

§ 1. The legislature finds that it is essential to protect the state's fish, shellfish, crustacea, wildlife and game for the purposes of the state's ecological well-being, recreation and commerce. Current penalties against the illegal commercialization of these resources do not serve as deterrents against the exploitation of the fish, shellfish, crustacea, wildlife or game.

The legislature further finds that there is great incentive to violate the state's laws and for the illegal taking and overtaking of these natural resources because of the high market value they represent and the potential profit in their sale.

Therefore, it is the purpose of this act to increase the fines and penalties for the illegal taking of fish, shellfish, crustacea, wildlife and game and to scale such fines and penalties according to the relative market value of the fish, shellfish, crustacea, wildlife and game.

§ 2. The environmental conservation law is amended by adding a new section 71-0924 to read as follows:

**§ 71-0924. Illegal commercialization of fish, shellfish, crustaceans, and wildlife**

Notwithstanding any other provision of this chapter, when a violation involves the sale, trade or barter of fish, shellfish, crustaceans, wildlife, or parts thereof, the sale, trade or barter of which is prohibited by the fish and wildlife law, the following additional penalties shall be imposed:

1. where the value of fish, shellfish, crustaceans, wildlife, or parts thereof, is two hundred fifty dollars or less, the offense shall be a violation punishable by a fine of five hundred dollars and/or not more than fifteen days of imprisonment;

2. where the value of fish, shellfish, crustaceans, wildlife, or parts thereof, is more than two hundred fifty dollars but does not exceed one thousand five hundred dollars, the offense shall be a misdemeanor punishable by a fine of five thousand dollars and/or not more than one year of imprisonment; and

3. where the value of fish, shellfish, crustaceans, wildlife, or parts thereof, exceeds one thousand five hundred dollars, the offense shall constitute a class E felony under the provisions of the penal law.

For the purposes of this section the value of fish, shellfish, crustaceans and wildlife shall be the fair market value of or actual price paid for such resource, whichever is greater.

§ 3. This act shall take effect on the first day of November next succeeding the date on which it shall have become a law.

## SOLID WASTE MANAGEMENT ACT OF 1988

### CHAPTER 70

S.8107,A.10652

*Memorandum relating to this chapter, see Executive Memoranda, post*

Approved May 2, 1988, effective as provided in section 29

AN ACT to amend the environmental conservation law, the public authorities law, the economic development law, the state finance law, the county law, the general municipal law, the town law, the village law and chapter fifty of the laws of nineteen hundred eighty-eight relating to the state operations budget, in relation to enacting the solid waste management act of 1988; establishing a state solid waste management policy; creating a state bureau of waste reduction and recycling and a state solid waste management board; allocates funds appropriated for solid waste management and repealing certain provisions of the environmental conservation law relating to local resource programs and technical assistance

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Additions in text are indicated by underline; deletions by ~~strikeouts~~

§ 1. Short title. This act shall be known and may be cited as the "Solid Waste Management Act of 1988".

§ 2. Legislative findings and intent. The legislature finds and declares that the proper management of solid waste is necessary to protect public health and the environment. Toward this end, it is necessary to reduce the generation of solid waste, to accelerate the recovery and reuse of secondary materials within the state, to encourage the conservation of resources, to foster public and private initiatives to achieve these ends, and to encourage a new ethic among New York's citizens to conserve and reuse, rather than discard, useful materials. A state-local partnership is essential to achieving these ends.

Waste reduction is a key strategy in the state solid waste management policy. The promotion of effective waste reduction strategies, on a statewide or regional basis, would assist local governments in developing more effective waste disposal programs. Thus, the state must identify and encourage the implementation of effective waste reduction techniques.

The legislature further finds that, when accompanied by the development of adequate markets for materials separated from the waste stream, source separation and recycling programs can be effective ways to reduce the ultimate volume of solid waste requiring disposal. Thus, the state should provide enhanced assistance in developing and identifying markets for secondary materials.

The legislature also finds that many communities face a crisis in development and implementation of environmentally acceptable ways to dispose of the waste produced by their residents and the industries located within their jurisdictions. This crisis demonstrates the need to facilitate planning for and the development of local solid waste management programs, to provide additional state technical assistance, and to enhance state programs relating to solid waste management. State assistance in these areas is needed to assist localities which must assess solid waste management alternatives, work with concerned interests and the public in evaluating these alternatives, and design and implement solid waste management programs.

