

erator demonstrates that there is no potential for migration of hazardous constituents from the unit to the uppermost aquifer during the active life of the unit and the post-closure care period.

(B) Certification

A demonstration under subparagraph (A) shall be certified by a qualified ground-water scientist and approved by the Director of an approved State.

(C) Guidance

Not later than 6 months after March 26, 1996, the Administrator shall issue a guidance document to facilitate small community use of the no migration¹ exemption under this paragraph.

(5) Alaska Native villages

Upon certification by the Governor of the State of Alaska that application of the requirements described in paragraph (1) to a solid waste landfill unit of a Native village (as defined in section 1602 of title 43) or unit that is located in or near a small, remote Alaska village would be infeasible, or would not be cost-effective, or is otherwise inappropriate because of the remote location of the unit, the State may exempt the unit from some or all of those requirements. This paragraph shall apply only to solid waste landfill units that dispose of less than 20 tons of municipal solid waste daily, based on an annual average.

(6) Further revisions of guidelines and criteria

Recognizing the unique circumstances of small communities, the Administrator shall, not later than two years after March 26, 1996, promulgate revisions to the guidelines and criteria promulgated under this subchapter to provide additional flexibility to approved States to allow landfills that receive 20 tons or less of municipal solid waste per day, based on an annual average, to use alternative frequencies of daily cover application, frequencies of methane gas monitoring, infiltration layers for final cover, and means for demonstrating financial assurance: *Provided*, That such alternative requirements take into account climatic and hydrogeologic conditions and are protective of human health and environment.

(Pub. L. 89-272, title II, §4010, as added Pub. L. 98-616, title III, §302(a)(1), Nov. 8, 1984, 98 Stat. 3267; amended Pub. L. 104-119, §3(a), Mar. 26, 1996, 110 Stat. 831.)

Editorial Notes

AMENDMENTS

1996—Subsec. (c). Pub. L. 104-119 designated existing provisions as par. (1), inserted heading, and added pars. (2) to (6).

Statutory Notes and Related Subsidiaries

REINSTATEMENT OF REGULATORY EXEMPTION

Pub. L. 104-119, §3(b), Mar. 26, 1996, 110 Stat. 833, provided that: "It is the intent of section 4010(c)(2) of the

¹ So in original. Probably should be "no-migration".

Solid Waste Disposal Act [42 U.S.C. 6949a(c)(2)], as added by subsection (a), to immediately reinstate subpart E of part 258 of title 40, Code of Federal Regulations, as added by the final rule published at 56 Federal Register 50798 on October 9, 1991."

SUBCHAPTER V—DUTIES OF SECRETARY OF COMMERCE IN RESOURCE AND RECOVERY

§ 6951. Functions

The Secretary of Commerce shall encourage greater commercialization of proven resource recovery technology by providing—

- (1) accurate specifications for recovered materials;
- (2) stimulation of development of markets for recovered materials;
- (3) promotion of proven technology; and
- (4) a forum for the exchange of technical and economic data relating to resource recovery facilities.

(Pub. L. 89-272, title II, §5001, as added Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2820.)

§ 6952. Development of specifications for secondary materials

The Secretary of Commerce, acting through the National Institute of Standards and Technology, and in conjunction with national standards-setting organizations in resource recovery, shall, after public hearings, and not later than two years after September 1, 1979, publish guidelines for the development of specifications for the classification of materials recovered from waste which were destined for disposal. The specifications shall pertain to the physical and chemical properties and characteristics of such materials with regard to their use in replacing virgin materials in various industrial, commercial, and governmental uses. In establishing such guidelines the Secretary shall also, to the extent feasible, provide such information as may be necessary to assist Federal agencies with procurement of items containing recovered materials. The Secretary shall continue to cooperate with national standards-setting organizations, as may be necessary, to encourage the publication, promulgation and updating of standards for recovered materials and for the use of recovered materials in various industrial, commercial, and governmental uses.

(Pub. L. 89-272, title II, §5002, as added Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2820; amended Pub. L. 96-482, §21(a), Oct. 21, 1980, 94 Stat. 2346; Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433.)

Editorial Notes

AMENDMENTS

1988—Pub. L. 100-418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards".

1980—Pub. L. 96-482 substituted "September 1, 1979" for "October 21, 1976".

§ 6953. Development of markets for recovered materials

The Secretary of Commerce shall within two years after September 1, 1979, take such actions as may be necessary to—

(1) identify the geographical location of existing or potential markets for recovered materials;

(2) identify the economic and technical barriers to the use of recovered materials; and

(3) encourage the development of new uses for recovered materials.

(Pub. L. 89-272, title II, §5003, as added Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2821; amended Pub. L. 96-482, §21(b), Oct. 21, 1980, 94 Stat. 2346.)

Editorial Notes

AMENDMENTS

1980—Pub. L. 96-482 substituted “September 1, 1979” for “October 21, 1976”.

§ 6954. Technology promotion

The Secretary of Commerce is authorized to evaluate the commercial feasibility of resource recovery facilities and to publish the results of such evaluation, and to develop a data base for purposes of assisting persons in choosing such a system.

(Pub. L. 89-272, title II, §5004, as added Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2821.)

§ 6955. Marketing policies, establishment; non-discrimination requirement

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.

(Pub. L. 89-272, title II, §5005, as added Pub. L. 96-482, §21(c)(1), Oct. 21, 1980, 94 Stat. 2346.)

§ 6956. Authorization of appropriations

There are authorized to be appropriated to the Secretary of Commerce \$5,000,000 for each of fiscal years 1980, 1981, and 1982 and \$1,500,000 for each of the fiscal years 1985 through 1988 to carry out the purposes of this subchapter.

(Pub. L. 89-272, title II, §5006, as added Pub. L. 96-482, §31(f)(1), Oct. 21, 1980, 94 Stat. 2353; amended Pub. L. 98-616, §2(h), Nov. 8, 1984, 98 Stat. 3223.)

Editorial Notes

AMENDMENTS

1984—Pub. L. 98-616 authorized appropriation of \$1,500,000 for each of fiscal years 1985 through 1988.

SUBCHAPTER VI—FEDERAL RESPONSIBILITIES

§ 6961. Application of Federal, State, and local law to Federal facilities

(a) In general

Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having

jurisdiction over any solid waste management facility or disposal site, or (2) engaged in any activity resulting, or which may result, in the disposal or management of solid waste or hazardous waste shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting control and abatement of solid waste or hazardous waste disposal and management in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local solid waste or hazardous waste regulatory program. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court with respect to the enforcement of any such injunctive relief. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local solid or hazardous waste law with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State solid or hazardous waste law, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction. The President may exempt any solid waste management facility of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation.