any State may by order require any person to submit such information as may be necessary to compile the data referred to in paragraphs (1) through (5).

Information
compilation,
assistance to
States.

42 USC 6927.

“(b) ENVIRONMENTAL PROTECTION AGENCY PROGRAM.—If the Administrator determines that any State program under subsection (a) is not adequately providing information respecting the sites in such State referred to in subsection (a), the Administrator shall notify the State. If within ninety days following such notification, the State program has not been revised or amended in such manner as will adequately provide such information, the Administrator shall carry out the inventory program in such State. In any such case—

“(1) the Administrator shall have the authorities provided with respect to State programs under subsection (a);

“(2) the funds allocated under subsection (c) for grants to States under this section may be used by the Administrator for carrying out such program in such State; and

“(3) no further expenditure may be made for grants to such State under this section until such time as the Administrator determines that such State is carrying out, or will carry out, an inventory program which meets the requirements of this section.

“(c) GRANTS.—(1) Upon receipt of an application submitted by any State to carry out a program under this section, the Administrator may make grants to the States for purposes of carrying out such a program. Grants under this section shall be allocated among the several States by the Administrator based upon such regulations as he prescribes to carry out the purposes of this section. The Administrator may make grants to any State which has conducted an inventory program which effectively carried out the purposes of this section before the date of the enactment of the Solid Waste Disposal Act Amendments of 1980 to reimburse such State for all, or any portion of, the costs incurred by such State in conducting such program.

Ante, p. 2334.

“(2) There are authorized to be appropriated to carry out this section \$20,000,000.

Appropriation
authorization.

“(d) NO IMPEDIMENT TO IMMEDIATE REMEDIAL ACTION.—Nothing in this section shall be construed to provide that the Administrator or any State should, pending completion of the inventory required under this section, postpone undertaking any enforcement or remedial action with respect to any site at which hazardous waste has been treated, stored, or disposed of.

"MONITORING, ANALYSIS, AND TESTING

42 USC 6934.

"SEC. 3013. (a) AUTHORITY OF ADMINISTRATOR.—If the Administrator determines, upon receipt of any information, that—

"(1) the presence of any hazardous waste at a facility or site at which hazardous waste is, or has been, stored, treated, or disposed of, or

"(2) the release of any such waste from such facility or site may present a substantial hazard to human health or the environment, he may issue an order requiring the owner or operator of such facility or site to conduct such monitoring, testing, analysis, and reporting with respect to such facility or site as the Administrator deems reasonable to ascertain the nature and extent of such hazard.

"(b) PREVIOUS OWNERS AND OPERATORS.—In the case of any facility or site not in operation at the time a determination is made under subsection (a) with respect to the facility or site, if the Administrator finds that the owner of such facility or site could not reasonably be expected to have actual knowledge of the presence of hazardous waste at such facility or site and of its potential for release, he may issue an order requiring the most recent previous owner or operator of such facility or site who could reasonably be expected to have such actual knowledge to carry out the actions referred to in subsection (a).

"(c) PROPOSAL.—An order under subsection (a) or (b) shall require the person to whom such order is issued to submit to the Administrator within 30 days from the issuance of such order a proposal for carrying out the required monitoring, testing, analysis, and reporting. The Administrator may, after providing such person with an opportunity to confer with the Administrator respecting such proposal, require such person to carry out such monitoring, testing, analysis, and reporting in accordance with such proposal, and such modifications in such proposal as the Administrator deems reasonable to ascertain the nature and extent of the hazard.

"(d) MONITORING, ETC., CARRIED OUT BY ADMINISTRATOR.—(1) If the Administrator determines that no owner or operator referred to in subsection (a) or (b) is able to conduct monitoring, testing, analysis, or reporting satisfactory to the Administrator, if the Administrator deems any such action carried out by an owner or operator to be unsatisfactory, or if the Administrator cannot initially determine that there is an owner or operator referred to in subsection (a) or (b) who is able to conduct such monitoring, testing, analysis, or reporting, he may—

"(A) conduct monitoring, testing, or analysis (or any combination thereof) which he deems reasonable to ascertain the nature and extent of the hazard associated with the site concerned, or

"(B) authorize a State or local authority or other person to carry out any such action,

and require, by order, the owner or operator referred to in subsection (a) or (b) to reimburse the Administrator or other authority or person for the costs of such activity.

"(2) No order may be issued under this subsection requiring reimbursement of the costs of any action carried out by the Administrator which confirms the results of an order issued under subsection (a) or (b).

"(3) For purposes of carrying out this subsection, the Administrator or any authority or other person authorized under paragraph (1), may exercise the authorities set forth in section 3007.

"(e) ENFORCEMENT.—The Administrator may commence a civil action against any person who fails or refuses to comply with any

42 USC 6927.

order issued under this section. Such action shall be brought in the United States district court in which the defendant is located, resides, or is doing business. Such court shall have jurisdiction to require compliance with such order and to assess a civil penalty of not to exceed \$5,000 for each day during which such failure or refusal occurs."

(b) The table of contents for such subtitle C is amended by inserting the following new items at the end thereof:

"Sec. 3012. Hazardous waste site inventory.