The legislature finds that, in order for communities to plan for and implement safe and adequate solid waste management programs, state government must ensure that solid waste is managed in an appropriate manner. It is essential that the state provide clear recommendations and specific program steps to give meaning to the broad management priorities contained in the state solid waste management policy established herein, so that localities may develop more effective disposal solutions. Thus, it is the intent of this legislation to ensure and support an improved regulatory environment which permits localities and private industry to plan for, establish, and operate such facilities with the state providing enhanced assistance to local governments to enable them to devise and implement such local programs.

It is the intent of the legislature to ensure that all concerned recognize that solid waste management programs undertaken by state agencies to establish a pattern or course of conduct for the future should be guided by rules promulgated pursuant to the state administrative procedure act under which local governments and other persons directly or indirectly affected are afforded the fullest opportunity to respond to any proposed new or revised rules.

Finally, it is the intent of the legislature to create a mechanism that will ensure that state agencies and authorities charged with assisting those who are responsible for solid waste management will operate cooperatively in developing implementation strategies that reflect the state's overall solid waste management policy.

§ 3. Subdivision one of section 3-0301 of the environmental conservation law is amended by adding a new paragraph cc to read as follows:

cc. Prescribe and certify the qualifications for operators of solid waste management facilities as defined in section 27-0701 of this chapter; provided, however, that the commissioner shall not require the certification of operators until the commissioner shall have identified or established programs of training within the state that satisfy such qualifications;

§ 4. Subdivision five of section 19-0306 of such law is renumbered subdivision seven and two new subdivisions five and six are added to read as follows:

5. The department shall, in promulgating any new or revised rule or regulation, accompany such rule making with an environmental impact statement or a written assessment stating the extent to or means by which such rule or regulation will prevent, control or prohibit air pollution.

6. Operating requirements established pursuant to this section for municipal incineration facilities shall be embodied in rules and regulations of the department promulgated in accordance with the state administrative procedure act.

§ 5. Section 27-0103 of such law, as added by chapter five hundred fifty-two of the laws of nineteen hundred eighty, is amended to read as follows:

**§ 27-0103. Implementation State solid waste management plan**

1. For the purposes of this article, the department is designated as the official state agency with the responsibility for preparing, and updating ~~and overseeing implementation of~~ the New York state solid waste management plan (hereinafter referred to as the "plan") consistent with the state resource recovery policies declared in the New York state resource recovery policy act, with this title, with titles five and seven of this article, and with the federal "Resource Conservation and Recovery Act of 1976"<sup>1</sup> and amendments thereto.

2. The commissioner shall, with the advice of the state solid waste management board established pursuant to section 27-0702 of this article, annually review the status of programs and information contained within the plan and make recommendations for legislation or other state action related to:

(a) comprehensive procurement policies applicable to state agencies and public authorities which will give maximum feasible encouragement to the procurement of products manufactured with stated levels of recycled secondary materials;

(b) incentives for developing and expanding markets for promoting the return of secondary materials and other recovered resources to productive use; and

(c) analysis of the packaging portion and other various components of the waste stream to propose changes which will conserve energy and reduce solid waste generation.

In making such recommendations and reviewing said plans the commissioner shall take into account sound principles of solid waste management and relevant considerations of natural resources conservation, energy production and employment creating opportunities and shall further take into account any relevant changes in federal and state laws, any ~~municipal local~~ solid waste management plans ~~submitted~~ developed pursuant to the commissioner section 27-0107 of this article, and the experience of agencies, local governments, private industry and, the public ~~in the implementation of the plan~~ and the results of the public participation contemplated by the United States Environmental Protection Agency's Guidelines for Public Participation in Programs under the Resource Conservation and Recovery Act (40 CFR Part 25). On the basis of that review, the commissioner shall modify the plan, as appropriate, and, not later than March thirty-first of each year, shall file such modified plan with the governor and the legislature.

3. Amendments to the plan shall assure current attention to:

(a) an identification of the boundaries of those regions within the state which, as a result of urban concentration, geographic conditions, secondary materials markets, technological feasibility, and other factors, are appropriate for carrying out regional solid waste management;

(b) identification of which solid waste functions will be planned for and carried out by which local authorities, regional authorities, state authorities, agencies and public benefit corporations, giving due consideration to the compatibility of the planning and implementing functions which can be combined at the local level;

(c) identification of local, regional and state authorities and agencies which shall have responsibility for implementation of such plan and the solid waste functions identified in the plan which shall be managed and carried out by or on behalf of such entities or any

combination thereof, giving due consideration to the compatibility of the planning and implementing functions which can be combined at the local level;

(d) identification of the environmental impacts including, but not limited to, air or water pollution, or the generation of hazardous waste resulting from the utilization of ~~classes of resource recovery technology~~ solid waste management technologies;

