

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.

§ 6947. Approval of State plan; Federal assistance**(a) Plan approval**

The Administrator shall, within six months after a State plan has been submitted for approval, approve or disapprove the plan. The Administrator shall approve a plan if he determines that—

(1) it meets the requirements of paragraphs (1), (2), (3), and (5) of section 6943(a) of this title; and

(2) it contains provision for revision of such plan, after notice and public hearing, whenever the Administrator, by regulation, determines—

(A) that revised regulations respecting minimum requirements have been promulgated under paragraphs (1), (2), (3), and (5) of section 6943(a) of this title with which the State plan is not in compliance;

(B) that information has become available which demonstrates the inadequacy of the plan to effectuate the purposes of this subchapter; or

(C) that such revision is otherwise necessary.

The Administrator shall review approved plans from time to time and if he determines that revision or corrections are necessary to bring such plan into compliance with the minimum requirements promulgated under section 6943 of this title (including new or revised requirements), he shall, after notice and opportunity for public hearing, withdraw his approval of such plan. Such withdrawal of approval shall cease to be effective upon the Administrator's determination that such complies with such minimum requirements.

(b) Eligibility of States for Federal financial assistance

(1) The Administrator shall approve a State application for financial assistance under this subchapter, and make grants to such State, if such State and local and regional authorities within such State have complied with the requirements of section 6946 of this title within the period required under such section and if such State has a State plan which has been approved by the Administrator under this subchapter.

(2) The Administrator shall approve a State application for financial assistance under this subchapter, and make grants to such State, for fiscal years 1978 and 1979 if the Administrator determines that the State plan continues to be eligible for approval under subsection (a) and is being implemented by the State.

(3) Upon withdrawal of approval of a State plan under subsection (a), the Administrator shall withhold Federal financial and technical assistance under this subchapter (other than

such technical assistance as may be necessary to assist in obtaining the reinstatement of approval) until such time as such approval is reinstated.

(c) Existing activities

Nothing in this subchapter shall be construed to prevent or affect any activities respecting solid waste planning or management which are carried out by State, regional, or local authorities unless such activities are inconsistent with a State plan approved by the Administrator under this subchapter.

(Pub. L. 89-272, title II, § 4007, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2817; amended Pub. L. 95-609, § 7(l), Nov. 8, 1978, 92 Stat. 3082; Pub. L. 104-119, § 4(8), Mar. 26, 1996, 110 Stat. 833.)

AMENDMENTS

1996—Subsec. (a)(1), (2)(A). Pub. L. 104-119 substituted “section 6943(a) of this title” for “section 6943 of this title”.

1978—Subsec. (c). Pub. L. 95-609 substituted “(c)” for “(C)” in subsection designation.

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§ 6948. Federal assistance**(a) Authorization of Federal financial assistance**

(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, \$20,000,000 for the fiscal year 1982, and \$10,000,000 for each of the fiscal years 1985 through 1988 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 subchapter (other than the provisions of such plans referred to in section 6943(b)¹ of this title, relating to feasibility planning for municipal waste energy and materials conservation and recovery).

(2)(A) The Administrator is authorized to provide financial assistance to States, counties, municipalities, and intermunicipal agencies and State and local public solid waste management authorities for implementation of programs to provide solid waste management, resource recovery, and resource conservation services and hazardous waste management. Such assistance shall include assistance for facility planning and feasibility studies; expert consultation; surveys and analyses of market needs; marketing of recovered resources; technology assessments; legal expenses; construction feasibility studies; source separation projects; and fiscal or economic investigations or studies; but such assistance shall not include any other element of construction, or any acquisition of land or interest in land, or any subsidy for the price of recovered resources. Agencies assisted under this sub-

¹ See References in Text note below.

section shall consider existing solid waste management and hazardous waste management services and facilities as well as facilities proposed for construction.

(B) An applicant for financial assistance under this paragraph must agree to comply with respect to the project or program assisted with the applicable requirements of section 6945 of this title and subchapter III of this chapter and apply applicable solid waste management practices, methods, and levels of control consistent with any guidelines published pursuant to section 6907 of this title. Assistance under this paragraph shall be available only for programs certified by the State to be consistent with any applicable State or areawide solid waste management plan or program. 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.