"Sec. 3013. Monitoring, analysis, and testing."

SEC. 18. (a) Section 4003(2) of the Solid Waste Disposal Act is amended by striking out "section 4005(c)" and inserting in lieu thereof "sections 4004(b) and 4005(a)". 42 USC 6943.

(b) Section 4003(5) of such Act is amended by inserting "State or" after "The plan shall provide that no", and by striking the period after "resource recovery facilities", and substituting the following: "from entering into long-term contracts for the operation of such facilities, or from securing long-term markets for material and energy recovered from such facilities." 42 USC 6944, *Infra. Post*, p. 2353.

SEC. 19. (a) Section 4005 of the Solid Waste Disposal Act is amended by deleting subsection (a) in its entirety and by redesignating subsection (c) as (a). 42 USC 6945.

(b)(1) Section 4005(a) of the Solid Waste Disposal Act, as redesignated by this section, is amended by striking "Any" and inserting in lieu thereof "Upon promulgation of criteria under section 1008(a)(3), any"; by inserting "and 4003(3)" after "4003(2)"; by striking "the inventory under subsection (b)" after "not to exceed 5 years from the date of publication of" and inserting in lieu thereof "criteria under section 1008(a)(3)". 42 USC 6907.

(2) Section 4005(b) of the Solid Waste Disposal Act is amended by striking "Not" and inserting in lieu thereof "To assist the States in complying with section 4003(3), not". 42 USC 6945.

(b) Section 4006(b)(1)(B) of such Act is amended by striking out "functions" wherever it appears and inserting in lieu thereof "management activities". 42 USC 6943, 42 USC 6946.

SEC. 20. Section 4008(e) of the Solid Waste Disposal Act is amended by— 42 USC 6948.

(1) striking out "identify communities" in paragraph (1) thereof and substituting "identify local governments";

(2) striking out clause (A) thereof and redesignating clauses (B) and (C) as (A) and (B), respectively;

(3) striking out "solid waste disposal facilities in which more than 75 per centum of the solid waste disposed of is from areas outside the jurisdiction of the communities" in paragraph (1) thereof and substituting "a solid waste disposal facility (i) which is owned by the unit of local government, (ii) for which an order has been issued by the State to cease receiving solid waste for treatment, storage, or disposal, and (iii) which is subject to a State-approved end-use recreation plan";

(4) striking out "which have" in clause (B) of paragraph (1), as redesignated by paragraph (2) of this section, and substituting the following "which are located over an aquifer which is the source of drinking water for any person or public water system and which has";

(5) inserting before the period at the end of paragraph (1): "including possible methane migration";

(6) striking out "each of the fiscal years 1978 and 1979" in paragraph (2) and substituting "the fiscal year 1980 and \$1,500,000 for each of the fiscal years 1981 and 1982";

(7) striking out "the conversion, improvement" in the first sentence of paragraph (2) and all that follows down to the period at the end of such sentence and substituting "containment and stabilization of solid waste located at the disposal sites referred to in paragraph (1)";

(8) inserting the following new sentence at the end of paragraph (2): "No unit of local government shall be eligible for grants under this paragraph with respect to any site which exceeds 65 acres in size."; and

(9) striking out paragraph (3) thereof.

42 USC 6952.

SEC. 21. (a) Section 5002 of the Solid Waste Disposal Act is amended by striking out "the date of the enactment of this Act" and inserting in lieu thereof "September 1, 1979".

42 USC 6953.

(b) Section 5003 of such Act is amended by striking out "the enactment of this Act" and inserting in lieu thereof "September 1, 1979,".

(c)(1) Subtitle E of such Act is amended by inserting the following new section after section 5004:

"NONDISCRIMINATION REQUIREMENT

Marketing
policies,
establishment.
42 USC 6955.

"SEC. 5005. In establishing any policies which may affect the development of new markets for recovered materials and in making any determination concerning whether or not to impose monitoring or other controls on any marketing or transfer of recovered materials, the Secretary of Commerce may consider whether to establish the same or similar policies or impose the same or similar monitoring or other controls on virgin materials."

(2) The table of contents for such Act is amended by inserting the following new item after the item relating to section 5004:

"Sec. 5005. Nondiscrimination requirement."

42 USC 6962.

SEC. 22. Section 6002 of the Solid Waste Disposal Act is amended as follows:

(1) in subsection (c)(1), by deleting the first sentence and inserting in lieu thereof the following: "After the date specified in applicable guidelines prepared pursuant to subsection (e) of this section, each procuring agency which procures any items designated in such guidelines shall procure such items composed of the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, considering such guidelines.";

(2) in subsection (c)(1)(C), by striking "clause (ii)" and inserting in lieu thereof "subparagraph (B)";

(3) in subsection (c)(2), by deleting "recovered material and recovered-material-derived fuel" and inserting in lieu thereof the following: "energy or fuels derived from solid waste";

(4) in subsection (c)(3), by deleting everything after "vendors" and inserting in lieu thereof a colon and the following:

"(A) certify that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by applicable specifications or other contractual requirements and

"(B) estimate the percentage of the total material utilized for the performance of the contract which is recovered materials.";

(5) by amending subsection (d), to read as follows:

“(d) SPECIFICATIONS.—All Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items procured by Federal agencies shall—

Federal
procurement
items.