(e) identification and projections of changes in the waste stream that are likely to occur during the useful life of a proposed facility, on a statewide and regional basis, during the projected planning period;

(f) the status of solid waste management activities and capacity, and projected special needs within the state;

(g) an assessment of future programs and resource needs to effectuate the purposes of such plan;

(h) an assessment of alternative resource recovery practices including but not limited to source separation, waste volume reduction, community recycling centers and sanitary landfill or other environmentally sound disposal manner or practice;

(g) ~~(i)~~ any plan relating to local solid waste management plan submitted to the commissioner by or on behalf of any municipality; and

~~(h)~~ (j) legislative recommendations appropriate to effectuate the purposes of this title; and

(k) any other recommendations as may be appropriate.

4. In the case of any region which, pursuant to the federal "Resource Conservation and Recovery Act of 1976", would be located in two or more states, the commissioner shall include in the plan an identification of such regions and the function to be performed thereby, ~~shall recommend the appropriate interstate agency for implementation of that aspect of the plan, and shall submit to the governor and the legislature recommendations for the development and enactment of the interstate agreements necessary to carry out the purposes of this article.~~

5. In connection with developing and updating the plan, the commissioner may request and shall receive from any department, division, board, bureau, commission or other agency of the state or any political subdivision thereof or any public authority such assistance and data as may be reasonably necessary to enable the commissioner to carry out his responsibilities under this section. In making such request, the commissioner shall consult and cooperate with such municipality or other public body to ~~assure~~ ensure against unnecessary duplication of effort or other administrative inefficiency.

<sup>1</sup> 42 U.S.C.A. § 6901 et seq.

§ 6. Such law is amended by adding a new section 27-0106 to read as follows:

**§ 27-0106. State solid waste management policy**

In the interest of public health, safety and welfare and in order to conserve energy and natural resources, the state of New York, in enacting this section, establishes as its policy that:

1. The following are the solid waste management priorities in this state:

(a) first, to reduce the amount of solid waste generated;

(b) second, to reuse material for the purpose for which it was originally intended or to recycle material that cannot be reused;

(c) third, to recover, in an environmentally acceptable manner, energy from solid waste that can not be economically and technically reused or recycled; and

(d) fourth, to dispose of solid waste that is not being reused, recycled or from which energy is not being recovered, by land burial or other methods approved by the department.

2. State government must make an essential contribution to the development and implementation of environmentally, economically and technically viable solid waste

management programs through fulfilling its responsibilities to provide programs which promote waste reduction and the expansion of markets for recovered materials, clearly articulated, responsive and consistently applied regulatory structures, and a full range of technical assistance to local governments. A state-local partnership, in which the basic responsibility for the planning and operation of solid waste management facilities remains with local governments and the state provides necessary guidance and assistance, must be forged.

3. This policy, after consideration of economic and technical feasibility, shall guide the solid waste management programs and decisions of the department and other state agencies and authorities.

§ 7. Such law is amended by adding two new sections 27-0107 and 27-0109 to read as follows:

**§ 27-0107. Local solid waste management plans; purpose and scope**

1. Purpose and scope. (a) A planning unit may undertake and complete a timely process leading to a local solid waste management plan for such unit for at least a ten-year period. For purposes of this section and section 27-0109 of this article, "planning unit" shall mean a county, two or more counties acting jointly, a local government agency or authority established pursuant to state law for the purposes of managing solid waste, or two or more other municipalities which the department determines to be capable of implementing a regional solid waste management program.

(b) The local solid waste management plan shall:

(i) characterize the solid waste stream to be managed in the planning period;

(ii) assess existing and alternate proposed solid waste management programs and facilities;

(iii) address to the maximum extent practicable the comments and views expressed by concerned governmental, environmental, commercial and industrial interests and the public on the waste reduction, recycling, reuse and disposal alternatives;

(iv) identify the parties with responsibility to implement each element of the plan and the steps which must be undertaken by each;

(v) set forth a timetable for implementing the plan;

(vi) describe the participation in the preparation of the plan of each municipality which has chosen to participate in such preparation; and

(vii) describe (A) measures undertaken by the municipalities participating in the planning unit to secure participation of neighboring jurisdictions, (B) the limitations, if any, imposed by the proposed plan on solid waste management alternatives available to such neighboring jurisdictions, and (C) alternatives which would be available if a local solid waste management plan including such jurisdictions were prepared. Specific written suggestions received from neighboring jurisdictions shall be summarized and reflected in the plan.