(C) There are authorized to be appropriated \$15,000,000 for each of the fiscal years 1978 and 1979 for purposes of this section. There are authorized to be appropriated \$10,000,000 for fiscal year 1980, \$10,000,000 for fiscal year 1981, \$10,000,000 for fiscal year 1982, and \$10,000,000 for each of the fiscal years 1985 through 1988 for purposes of this paragraph.

(D) There are authorized—

(i) to be made available \$15,000,000 out of funds appropriated for fiscal year 1985, and

(ii) to be appropriated for each of the fiscal years 1986 through² 1988, \$20,000,000³

for grants to States (and where appropriate to regional, local, and interstate agencies) to implement programs requiring compliance by solid waste management facilities with the criteria promulgated under section 6944(a) of this title and section 6907(a)(3) of this title and with the provisions of section 6945 of this title. To the extent practicable, such programs shall require such compliance not later than thirty-six months after November 8, 1984.

(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 6943(b)¹ of this title. No amount may be appropriated for such purposes for the fiscal year beginning on October 1, 1986, or for any fiscal year thereafter.

(B) Assistance provided by the Administrator under this paragraph shall be used only for the purposes specified in section 6943(b)¹ of this title. 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 6943(b)(1)(A) and (B)¹ of this title.

² So in original. Probably should be "through".

³ So in original. Probably should be followed by a comma.

(b) State allotment

The sums appropriated in any fiscal year under subsection (a)(1) shall be allotted by the Administrator among all States, in the ratio that the population in each State bears to the population in all of the States, except that no State shall receive less than one-half of 1 per centum of the sums so allotted in any fiscal year. No State shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for other than non-recurrent expenditures for solid waste management control programs will be less than its expenditures were for such programs during fiscal year 1975, except that such funds may be reduced by an amount equal to their proportionate share of any general reduction of State spending ordered by the Governor or legislature of such State. No State shall receive any grant for solid waste management programs unless the Administrator is satisfied that such grant will be so used as to supplement and, to the extent practicable, increase the level of State, local, regional, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such programs.

(c) Distribution of Federal financial assistance within the State

The Federal assistance allotted to the States under subsection (b) shall be allocated by the State receiving such funds to State, local, regional, and interstate authorities carrying out planning and implementation of the State plan. Such allocation shall be based upon the responsibilities of the respective parties as determined pursuant to section 6946(b) of this title.

(d) Technical assistance

(1) The Administrator may provide technical assistance to State and local governments for purposes of developing and implementing State plans. Technical assistance respecting resource recovery and conservation may be provided through resource recovery and conservation panels, established in the Environmental Protection Agency under subchapter II, to assist the State and local governments with respect to particular resource recovery and conservation projects under consideration and to evaluate their effect on the State plan.

(2) In carrying out this subsection, the Administrator may, upon request, provide technical assistance to States to assist in the removal or modification of legal, institutional, economic, and other impediments to the recycling of used oil. Such impediments may include laws, regulations, and policies, including State procurement policies, which are not favorable to the recycling of used oil.

(3) 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 recovery 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.

(e) Special communities

(1) The Administrator, in cooperation with State and local officials, shall identify local governments within the United States (A) having 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, and (B) which are located over an aquifer which is the source of drinking water for any person or public water system and which has serious environmental problems resulting from the disposal of such solid waste, including possible methane migration.

(2) There is authorized to be appropriated to the Administrator \$2,500,000 for the fiscal year 1980 and \$1,500,000 for each of the fiscal years 1981 and 1982 to make grants to be used for containment and stabilization of solid waste located at the disposal sites referred to in paragraph (1). Not more than one community in any State shall be eligible for grants under this paragraph and not more than one project in any State shall be eligible for such grants. No unit of local government shall be eligible for grants under this paragraph with respect to any site which exceeds 65 acres in size.