“(1) as expeditiously as possible but in any event no later than five years after the date of enactment of this Act, eliminate from such specifications—

“(A) any exclusion of recovered materials and

“(B) any requirement that items be manufactured from virgin materials; and

“(2) within one year after the date of publication of applicable guidelines under subsection (e), or as otherwise specified in such guidelines, assure that such specifications require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of the item.”

(6) in subsection (e), by deleting the second sentence and inserting in lieu thereof the following: “Such guidelines shall—

“(1) designate those items which are or can be produced with recovered materials and whose procurement by procuring agencies will carry out the objectives of this section; and

“(2) set forth recommended practices with respect to the procurement of recovered materials and items containing such materials and with respect to certification by vendors of the percentage of recovered materials used,

and shall provide information as to the availability, relative price, and performance of such materials and items and where appropriate shall recommend the level of recovered material to be contained in the procured product. The Administrator shall prepare final guidelines for at least three product categories, including paper, by May 1, 1981, and for two additional product categories, including construction materials, by September 30, 1982. In making the designation under paragraph (1), the Administrator shall consider, but is not limited in his considerations, to—

Product
categories,
guidelines.

“(A) the availability of such items;

“(B) the impact of the procurement of such items by procuring agencies on the volume of solid waste which must be treated, stored or disposed of;

“(C) the economic and technological feasibility of producing and using such items; and

“(D) other uses for such recovered materials.”

SEC. 23. Section 6004 of the Solid Waste Disposal Act is amended by— 42 USC 6964.

(1) inserting immediately after “an executive agency (as defined in section 105 of title 5, United States Code)” in subsection (a)(1), “or any unit of the legislative branch of the Federal Government”;

(2) inserting after “Each Executive agency” in subsection (a)(2), “or any unit of the legislative branch of the Federal Government”; and

(3) inserting after “The President” in subsection (a)(4) “or the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate with regard to any unit of the legislative branch of the Federal Government”.

SEC. 24. Section 7001 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof: 42 USC 6971.

“(f) OCCUPATIONAL SAFETY AND HEALTH.—In order to assist the Secretary of Labor and the Director of the National Institute for

29 USC 651 note.

Occupational Safety and Health in carrying out their duties under the Occupational Safety and Health Act of 1970, the Administrator shall—

“(1) provide the following information, as such information becomes available, to the Secretary and the Director:

“(A) the identity of any hazardous waste generation, treatment, storage, disposal facility or site where cleanup is planned or underway;

“(B) information identifying the hazards to which persons working at a hazardous waste generation, treatment, storage, disposal facility or site or otherwise handling hazardous waste may be exposed, the nature and extent of the exposure, and methods to protect workers from such hazards; and

“(C) incidents of worker injury or harm at a hazardous waste generation, treatment, storage or disposal facility or site; and

42 USC 6930.

42 USC

6922-6924.

42 USC 6973.

“(2) notify the Secretary and the Director of the Administrator's receipt of notifications under section 3010 or reports under sections 3002, 3003, and 3004 of this title and make such notifications and reports available to the Secretary and the Director.”.

SEC. 25. Section 7003 of the Solid Waste Disposal Act is amended by—

(1) inserting “(a) AUTHORITY OF ADMINISTRATOR.—” after “7003”;

(2) striking out “is presenting” and inserting in lieu thereof “may present”;

(3) striking out “the alleged disposal” and inserting in lieu thereof “such handling, storage, treatment, transportation or disposal”; and

(4) adding the following at the end thereof: “The Administrator may also, after notice to the affected State, take other action under this section including, but not limited to, issuing such orders as may be necessary to protect public health and the environment.

“(b) VIOLATIONS.—Any person who willfully violates, or fails or refuses to comply with, any order of the Administrator under subsection (a) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than \$5,000 for each day in which such violation occurs or such failure to comply continues.”.

Facility permit
issuance,
notification.
42 USC 6974.

SEC. 26. Section 7004(b) of the Solid Waste Disposal Act is amended by inserting “(1)” after “PUBLIC PARTICIPATION.—” and by inserting the following new paragraph at the end thereof:

42 USC 6925.

“(2) Before the issuing of a permit to any person with any respect to any facility for the treatment, storage, or disposal of hazardous wastes under section 3005, the Administrator shall—

“(A) cause to be published in major local newspapers of general circulation and broadcast over local radio stations notice of the agency's intention to issue such permit, and

“(B) transmit in writing notice of the agency's intention to issue such permit to each unit of local government having jurisdiction over the area in which such facility is proposed to be located and to each State agency having any authority under State law with respect to the construction or operation of such facility.

Hearing.

If within 45 days the Administrator receives written notice of opposition to the agency's intention to issue such permit and a request for a hearing, or if the Administrator determines on his own

initiative, he shall hold an informal public hearing (including an opportunity for presentation of written and oral views) on whether he should issue a permit for the proposed facility. Whenever possible the Administrator shall schedule such hearing at a location convenient to the nearest population center to such proposed facility and give notice in the aforementioned manner of the date, time, and subject matter of such hearing. No State program which provides for the issuance of permits referred to in this paragraph may be authorized by the Administrator under section 3006 unless such program provides for the notice and hearing required by the paragraph."