(c) Such plan shall take into account the objectives of the state solid waste management policy, provide for or take into account management of all solid waste within the planning unit, and embody, as may be appropriate to the circumstances, sound principles of solid waste management, natural resources conservation, energy production, and employment creating opportunities.

(d) Such plan is authorized to include and shall utilize, to the extent practicable, prepared resource materials or generic analyses so as to minimize the development and use of original data to degrees of detail not pertinent to the circumstances.

(e) A plan may be submitted to the department by a planning unit on its own initiative or upon the request of the participating municipalities. The department shall review such plan and advise the planning unit that:

(i) the plan contains the elements set forth in paragraph (b) of this subdivision. Thereafter such plan shall become the local solid waste management plan in effect for such municipalities; or

(ii) the plan as submitted does not contain the elements set forth in paragraph (b) of this subdivision. The department shall state the reasons for its determination under this subparagraph.

(f) For purposes of this subdivision, the department shall not serve as lead agency as defined in subdivision six of section 8-0111 of this chapter.

(g) For purposes of this section, "solid waste" shall have the same meaning as is found in subdivision one of section 27-0701 of this article, but shall not include source, special nuclear or by-product material as defined in the atomic energy act of 1954,<sup>1</sup> as amended, or hazardous waste which appears on the list or satisfies the characteristics of hazardous waste promulgated pursuant to section 27-0903 of this article or, low level radioactive waste as defined in section 29-0101 of this chapter.

2. The department shall promulgate rules and regulations in accordance with the provisions of the state administrative procedure act for the implementation of this section and section 27-0109 of this article.

<sup>1</sup> 42 U.S.C.A. § 2011 et seq.

#### **§ 27-0109. State assistance for local solid waste management plans**

1. As a complement to, and in conjunction with the technical assistance provided pursuant to this chapter, and to foster and facilitate local planning, a planning unit may apply for state assistance for developing solid waste management plans pursuant to section 27-0107 of this article or to update or revise an existing plan to address the elements contained in paragraph (c) of subdivision one of such section.

2. The commissioner is authorized until April thirtieth, nineteen hundred ninety, to contract to make a state grant, within the limit of appropriation therefor, to any planning unit for up to ninety percent of the costs to prepare its local solid waste management plan; provided, however, that the amount of such grant shall be reduced by the amount of any grant previously made to a planning unit which is a part of or is served by the planning unit seeking such grant. A planning unit may receive a grant pursuant to this subdivision which shall not exceed the greater of twenty-five thousand dollars or one dollar for each resident of the planning unit, based upon the census of nineteen hundred eighty.

3. Applications for such assistance shall outline the proposed scope and timetable for preparation of the plan pursuant to section 27-0107 of this article. In addition, the planning unit must demonstrate its intent that the purpose of undertaking the plan is to develop a viable solution to its solid waste management needs which cannot be achieved based on an existing plan.

4. Payments authorized under this section shall be made as follows:

(a) not more than fifty percent of the total grant upon approval by the department of the grant request; and

(b) the balance of the total grant in not more than three periodic payments for unreimbursed costs, as provided in the contract.

5. The commissioner may, in the commissioner's discretion, deny funding to a planning unit which is within the jurisdiction of another planning unit or proposed planning unit.

§ 8. Subdivision four of section 27-0305 of such law, as amended by chapter five hundred ninety-two of the laws of nineteen hundred eighty-one, is amended to read as follows:

4. The department ~~may~~ shall make rules and regulations implementing this section promulgated in accordance with the state administrative procedure act in order to carry out and enforce the intent and purposes thereof. Such rules and regulations and the provisions of article 70 of this chapter<sup>1</sup> and rules and regulations adopted thereunder shall govern permit applications, permit conditions, renewals, modifications, suspensions and revocations under this section. The department shall, in promulgating any new or revised rule or regulation, accompany such rulemaking with an environmental impact statement or a written assessment stating the extent to or means by which such rule or regulation will carry out the intent and purpose of this section. The responsibility for the issuance

and review of permits and the enforcement of the provisions of this section may be delegated to regional, district or county offices of the state department of health, or to local health departments where their jurisdiction may apply.

<sup>1</sup> ECL § 70-0101 et seq.

§ 9. Section 27-0401 of such law is REPEALED and a new section 27-0401 is added to read as follows:

**§ 27-0401. Secondary materials**

1. As used in this article, "secondary materials" shall mean material recovered from or otherwise destined for the waste stream, including but not limited to, post-consumer material, industrial scrap material and overstock or obsolete inventories from distributors, wholesalers and other companies as defined in rules and regulations promulgated by the commissioner of economic development in consultation with the commissioner but such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

2. For the purposes of this article, the department shall assist the department of economic development in conducting secondary materials market development programs pursuant to article six of the economic development law,<sup>1</sup> as added by chapter six hundred fifteen of the laws of nineteen hundred eighty-seven, and other state agencies and authorities conducting waste reduction and recycling programs.

