

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 no-

tice 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)<sup>1</sup> 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)<sup>1</sup> 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.)

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

<sup>1</sup> See References in Text note below.