42 USC 6926.

SEC. 27. (a) Section 7006 of the Solid Waste Disposal Act is amended as follows:

42 USC 6976.

(1) by inserting "(a) REVIEW OF FINAL REGULATIONS AND CERTAIN PETITIONS.—" before "Any";

(2) by adding after "pursuant to this Act" the following: "and the Administrator's denial of any petition for the promulgation, amendment, or repeal of any regulation under this Act";

(3) by adding after "or requirement under this Act" the following: "or denying any petition for the promulgation, amendment or repeal of any regulation under this Act";

(4) by striking out "Columbia. Any" and substituting "Columbia, and";

(5) by inserting "or denial" after "date of such promulgation";

(6) by inserting "for review" after "date of such petition";

(7) by striking out ". Action" in paragraph (1) thereof and substituting "; action"; and

(8) by striking out "proper. The" in paragraph (2) thereof and substituting "proper; the".

(b) Such section 7006 is further amended by adding the following new subsection (b) at the end thereof:

"(b) REVIEW OF CERTAIN ACTIONS UNDER SECTIONS 3005 AND 3006.— Review of the Administrator's action (1) in issuing, denying, modifying, or revoking any permit under section 3005, or (2) in granting, denying, or withdrawing authorization or interim authorization under section 3006, may be had by any interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts such business upon application by such person. Any such application shall be made within ninety days from the date of such issuance, denial, modification, revocation, grant, or withdrawal, or after such date only if such application is based solely on grounds which arose after such ninetieth day. Such review shall be in accordance with sections 701 through 706 of title 5 of the United States Code."

42 USC 6925, 6926.

Application.

SEC. 28. Section 7009 of the Solid Waste Disposal Act is amended by striking out "unless the Secretary" and substituting "unless the Administrator".

42 USC 6979.

SEC. 29. Section 8002 of the Solid Waste Disposal Act is amended by—

Study.
42 USC 6982.

(1) by striking out the last sentence of subsection (f) of such section and inserting in lieu thereof the following: "Not later than thirty-six months after the date of the enactment of the Solid Waste Disposal Act Amendments of 1980 the Administrator shall publish a report of such study and shall include appropriate findings and recommendations for Federal and non-Federal actions concerning such effects. Such report shall be submitted to the Committee on Environment and Public Works of the United States Senate and the Committee on Interstate and

Ante, p. 2334.

Report to
congressional
committees.

Foreign Commerce of the United States House of Representatives." ; and

(2) by inserting the following new subsections after subsection (l) and by redesignating subsection (m) as (q):

Study.

"(m) **DRILLING FLUIDS, PRODUCED WATERS, AND OTHER WASTES ASSOCIATED WITH THE EXPLORATION, DEVELOPMENT, OR PRODUCTION OF CRUDE OIL OR NATURAL GAS OR GEOTHERMAL ENERGY.**—(1) The Administrator shall conduct a detailed and comprehensive study and submit a report on the adverse effects, if any, of drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy on human health and the environment, including, but not limited to, the effects of such wastes on humans, water, air, health, welfare, and natural resources and on the adequacy of means and measures currently employed by the oil and gas and geothermal drilling and production industry, Government agencies, and others to dispose of and utilize such wastes and to prevent or substantially mitigate such adverse effects. Such study shall include an analysis of—

"(A) the sources and volume of discarded material generated per year from such wastes;

"(B) present disposal practices;

"(C) potential danger to human health and the environment from the surface runoff or leachate;

"(D) documented cases which prove or have caused danger to human health and the environment from surface runoff or leachate;

"(E) alternatives to current disposal methods;

"(F) the cost of such alternatives; and

"(G) the impact of those alternatives on the exploration for, and development and production of, crude oil and natural gas or geothermal energy.

Review.

In furtherance of this study, the Administrator shall, as he deems appropriate, review studies and other actions of other Federal agencies concerning such wastes with a view toward avoiding duplication of effort and the need to expedite such study. The Administrator shall publish a report of such study and shall include appropriate findings and recommendations for Federal and non-Federal actions concerning such effects.

Report.

Submittal to congressional committees.

"(2) The Administrator shall complete the research and study and submit the report required under paragraph (1) not later than twenty-four months from the date of enactment of the Solid Waste Disposal Act Amendments of 1980. Upon completion of the study, the Administrator shall prepare a summary of the findings of the study, a plan for research, development, and demonstration respecting the findings of the study, and shall submit the findings and the study, along with any recommendations resulting from such study, to the Committee on Environment and Public Works of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives.

Ante, p. 2334.

Appropriation authorization.

"(3) There are authorized to be appropriated not to exceed \$1,000,000 to carry out the provisions of this subsection.

Study.