3. The department shall assist in providing consumer education on the economic and environmental benefits of solid waste management practices and the concomitant needs for waste reduction and for consumers to actively seek consumer products which contain secondary materials or which are easily recycled or reused.

<sup>1</sup> Economic Development Law § 182 et seq.

§ 10. Such law is amended by adding a new section 27-0702 to read as follows:

**§ 27-0702. Solid waste management board**

1. There is hereby created within the department the state solid waste management board hereinafter referred to as the "board". The board shall consist of a total of fifteen members and shall include the commissioners of environmental conservation, health and economic development or a deputy commissioner of such department as designated by the commissioner thereof. The board's twelve at-large members shall be appointed by the governor. Two such appointments shall be upon recommendation of the temporary president of the senate, two such appointments shall be upon recommendation of the speaker of the assembly, one such appointment shall be upon recommendation of the minority leader of the senate and one such appointment shall be upon recommendation of the minority leader of the assembly. Of the remaining six appointments, three of the at-large members shall be a representative of local government representative of different geographic areas of the state, two shall be representative of private industry which provides solid waste management services or deals in secondary materials, and one shall be representative of organizations whose prime function is the protection of health or environmental resources. None of the members so appointed shall be officers or employees of any state department or agency and each shall be, by professional training or experience and attainment, qualified to analyze and interpret matters pertaining to solid waste management.

2. (a) The commissioner shall serve as chairman of the board provided, however, that his designee may not preside as chairman in his absence. The board shall elect a vice chairman from among the appointed members to act in the absence of the chairman.

(b) Each of the twelve at-large members appointed by the governor shall hold office for a term of two years or until such time as the board shall cease to exist or until such member shall resign or be removed in the manner provided by law, except that one of the initial appointments made on the recommendation of the temporary president of the



senate, one of the initial appointments made on the recommendation of the speaker of the assembly and four of the initial remaining appointments of the governor shall be for a term of three years. Any vacancy on the board shall be filled by appointment pursuant to this section.

3. The members of the board shall serve without compensation for their services as members of the board, except that members shall be allowed their necessary and actual expenses incurred in the performance of their duties under this section.

4. The board shall have the power, duty and responsibility to:

(a) Serve as a working forum for the exchange of views, concerns, ideas, information and recommendations relating to implementation of the state solid waste management policy articulated in section 27-0106 of this article, market development and secondary materials, waste reduction and recycling programs established pursuant to sections one hundred eighty-one and one hundred eighty-one-b of the economic development law, technical assistance, planning and any other solid waste management programs, policies and plans of the department or any other state agency or authority;

(b) Request the attendance at any meeting of the board of such personnel of the department or of other state agencies or authorities, as may be necessary to provide information and otherwise assist the board and request such information from the department or other state agencies or authorities as the board may require in fulfilling its responsibility under this section;

(c) Monitor, review and make recommendations concerning:

(i) the objectives, methods and strategies of the department and other state agencies or authorities in implementing and pursuing programs designed to meet the objectives of the state solid waste management policy;

(ii) the objectives, methods and strategies of the department and other state agencies and authorities in implementing the programs of assistance to local governments in planning and implementing solid waste management programs; and

(iii) the objectives, methods and strategies of the department and the department of economic development to promote waste reduction through regulatory activities, interstate cooperation, and assistance to local governments and businesses;

(d) Coordinate its activities with appropriate boards and advisory bodies of the state or other agencies with related responsibilities, including the board of operating requirements established pursuant to section 19-0306 of this chapter and the state environmental board established pursuant to article five of this chapter;<sup>1</sup>

(e) Study and make recommendations concerning programs and activities that the department, and other agencies or authorities as may be appropriate, could undertake to provide information for the public on how locally proposed or operated facilities conform with regulatory requirements and the protections afforded thereby;

(f) Request and receive, upon reasonable notice, reports from state agencies and public authorities concerning segments of the waste stream posing particular problems in disposal, recycling and reuse and, within six months of the receipt of each such report, submit its recommendations to the governor and the legislature concerning such report;

(g) Make recommendations to the governor and the legislature, no later than one year after the effective date of this subdivision, concerning incentives for host communities of solid waste management facilities. Such incentives may include, but need not be limited to, ways to protect against decreases in property values, rate structures which could benefit residents of the host community and mechanisms to address local concerns during facility design and operation; and

(h) Perform other activities or services as may be necessary to fulfill the purposes of this section.