(f) Assistance to States for discretionary program for recycled oil

(1) The Administrator may make grants to States, which have a State plan approved under section 6947 of this title, or which have submitted a State plan for approval under such section, if such plan includes the discretionary provisions described in section 6943(b) of this title. Grants under this subsection shall be for purposes of assisting the State in carrying out such discretionary provisions. No grant under this subsection may be used for construction or for the acquisition of land or equipment.

(2) Grants under this subsection shall be allotted among the States in the same manner as provided in the first sentence of subsection (b).

(3) No grant may be made under this subsection unless an application therefor is submitted to, and approved by, the Administrator. The application shall be in such form, be submitted in such manner, and contain such information as the Administrator may require.

(4) For purposes of making grants under this subsection, there are authorized to be appropriated \$5,000,000 for fiscal year 1982, \$5,000,000 for fiscal year 1983, and \$5,000,000 for each of the fiscal years 1985 through 1988.

(g) 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 6943(b)(1)¹ of this title. 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 subchapter 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.

(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.

(Pub. L. 89-272, title II, § 4008, as added Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2818; amended Pub. L. 96-463, §§ 5(b), 6, Oct. 15, 1980, 94 Stat. 2057; Pub. L. 96-482, §§ 20, 31(c), (d), 32(e), (f), Oct. 21, 1980, 94 Stat. 2345, 2352, 2354, 2355; Pub. L. 98-616, § 2(d)-(g), (k), title V, § 502(d), (e), Nov. 8, 1984, 98 Stat. 3222, 3223, 3276.)

REFERENCES IN TEXT

Section 6943(b) of this title, referred to in subsecs. (a)(1), (3) and (g)(1), was redesignated section 6943(c) of this title by Pub. L. 98-616, title V, § 502(h), Nov. 8, 1984, 98 Stat. 3277.

CODIFICATION

Section 2(d)-(g) of Pub. L. 98-616, cited as a credit to this section, appears to contain typographical error in that the text of subsec. (f)(1) of section 2007 of the Solid Waste Disposal Act (as added by section 2(i) of Pub. L. 98-616) is also shown as the text of subsec. "(f)(1)" of such section 2. Subsec. (f) of section 2, as set out in the Conference Report (H. Rept. 98-1133) to accompany H.R. 2867 (which became Pub. L. 98-616) read:

"(f) Section 4008(e)(2) of the Solid Waste Disposal Act (relating to special communities) is amended by striking out 'and \$1,500,000 for each of the fiscal years 1981 and 1982' and substituting ', \$1,500,000 for each of the fiscal years 1981 and 1982, and \$500,000 for each of the fiscal years 1985 through 1988'."

Another section 5(b) of Pub. L. 96-463 amended section 6943 of this title.

AMENDMENTS

1984—Subsec. (a)(1). Pub. L. 98-616, § 2(d), authorized appropriation of \$10,000,000 for each of fiscal years 1985 through 1988.

Subsec. (a)(2)(C). Pub. L. 98-616, § 2(e), authorized appropriation of \$10,000,000 for each of fiscal years 1985 through 1988.

Subsec. (a)(2)(D). Pub. L. 98-616, §2(k), added subpar. (D).

Subsec. (d)(2), (3). Pub. L. 98-616, §502(d), redesignated second par. (2), relating to recovery of energy and materials from municipal waste, as par. (3).

Subsec. (f). Pub. L. 98-616, §502(e), redesignated second subsec. (f), relating to assistance to municipalities for energy and materials conservation and recovery planning activities, as subsec. (g).

Subsec. (f)(4). Pub. L. 98-616, §2(g), authorized appropriation of \$5,000,000 for each of fiscal years 1985 through 1988.

Subsec. (g). Pub. L. 98-616, §502(e), redesignated second subsec. (f), relating to assistance to municipalities for energy and materials conservation and recovery planning activities, as subsec. (g).

1980—Subsec. (a)(1). Pub. L. 96-482, §31(c), authorized appropriations of \$20,000,000, \$15,000,000, and \$20,000,000 for fiscal years, 1980, 1981, and 1982, respectively, and substituted provision making appropriation available for financial assistance to States, and local, regional, and interstate authorities for development and implementation of plans approved by the Administrator, except plans referred to in section 6943(b) of this title, relating to feasibility planning for municipal waste energy and materials conservation and recovery for provision making appropriations available to State for development and implementation of State plans.

