

for such approval shall be eligible for assistance under section 6948(a)(3) of this title 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).

(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.

(d) Size of waste-to-energy facilities

Notwithstanding any of the above requirements, it is the intention of this chapter and the planning process developed pursuant to this chapter that in determining the size of the waste-to-energy facility, adequate provision shall be given to the present and reasonably anticipated future needs of the recycling and resource recovery interest within the area encompassed by the planning process.

(Pub. L. 89-272, title II, §4003, as added Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2814; amended Pub. L. 96-463, §5(b), Oct. 15, 1980, 94 Stat. 2056; Pub. L. 96-482, §§18, 32(d), Oct. 21, 1980, 94 Stat.

2345, 2353; Pub. L. 98-616, title III, §301(b), title V, §502(h), Nov. 8, 1984, 98 Stat. 3267, 3277.)

CODIFICATION

Another section 5(b) of Pub. L. 96-463 amended section 6948 of this title.

AMENDMENTS

1984—Subsecs. (b), (c). Pub. L. 98-616, §502(h), redesignated the subsec. (b) entitled energy and materials conservation and recovery feasibility planning and assistance, as subsec. (c).

Subsec. (d). Pub. L. 98-616, §301(b), added subsec. (d).

1980—Subsec. (a). Pub. L. 96-463, §5(b), and Pub. L. 96-482, §32(d)(2), designated existing provisions as subsec. (a).

Subsec. (a)(2). Pub. L. 96-482, §18(a), substituted reference to sections 6944(b) and 6945(a) of this title for reference to section 6945(c) of this title.

Subsec. (a)(5). Pub. L. 96-482, §§18(b), 32(d)(1), substituted “State or local government” for “local government” and required State plan recognition of right to enter into long-term contracts for operation of resource recovery facilities and to secure long-term markets for material and energy recovered from such facilities, and required State plan recognition of right to negotiate long-term contracts and to negotiate and enter into such contracts for conserving materials or energy by reducing the volume of waste.

Subsec. (b). Pub. L. 96-463, §5(b), added subsec. (b) relating to discretionary plan provisions for recycled oil.

Pub. L. 96-482, §32(d)(2), added subsec. (b) relating to energy and materials conservation and recovery feasibility planning and assistance.

§ 6944. Criteria for sanitary landfills; sanitary landfills required for all disposal

(a) Criteria for sanitary landfills

Not later than one year after October 21, 1976, after consultation with the States, and after notice and public hearings, the Administrator shall promulgate regulations containing criteria for determining which facilities shall be classified as sanitary landfills and which shall be classified as open dumps within the meaning of this chapter. At a minimum, such criteria shall provide that a facility may be classified as a sanitary landfill and not an open dump only if there is no reasonable probability of adverse effects on health or the environment from disposal of solid waste at such facility. Such regulations may provide for the classification of the types of sanitary landfills.

(b) Disposal required to be in sanitary landfills, etc.

For purposes of complying with section 6943(2)¹ of this title each State plan shall prohibit the establishment of open dumps and contain a requirement that disposal of all solid waste within the State shall be in compliance with such section 6943(2)¹ of this title.

(c) Effective date

The prohibition contained in subsection (b) shall take effect on the date six months after the date of promulgation of regulations under subsection (a).

(Pub. L. 89-272, title II, §4004, as added Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2815; amended Pub. L. 98-616, title III, §302(b), Nov. 8, 1984, 98 Stat. 3268.)

¹ See References in Text note below.

REFERENCES IN TEXT

Section 6943(2) of this title, referred to in subsec. (b), was redesignated section 6943(a)(2) of this title by Pub. L. 96-463, §5(b), Oct. 15, 1980, 94 Stat. 2056, and Pub. L. 96-482, §32(d)(2), Oct. 21, 1980, 94 Stat. 2353.

AMENDMENTS

1984—Subsec. (c). Pub. L. 98-616 struck out “or on the date of approval of the State plan, whichever is later” at end.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Administrator or other official of Environmental Protection Agency under this chapter to Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see note set out under section 6903 of this title.