5. Based upon its monitoring, reviewing and other information available to it, the board shall report to the governor and the legislature on or before October first of each year its assessment with comments and recommendations regarding solid waste management programs, their implementation, available funding and resources, and the need for steps to assure the future availability of funding.



6. (a) The board shall:

- (i) meet at least quarterly;
- (ii) keep a record of its proceedings; and
- (iii) determine the rules of its own procedures.

(b) Eight members of the board shall constitute a quorum for the transaction of any business of the board.

7. Staff services, including recording of board proceedings, shall be performed by personnel of the department, or such state departments or agencies as the chairman deems appropriate or desirable.

<sup>1</sup> ECL § 5-0101 et seq.

§ 11. Section 27-0703 of such law, as added by chapter three hundred ninety-nine of the laws of nineteen hundred seventy-three and renumbered by chapter four hundred twenty-five of the laws of nineteen hundred seventy-seven, is amended to read as follows:

**§ 27-0703. Powers and duties of the department; solid waste management facilities**

1. To the maximum extent feasible, the department shall carry out the provisions of this title so as to facilitate short and long term planning for solid waste disposal, to promote cooperation among neighboring localities in the planning and implementation of solid waste management programs and facilities, and to facilitate implementation of solutions to solid waste management problems confronted by localities.

2. The department shall have the power to: 1. (a) Adopt and promulgate, amend and repeal rules and regulations governing the operation of solid waste management facilities. Such rules and regulations shall be directed at the prevention or reduction of ~~(a)~~ (i) water pollution, ~~(b)~~ (ii) air pollution, ~~(c)~~ (iii) noise pollution, ~~(d)~~ (iv) obnoxious odors, ~~(e)~~ (v) unsightly conditions caused by uncontrolled release of litter, ~~(f)~~ (vi) infestation of flies and vermin, and (vii) other conditions inimical to the ~~pubile~~ public health, safety and welfare. In promulgating such rules and regulations, the department shall give due regard to the economic and technological feasibility of compliance therewith. Any rule or regulation promulgated pursuant hereto may differ in its terms and provisions as between particular types of solid waste management facilities and as between particular areas of the state.

2. (b) Provide technical assistance to municipalities and other persons engaged in solid waste management and provide training for proper operation of solid waste management facilities.

3. (c) Cooperate with appropriate local, state, interstate and federal agencies to promote the operation of solid waste management facilities in a safe, sanitary, efficient and environmentally sound manner.

3. The department shall, in promulgating any new or revised rule or regulation, accompany such rule making with an environmental impact statement or a written assessment stating the extent to or means by which such rule or regulation will prevent or reduce the factors identified in subparagraphs (i) through (vii) of paragraph (a) of subdivision two of this section.

4. Siting, design, construction, and operating requirements established pursuant to subdivision two of this section for solid waste management facilities shall be embodied in rules and regulations of the department promulgated pursuant to the state administrative procedure act.

5. The commissioner shall cause program plans to be prepared for all solid waste management assistance programs of the department enacted or substantially modified by the solid waste management act of 1988<sup>1</sup> or hereafter enacted, for the program of funding small scale, low technology approaches to resource recovery pursuant to section 51-0905 of this chapter, and for the local resource reuse and development program established by section 27-0405 of this article. Such plans shall be consistent with the legislative intent and statutory authorization for such programs. Program plans shall be derived from and shall be consistent with the state solid waste management policy set

forth in section 27-0106 of this article. Such plans shall be transmitted to the temporary president and the minority leader of the senate and the speaker and the minority leader of the assembly within ninety days of the effective date of this act or of the effective date of any statute authorizing such program. Program plans shall describe the goals and objectives of each program, operational priorities and administrative procedures to be established in administering each program, shall guide the development of operating procedures and administrative rules and regulations governing each program, shall set forth the manner in which the program shall be coordinated with other solid waste management programs and shall set forth a description of the operating relationships with the department of environmental conservation, other relevant agencies and authorities and regional and local public and private organizations.

<sup>1</sup> 1988 McKinney Session Laws, ch. 70, p. 187.

§ 12. Section 27-0707 of such law, as amended by chapter two hundred thirty-three of the laws of nineteen hundred seventy-nine, subdivision two as amended by chapter five hundred fifty-two of the laws of nineteen hundred eighty, is amended to read as follows:

**§ 27-0707. Permits for new solid waste management facilities**

1. On and after the effective date of the initial rules and regulations of the department promulgated pursuant to subdivision one of section 27-0703, no person shall commence operation, including site preparation and construction, of a new solid waste management facility until such person has obtained a permit pursuant to this title.