"(n) **MATERIALS GENERATED FROM THE COMBUSTION OF COAL AND OTHER FOSSIL FUELS.**—The Administrator shall conduct a detailed and comprehensive study and submit a report on the adverse effects on human health and the environment, if any, of the disposal and utilization of fly ash waste, bottom ash waste, slag waste, flue gas emission control waste, and other byproduct materials generated

primarily from the combustion of coal or other fossil fuels. Such study shall include an analysis of—

“(1) the source and volumes of such material generated per year;

“(2) present disposal and utilization practices;

“(3) potential danger, if any, to human health and the environment from the disposal and reuse of such materials;

“(4) documented cases in which danger to human health or the environment from surface runoff or leachate has been proved;

“(5) alternatives to current disposal methods;

“(6) the costs of such alternatives;

“(7) the impact of those alternatives on the use of coal and other natural resources; and

“(8) the current and potential utilization of such materials.

In furtherance of this study, the Administrator shall, as he deems appropriate, review studies and other actions of other Federal and State agencies concerning such material and invite participation by other concerned parties, including industry and other Federal and State agencies, with a view toward avoiding duplication of effort. The Administrator shall publish a report on such study, which shall include appropriate findings, not later than twenty-four months after the enactment of the Solid Waste Disposal Act Amendments of 1980. Such study and findings shall be submitted to the Committee on Environment and Public Works of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives.

Review.

Report.

Ante, p. 2334.
Submittal to congressional committees.

“(o) CEMENT KILN DUST WASTE.—The Administrator shall conduct a detailed and comprehensive study of the adverse effects on human health and the environment, if any, of the disposal of cement kiln dust waste. Such study shall include an analysis of—

Study.

“(1) the source and volumes of such materials generated per year;

“(2) present disposal practices;

“(3) potential danger, if any, to human health and the environment from the disposal of such materials;

“(4) documented cases in which danger to human health or the environment has been proved;

“(5) alternatives to current disposal methods;

“(6) the costs of such alternatives;

“(7) the impact of those alternatives on the use of natural resources; and

“(8) the current and potential utilization of such materials.

In furtherance of this study, the Administrator shall, as he deems appropriate, review studies and other actions of other Federal and State agencies concerning such waste or materials and invite participation by other concerned parties, including industry and other Federal and State agencies, with a view toward avoiding duplication of effort. The Administrator shall publish a report of such study, which shall include appropriate findings, not later than thirty-six months after the date of enactment of the Solid Waste Disposal Act Amendments of 1980. Such report shall be submitted to the Committee on Environment and Public Works of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives.

Review.

Report.

Ante, p. 2334.
Submittal to congressional committees.

“(p) MATERIALS GENERATED FROM THE EXTRACTION, BENEFICIATION, AND PROCESSING OF ORES AND MINERALS, INCLUDING PHOSPHATE ROCK AND OVERBURDEN FROM URANIUM MINING.—The Administrator shall conduct a detailed and comprehensive study on the adverse

Study.

effects on human health and the environment, if any, of the disposal and utilization of solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from uranium mining. Such study shall be conducted in conjunction with the study of mining wastes required by subsection (f) of this section and shall include an analysis of—

“(1) the source and volumes of such materials generated per year;

“(2) present disposal and utilization practices;

“(3) potential danger, if any, to human health and the environment from the disposal and reuse of such materials;

“(4) documented cases in which danger to human health or the environment has been proved;

“(5) alternatives to current disposal methods;

“(6) the costs of such alternatives;

“(7) the impact of those alternatives on the use of phosphate rock and uranium ore, and other natural resources; and

“(8) the current and potential utilization of such materials.

Review.

In furtherance of this study, the Administrator shall, as he deems appropriate, review studies and other actions of other Federal and State agencies concerning such waste or materials and invite participation by other concerned parties, including industry and other Federal and State agencies, with a view toward avoiding duplication of effort. The Administrator shall publish a report of such study, which shall include appropriate findings, in conjunction with the publication of the report of the study of mining wastes required to be conducted under subsection (f) of this section. Such report and findings shall be submitted to the Committee on Environment and Public Works of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives.”.

Report.

Submittal to congressional committees.

Repeal.

42 USC 6981 note.

42 USC 6916.

SEC. 30. Section 3 of the Resource Conservation and Recovery Act of 1976 is hereby repealed.

SEC. 31. (a) Section 2006(a) of the Solid Waste Disposal Act is amended by striking “and” and inserting before the period “\$70,000,000 for the fiscal year ending September 30, 1980, \$80,000,000 for the fiscal year ending September 30, 1981, and \$80,000,000 for the fiscal year ending September 30, 1982”.

42 USC 6931.

(b) Section 3011(a) of the Solid Waste Disposal Act is amended by inserting after “1979” the following: “\$20,000,000 for fiscal year 1980, \$35,000,000 for fiscal year 1981, and \$40,000,000 for fiscal year 1982”.

Appropriation, authorization.
42 USC 6948.

(c) Section 4008(a)(1) of the Solid Waste Disposal Act is amended to read as follows:

“(1) There are authorized to be appropriated \$30,000,000 for fiscal year 1978, \$40,000,000 for fiscal year 1979, \$20,000,000 for fiscal year 1980, \$15,000,000 for fiscal year 1981, and \$20,000,000 for fiscal year 1982 for purposes of financial assistance to States and local, regional, and interstate authorities for the development and implementation of plans approved by the Administrator under this subtitle (other than the provisions of such plans referred to in section 4003(b), relating to feasibility planning for municipal waste energy and materials conservation and recovery).”.