§ 6945. Upgrading of open dumps**(a) Closing or upgrading of existing open dumps**

Upon promulgation of criteria under section 6907(a)(3) of this title, any solid waste management practice or disposal of solid waste or hazardous waste which constitutes the open dumping of solid waste or hazardous waste is prohibited, except in the case of any practice or disposal of solid waste under a timetable or schedule for compliance established under this section. The prohibition contained in the preceding sentence shall be enforceable under section 6972 of this title against persons engaged in the act of open dumping. For purposes of complying with section 6943(a)(2) and 6943(a)(3) of this title, each State plan shall contain a requirement that all existing disposal facilities or sites for solid waste in such State which are open dumps listed in the inventory under subsection (b) shall comply with such measures as may be promulgated by the Administrator to eliminate health hazards and minimize potential health hazards. Each such plan shall establish, for any entity which demonstrates that it has considered other public or private alternatives for solid waste management to comply with the prohibition on open dumping and is unable to utilize such alternatives to so comply, a timetable or schedule for compliance for such practice or disposal of solid waste which specifies a schedule of remedial measures, including an enforceable sequence of actions or operations, leading to compliance with the prohibition on open dumping of solid waste within a reasonable time (not to exceed 5 years from the date of publication of criteria under section 6907(a)(3) of this title).

(b) Inventory

To assist the States in complying with section 6943(a)(3) of this title, not later than one year after promulgation of regulations under section 6944 of this title, the Administrator, with the cooperation of the Bureau of the Census shall publish an inventory of all disposal facilities or sites in the United States which are open dumps within the meaning of this chapter.

(c) Control of hazardous disposal

(1)(A) Not later than 36 months after November 8, 1984, each State shall adopt and implement a permit program or other system of prior

approval and conditions to assure that each solid waste management facility within such State which may receive hazardous household waste or hazardous waste due to the provision of section 6921(d) of this title for small quantity generators (otherwise not subject to the requirement for a permit under section 6925 of this title) will comply with the applicable criteria promulgated under section 6944(a) and 6907(a)(3) of this title.

(B) Not later than eighteen months after the promulgation of revised criteria under subsection¹ 6944(a) of this title (as required by section 6949a(c) of this title), each State shall adopt and implement a permit program or other system or² prior approval and conditions, to assure that each solid waste management facility within such State which may receive hazardous household waste or hazardous waste due to the provision of section 6921(d) of this title for small quantity generators (otherwise not subject to the requirement for a permit under section 6925 of this title) will comply with the criteria revised under section 6944(a) of this title.

(C) The Administrator shall determine whether each State has developed an adequate program under this paragraph. The Administrator may make such a determination in conjunction with approval, disapproval or partial approval of a State plan under section 6947 of this title.

(2)(A) In any State that the Administrator determines has not adopted an adequate program for such facilities under paragraph (1)(B) by the date provided in such paragraph, the Administrator may use the authorities available under sections 6927 and 6928 of this title to enforce the prohibition contained in subsection (a) of this section with respect to such facilities.

(B) For purposes of this paragraph, the term “requirement of this subchapter” in section 6928 of this title shall be deemed to include criteria promulgated by the Administrator under sections 6907(a)(3) and 6944(a) of this title, and the term “hazardous wastes” in section 6927 of this title shall be deemed to include solid waste at facilities that may handle hazardous household wastes or hazardous wastes from small quantity generators.

(d) State programs for control of coal combustion residuals**(1) Approval by Administrator****(A) In general**

Each State may submit to the Administrator, in such form as the Administrator may establish, evidence of a permit program or other system of prior approval and conditions under State law for regulation by the State of coal combustion residuals units that are located in the State that, after approval by the Administrator, will operate in lieu of regulation of coal combustion residuals units in the State by—

(i) application of part 257 of title 40, Code of Federal Regulations (or successor regulations promulgated pursuant to sections 6907(a)(3) and 6944(a) of this title); or

¹ So in original. Probably should be “section”.

² So in original. Probably should be “of”.