2. The rules and regulations adopted by the department to implement this article and the provisions of article 70 seventy of this chapter<sup>1</sup> and rules and regulations adopted thereunder shall govern permit applications, renewals, modifications, suspensions and revocations under this article. The administration of such permit applications shall be in accordance with article 8 eight of this chapter.<sup>2</sup> The rules and regulations adopted by the department to implement this article shall specify, at a minimum:

a. that an application for a permit to construct, or to renew a permit to operate, a solid waste management facility shall not be complete unless the application includes a description of how the proposed facility is consistent with the state solid waste management policy identified under section 27-0106 of this article.

b. that after January first, nineteen hundred ninety an application for a permit to construct a solid waste management facility made by or on behalf of a municipality in a planning unit shall not be complete until a local solid waste management plan is in effect for such municipality pursuant to section 27-0107 of this article. For purposes of this paragraph, "planning unit" shall have the same meaning as set forth in subdivision one of section 27-0107 of this article.

(a) c. that a permit will be issued only if:

(1) the proposed facility will be in full compliance with the applicable rules and regulations in effect on the date of submission of the permit application; and

(2) there has been opportunity for public review and comment at relevant stages of the project planning process; and

(3) a determination has been made that the proposed facility will not result in unfair competition between municipalities and scrap dealers, processors and consumers; and

~~(b) in the case of a permit application for which an environmental impact statement pursuant to article 8 of this chapter must be prepared, that such statement shall include a description and evaluation of the status of the proposed activity in light of the New York state solid waste management plan in effect on the date of the application~~

(4) the applicant has received or will receive the written opinion of counsel to each municipality or public authority which has entered into a contract, lease or rental agreement with the proposed facility that such contract, lease or rental agreement is in compliance with the applicable requirements of sections one hundred one, one hundred three and one hundred twenty-w of the general municipal law.

3. Where a permit for a solid waste management facility has been granted, the commissioner may upon request make available such department personnel and expertise as may be needed to inform the public as to the nature of the facility which has been granted a permit, the nature of the facility operations authorized by the permit, and the effect of the permit conditions, if any, which are imposed in connection with the permit.

4. Where the commissioner denies a permit application, he shall provide to the applicant a written statement of the reasons for this determination.

3. 5. Receipt of a permit pursuant to this section shall not relieve any person of the responsibility of constructing such facility in full compliance with any applicable laws, rules or regulations or of operating the facility in full compliance with all applicable laws, rules and regulations, including rules and regulations of the department promulgated pursuant to subdivision one of section 27-0703 and taking effect after the date application was made to the department.

4. 6. Nothing herein shall relieve any person of the responsibility of fully complying with all applicable laws, rules and regulations, including regulations of the department, promulgated pursuant to subdivision one of section 27-0703, in the operation of a solid waste management facility not subject to the department's review under this section 27-0707.

<sup>1</sup> ECL § 70-0101 et seq.

<sup>2</sup> ECL § 8-0101 et seq.

§ 13. Section 27-0715 of such law is REPEALED and two new sections 27-0715 and 27-0717 are added to read as follows:

**§ 27-0715. Solid waste management technical assistance**

1. The department shall conduct a comprehensive program of technical assistance to local governments, the private sector and individuals to enhance their capabilities to properly plan for and implement solid waste management programs consistent with the state solid waste management policy set forth in section 27-0106 of this article. This program will establish continuing and comprehensive programs of technical assistance designed to consolidate, simplify, or expedite the development and implementation of such solid waste management programs.

2. In conducting the program set forth in this section, the department shall prepare, provide and distribute to municipalities, and may distribute to other persons, information and other technical assistance concerning development and implementation of solid waste management plans, programs and facilities. Such information and assistance may be in the form of manuals, generic assessments or technical assistance documents and other written materials and, as may be appropriate, consultation services. Such information and assistance may be provided by the department directly or by contract, shall be directed toward furthering the implementation of the state solid waste management policy established pursuant to section 27-0106 of this article and the development of local solid waste management plans pursuant to section 27-0107 of this article and shall address:

(a) available techniques and technologies for various forms of solid waste management and recommendations concerning methods by which to achieve an appropriate balance among those techniques and technologies, and an assessment of their feasibility and usefulness under varying local circumstances;

(b) applicable regulatory programs and permit processes;

(c) with the assistance of the commissioner of economic development, and in cooperation with the bureau of waste reduction and recycling established pursuant to this article, assistance in developing and implementing waste reduction, source separation and recycling programs;