Post, p. 2353.

Appropriation authorization.

(d) Section 4008(a)(2)(C) of the Solid Waste Disposal Act is amended by adding at the end thereof: “There are authorized to be appropriated \$10,000,000 for fiscal year 1980, \$10,000,000 for fiscal year 1981, and \$10,000,000 for fiscal year 1982 for purposes of this paragraph.”.

(e) Section 4009(d) of the Solid Waste Disposal Act is amended by adding at the end thereof: "There are authorized to be appropriated \$10,000,000 for the fiscal year 1980 and \$15,000,000 for each of the fiscal years 1981 and 1982 to carry out this section."

Appropriation
authorization.
42 USC 6949.

(f)(1) Subtitle E of the Solid Waste Disposal Act is amended by adding the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 5006. There are authorized to be appropriated to the Secretary of Commerce \$5,000,000 for each of fiscal years 1980, 1981, and 1982 to carry out the purposes of this subtitle."

42 USC 6956.

(2) The table of contents for such subtitle E is amended by adding the following new item at the end thereof:

"Sec. 5006. Authorization of appropriations."

ENERGY AND MATERIALS CONSERVATION AND RECOVERY

SEC. 32. (a) The Congress finds that—

42 USC 6941a.

(1) significant savings could be realized by conserving materials in order to reduce the volume or quantity of material which ultimately becomes waste;

(2) solid waste contains valuable energy and material resources which can be recovered and used thereby conserving increasingly scarce and expensive fossil fuels and virgin materials;

(3) the recovery of energy and materials from municipal waste, and the conservation of energy and materials contributing to such waste streams, can have the effect of reducing the volume of the municipal waste stream and the burden of disposing of increasing volumes of solid waste;

(4) the technology to conserve resources exists and is commercially feasible to apply;

(5) the technology to recover energy and materials from solid waste is of demonstrated commercial feasibility; and

(6) various communities throughout the nation have different needs and different potentials for conserving resources and for utilizing techniques for the recovery of energy and materials from waste, and Federal assistance in planning and implementing such energy and materials conservation and recovery programs should be available to all such communities on an equitable basis in relation to their needs and potential.

(b) Section 4001 of the Solid Waste Disposal Act (relating to objectives) is amended by inserting "including energy and materials which are recoverable from solid waste" after "valuable resources".

42 USC 6941.

(c) Section 4002(c) of the Solid Waste Disposal Act (relating to guidelines for State plans) is amended in paragraph (11) by inserting after "recovered material" the following: "and energy and energy resources recovered from solid waste as well as methods for conserving such materials and energy".

42 USC 6942.

(d)(1) Section 4003 of the Solid Waste Disposal Act is amended by inserting "negotiating and" after "from" in paragraph (5) thereof and by adding the following before the period at the end thereof: "or for conserving materials or energy by reducing the volume of waste".

42 USC 6943.
Ante, p. 2345.

(2) Section 4003 of the Solid Waste Disposal Act (relating to minimum requirements for State plans) is amended by inserting "(a) MINIMUM REQUIREMENTS.—" after "4003" and by adding the following new subsection at the end thereof:

- Infra.* “(b) ENERGY AND MATERIALS CONSERVATION AND RECOVERY FEASIBILITY PLANNING AND ASSISTANCE.—(1) A State which has a plan approved under this subtitle or which has submitted a plan for such approval shall be eligible for assistance under section 4008(a)(3) if the Administrator determines that under such plan the State will—
- “(A) analyze and determine the economic and technical feasibility of facilities and programs to conserve resources which contribute to the waste stream or to recover energy and materials from municipal waste;
- “(B) analyze the legal, institutional, and economic impediments to the development of systems and facilities for conservation of energy or materials which contribute to the waste stream or for the recovery of energy and materials from municipal waste and make recommendations to appropriate governmental authorities for overcoming such impediments;
- “(C) assist municipalities within the State in developing plans, programs, and projects to conserve resources or recover energy and materials from municipal waste; and
- “(D) coordinate the resource conservation and recovery planning under subparagraph (C).
- Analysis.* “(2) The analysis referred to in paragraph (1)(A) shall include—
- “(A) the evaluation of, and establishment of priorities among, market opportunities for industrial and commercial users of all types (including public utilities and industrial parks) to utilize energy and materials recovered from municipal waste;
- “(B) comparisons of the relative costs of energy recovered from municipal waste in relation to the costs of energy derived from fossil fuels and other sources;
- “(C) studies of the transportation and storage problems and other problems associated with the development of energy and materials recovery technology, including curbside source separation;
- “(D) the evaluation and establishment of priorities among ways of conserving energy or materials which contribute to the waste stream;
- “(E) comparison of the relative total costs between conserving resources and disposing of or recovering such waste; and
- “(F) studies of impediments to resource conservation or recovery, including business practices, transportation requirements, or storage difficulties.
- Such studies and analyses shall also include studies of other sources of solid waste from which energy and materials may be recovered or minimized.”
- 42 USC 6948. (e)(1) Section 4008(a)(2)(B) of such Act is amended by adding the following at the end thereof: “Applicants for technical and financial assistance under this section shall not preclude or foreclose consideration of programs for the recovery of recyclable materials through source separation or other resource recovery techniques.”
- Appropriation authorization. (2) Section 4008(a) of such Act is amended by adding the following new paragraph at the end thereof:
- “(3)(A) There is authorized to be appropriated for the fiscal year beginning October 1, 1981, and for each fiscal year thereafter before October 1, 1986, \$4,000,000 for purposes of making grants to States to carry out section 4003(b). No amount may be appropriated for such purposes for the fiscal year beginning on October 1, 1986, or for any fiscal year thereafter.
- Ante*, p. 2353. “(B) Assistance provided by the Administrator under this paragraph shall be used only for the purposes specified in section 4003(b).