Subsec. (a)(2)(B). Pub. L. 96-482, §32(e)(1), provided that applicants for technical and financial assistance shall not preclude or foreclose consideration of programs for recovery of recyclable materials through source separation or other resource recovery techniques.

Subsec. (a)(2)(C). Pub. L. 96-482, §31(d), authorized appropriation of \$10,000,000 for each fiscal year 1980, 1981, and 1982.

Subsec. (a)(3). Pub. L. 96-482, §32(e)(2), added par. (3).

Subsec. (d). Pub. L. 96-463, §6, and Pub. L. 96-482, §32(f), designated existing provisions as par. (1).

Subsec. (d)(2). Pub. L. 96-463, §6, added par. (2) authorizing the Administrator to provide technical assistance to States to assist in the removal or modification of legal, institutional, economic, and other impediments to the recycling of used oil.

Pub. L. 96-482, §32(f), added par. (2) authorizing the Administrator to provide technical assistance to States, municipalities, regional authorities, and intermunicipal agencies 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.

Subsec. (e)(1). Pub. L. 96-482, §20(1)-(5), substituted in provision preceding cl. (A) "identify local governments" for "identify communities", struck out cl. (A), which required the Administrator to identify populations of less than twenty-five thousand persons, redesignated cls. (B) and (C) as (A) and (B), respectively, in cl. (A) as so redesignated, substituted "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" for "solid waste disposal facilities in which more than 75 per centum of the solid waste of is from areas outside the jurisdiction of the communities" in cl. (B) as so redesignated, substituted "which are located over an aquifer which is the source of drinking water for any person or public water system and which has" for "which have" and inserted ", including possible methane migration" after "such solid waste".

Subsec. (e)(2). Pub. L. 96-482, §20(6)-(8), substituted appropriations authorization of \$2,500,000; \$1,500,000; and \$1,500,000 for fiscal years 1980, 1981, and 1982, for prior authorization of \$2,500,000 for fiscal years 1978 and 1979, substituted provision for grants for "containment and stabilization of solid waste located at the disposal sites referred to in paragraph (1)" for such grants for "the

conversion, improvement, or consolidation of existing solid waste disposal facilities, or for the construction of new solid waste disposal facilities, or for both, within communities identified under paragraph (1)", and prohibited grants to units of local government when site exceeds 65 acres in size.

Subsec. (e)(3). Pub. L. 96-482, §20(9), struck out par. (3) which required that grants to States be made only when the projects are consistent with applicable and approved State plan and will assist in carrying out such plan.

Subsec. (f). Pub. L. 96-463, §5(b), added subsec. (f) relating to assistance to States for discretionary program for recycled oil.

Pub. L. 96-482, §32(e)(3), added subsec. (f) relating to assistance to municipalities for energy and materials conservation and recovery planning activities.

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§ 6949. Rural communities assistance

(a) In general

The Administrator shall make grants to States to provide assistance to municipalities with a population of five thousand or less, or counties with a population of ten thousand or less or less than twenty persons per square mile and not within a metropolitan area, for solid waste management facilities (including equipment) necessary to meet the requirements of section 6945 of this title or restrictions on open burning or other requirements arising under the Clean Air Act [42 U.S.C. 7401 et seq.] or the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.]. Such assistance shall only be available—

(1) to any municipality or county which could not feasibly be included in a solid waste management system or facility serving an urbanized, multijurisdictional area because of its distance from such systems;

(2) where existing or planned solid waste management services or facilities are unavailable or insufficient to comply with the requirements of section 6945 of this title; and

(3) for systems which are certified by the State to be consistent with any plans or programs established under any State or areawide planning process.

(b) Allotment

The Administrator shall allot the sums appropriated to carry out this section in any fiscal year among the States in accordance with regulations promulgated by him on the basis of the average of the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States, the ratio which the population of counties in each State having less than twenty persons per square mile bears to the total population of such counties in all the States, and the ratio which the population of such low-density counties in each State having 33 per centum or more of all families with incomes not in excess of 125 per centum