Such assistance may not be used for purposes of land acquisition, final facility design, equipment purchase, construction, startup or operation activities.

“(C) Where appropriate, any State receiving assistance under this paragraph may make all or any part of such assistance available to municipalities within the State to carry out the activities specified in section 4003(b)(1) (A) and (B).”

Ante, p. 2353.

(3) Section 4008 of such Act is amended by adding the following new subsection at the end thereof:

Grants.

42 USC 6948.

“(f) ASSISTANCE TO MUNICIPALITIES FOR ENERGY AND MATERIALS CONSERVATION AND RECOVERY PLANNING ACTIVITIES.—(1) The Administrator is authorized to make grants to municipalities, regional authorities, and intermunicipal agencies to carry out activities described in subparagraphs (A) and (B) of section 4003(b)(1). Such grants may be made only pursuant to an application submitted to the Administrator by the municipality which application has been approved by the State and determined by the State to be consistent with any State plan approved or submitted under this subtitle or any other appropriate planning carried out by the State.

“(2) There is authorized to be appropriated for the fiscal year beginning October 1, 1981, and for each fiscal year thereafter before October 1, 1986, \$8,000,000 for purposes of making grants to municipalities under this subsection. No amount may be appropriated for such purposes for the fiscal year beginning on October 1, 1986, or for any fiscal year thereafter.”

Appropriation authorization.

“(3) Assistance provided by the Administrator under this subsection shall be used only for the purposes specified in paragraph (1). Such assistance may not be used for purposes of land acquisition, final facility design, equipment purchase, construction, startup or operation activities.”

(f) Section 4008(d) of the Solid Waste Disposal Act is amended by inserting “(1)” after “TECHNICAL ASSISTANCE.—” and by adding the following new paragraph at the end thereof:

“(2) In carrying out this subsection, the Administrator is authorized to provide technical assistance to States, municipalities, regional authorities, and intermunicipal agencies upon request, to assist in the removal or modification of legal, institutional, and economic impediments which have the effect of impeding the development of systems and facilities to recover energy and materials from municipal waste or to conserve energy or materials which contribute to the waste stream. Such impediments may include—

“(A) laws, regulations, and policies, including State and local procurement policies, which are not favorable to resource conservation and recovery policies, systems, and facilities;

“(B) impediments to the financing of facilities to conserve or recover energy and materials from municipal waste through the exercise of State and local authority to issue revenue bonds and the use of State and local credit assistance; and

“(C) impediments to institutional arrangements necessary to undertake projects for the conservation or recovery of energy and materials from municipal waste, including the creation of special districts, authorities, or corporations where necessary having the power to secure the supply of waste of a project, to conserve resources, to implement the project, and to undertake related activities.”

(g) Section 6003 of the Solid Waste Disposal Act is amended to read as follows:

"COOPERATION WITH THE ENVIRONMENTAL PROTECTION AGENCY

42 USC 6963.

"SEC. 6003. (a) GENERAL RULE.—All Federal agencies shall assist the Administrator in carrying out his functions under this Act and shall promptly make available all requested information concerning past or present Agency waste management practices and past or present Agency owned, leased, or operated solid or hazardous waste facilities. This information shall be provided in such format as may be determined by the Administrator.

"(b) INFORMATION RELATING TO ENERGY AND MATERIALS CONSERVATION AND RECOVERY.—The Administrator shall collect, maintain, and disseminate information concerning the market potential of energy and materials recovered from solid waste, including materials obtained through source separation, and information concerning the savings potential of conserving resources contributing to the waste stream. The Administrator shall identify the regions in which the increased substitution of such energy for energy derived from fossil fuels and other sources is most likely to be feasible, and provide information on the technical and economic aspects of developing integrated resource conservation or recovery systems which provide for the recovery of source-separated materials to be recycled or the conservation of resources. The Administrator shall utilize the authorities of subsection (a) in carrying out this subsection."

NATIONAL ADVISORY COMMISSION ON RESOURCE CONSERVATION AND RECOVERY

Establishment.
42 USC 6981
note.

SEC. 33. (a)(1) There is hereby established in the executive branch of the United States the National Advisory Commission on Resource Conservation and Recovery, hereinafter in this section referred to as the "Commission".

(2) The Commission shall be composed of nine members to be appointed by the President. Such members shall be qualified by reason of their education, training, or experience to represent the view of consumer groups, industry associations, and environmental and other groups concerned with resource conservation and recovery and at least two shall be elected or appointed State or local officials. Members shall be appointed for the life of the Commission.

(3) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) Five members of the Commission shall constitute a quorum for transacting business of the Commission except that a lesser number may hold hearings and conduct information-gathering meetings.

(5) The Chairperson of the Commission shall be designated by the President from among the members.

Report to
President and
Congress.

(6) Upon the expiration of the two-year period beginning on (A) the date when all initial members of the Commission have been appointed or when (B) the date when initial funds become available to carry out this section, whichever is later, the Commission shall transmit to the President, and to each House of the Congress, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable.

Interim reports.

42 USC 6901
note.

(7) The Commission shall submit an interim report on February 15, 1982, and the Commission may also submit, for legislative and administrative actions relating to the Solid Waste Disposal Act, other interim reports prior to the submission of its final report.

(8) The Commission shall cease to exist 30 days after submission of its final report. Termination.

(b) The Commission shall—

(1) after consultation with the appropriate Federal agencies, review budgetary priorities relating to resource conservation and recovery, determine to what extent program goals relating to resource conservation and recovery are being realized, and make recommendations concerning the appropriate program balance and priorities;

Functions.

(2) review any existing or proposed resource conservation and recovery guidelines or regulations;

(3) determine the economic development or savings potential of resource conservation and recovery, including the availability of markets for recovered energy and materials, for economic materials savings through conservation, and make recommendations concerning the utilization of such potential;

(4) identify, and make recommendations addressing, institutional obstacles impeding the development of resource conservation and resource recovery; and

(5) evaluate the status of resource conservation and recovery technology and systems including both materials and energy recovery technologies, recycling methods, and other innovative methods for both conserving energy and materials extractable from solid waste.

The review referred to in paragraph (1) should include but not be limited to an assessment of the effectiveness of the technical assistance panels, the public participation program and other program activities under the Solid Waste Disposal Act.

42 USC 6901
note.
Personnel,
compensation.

(c)(1) Members of the Commission while serving on business of the Commission, shall be compensated at a rate not to exceed the rate specified at the time of such service for grade GS-16 of the General Schedule for each day they are engaged in the actual performance of Commission duties, including travel time; and while so serving away from their homes or regular places of business, all members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

5 USC 5332 note.

(2) Subject to such rules as may be adopted by the Commission, the Chairperson, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power to—

5 USC 5101 *et*
seq., 5331.

(A) appoint a Director, who shall be paid at a rate not to exceed the rate of basic pay for level I, GS-16 of the General Schedule; and

(B) appoint and fix the compensation of not more than 5 additional staff personnel.

(3) This Commission is authorized to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-16 in section 5332 of such title. Experts and consultants may be employed without compensation if they agree to do so in advance.

5 USC 5332 note.

(4) Upon request of the Commission, the head of any Federal agency is authorized to detail on a reimbursable or nonreimbursable

basis any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.

(5) The Commission is exempt from the requirements of sections 4301 through 4308 of title 5, United States Code.

Contracts.

(6) The Commission is authorized to enter into contracts with Federal and State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties and responsibilities.

(7) In order to expedite matters pertaining to the planning for, and work of, the Commission, the Commission is authorized to make purchases and contracts without regard to section 252 of title 41 of the United States Code, pertaining to advertising and competitive bidding, and may arrange for the printing of any material pertaining to the work of the Commission without regard to the Government Printing and Binding Regulations and any related laws or regulations.

(8) The Commission may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

(9) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties and functions. Upon request of the Chairperson, the head of any such Federal agency shall furnish such information to the Commission subject to applicable law.

GSA-provided
services.

(10) Financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) shall be provided to the Commission by the General Services Administration for which payment shall be made in advance, or by reimbursement, from funds of the Commission, in such amounts as may be agreed upon by the Chairperson of the Commission and the Administrator of General Services.

Hearings.

(d) In carrying out its duties under this section the Commission, or any duly authorized committee thereof, is authorized to hold such hearings and take testimony, with respect to matters to which it has a responsibility under this section as the Commission may deem advisable. The Chairperson of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

(e) From the amounts authorized to be appropriated under the Solid Waste Disposal Act for the fiscal years 1981 and 1982, not more than \$1,000,000 may be used to carry out the provisions of this section.

Appropriation
authorization.

Approved October 21, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-191 accompanying H.R. 3994 (Comm. on Interstate and Foreign Commerce) and No. 96-1444 (Comm. of Conference).

SENATE REPORTS: No. 96-172 (Comm. on Environment and Public Works) and No. 96-1010 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 125 (1979): June 4, considered and passed Senate.

Vol. 126 (1980): Feb. 20, H.R. 3994 considered and passed House; passage vacated and S. 1156, amended, passed in lieu.

Oct. 1, Senate agreed to conference report.

Oct. 2, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 43 (1980): Oct. 21, Presidential statement.