(d) the potential availability of financial assistance from existing state programs and other sources for any or all aspects of a proposed solid waste management program;

(e) with the assistance of the attorney general, the state comptroller, and other appropriate officers and agencies of the state, the development and implementation of contracts and service agreements, qualifications of vendors, and use of the procurement process, so as to promote compliance with the applicable provisions of the general municipal law and federal and state anti-trust statutes;

(f) model local laws or ordinances to effectively implement sound solid waste management programs, including source separation and recycling efforts and regional disposal, management, and marketing activities;

(g) generic analyses of factors associated with the construction and operation of municipal solid waste management facilities;

(h) a clearinghouse of information and suggestions from other states, agencies, and municipalities, the federal government, and other sources pertaining to development and implementation of solid waste management programs, including those relating to cost avoidance, public education and information efforts and potential host community incentives; and

(i) the availability of consultation services pertaining to the issues identified and referred to in this section.

3. In effectuating the state solid waste management policy set forth in section 27-0106 of this article, the technical assistance personnel and resources of the department and local officials should work as a team, each bringing their respective authority and responsibility to bear in the development and implementation of a viable local solid waste management program, or, as may be appropriate, as required to address specific problems associated with such programs. Accordingly, within the limits of appropriation therefor, upon designation of the local participants by a requesting local government, the department shall provide staff and other resources, as appropriate, to work jointly and in cooperation with the requesting local government on a continuing basis, as needed. State and local officials when working as a team should make available to interested parties periodic assessments of the status and effectiveness of the team's efforts.

4. In addition to providing technical assistance to municipalities and planning units in addressing the issues identified in subdivision two of section 27-0107 of this article as they relate to the particular circumstances confronted by such municipalities and planning units, the department shall assist municipalities in identifying and evaluating:

(i) alternatives available for management of current and future solid waste, including costs and impacts of specific waste management methods; and

(ii) regulatory requirements associated with the implementation of such alternatives.

5. In administering the provisions of this section, the department shall provide to the governor, the legislature, and local governments on or before December thirty-first, nineteen hundred eighty-eight and annually thereafter, a report assessing the assistance programs established pursuant to this title, including the number of municipalities and other entities which received assistance, a description of the services provided and an assessment of program effectiveness.

6. The department shall submit to the director of the division of the budget, the chairman and ranking minority member of the senate finance committee and the chairman and ranking minority member of the assembly ways and means committee an evaluation of the assistance programs established in this section, and their implementation, prepared by an entity independent of the department. Such evaluation shall be submitted by September first, nineteen hundred ninety and by September first, every two years thereafter.

7. In administering assistance programs pursuant to this section, the commissioner shall consider the potential for coordination and consolidation of solid waste management practices, including marketing efforts associated with source separation and recycling programs, among municipalities and shall encourage such cooperation and consolidation where it is practicable and would result in enhanced environmental protection and cost effectiveness.

8. To effectuate the purposes of this section, the department may request and shall be entitled to receive, from any state agency or public authority and the same are authorized to provide, such assistance, services, facilities, and data as will enable the department to carry out its functions, powers, and duties.

**§ 27-0717. Bureau of waste reduction and recycling**

1. The commissioner, with the approval of the director of the division of the budget, shall establish within the department a bureau of waste reduction and recycling. Such bureau shall be a separate entity to assist in the development and promotion of local waste reduction, source separation and recycling programs. Such programs shall promote the source separation, collection, intermediate processing and marketing of waste materials that are now being disposed of as municipal solid waste in New York state. The bureau shall:

- (a) promote the development and implementation of programs by municipalities;
- (b) serve as a clearinghouse for information regarding existing source separation and recycling programs;
- (c) identify special needs and problems in developing and implementing source separation and recycling programs, and recommend approaches and solutions to address such identified needs and problems; and
- (d) coordinate its activities with other solid waste assistance programs of the department.

2. Pursuant to regulations promulgated in accordance with the state administrative procedure act, the bureau shall establish an official state recycling emblem and conduct a consumer awareness program with respect thereto. Such emblem shall be of a design to include terms or symbols for "New York State", and "recyclable" and/or "recycled" and/or "reuseable". Standards for such terms or symbols shall be developed pursuant to regulations which with respect to (a) "recyclable" shall address material for which technologies or systems for reuse as a secondary material exist; and (b) "recycled" shall address material containing a specified minimum percentage by weight of secondary materials content; and (c) "reuseable" shall address ability to be repeatedly returned for refilling or reuse with the original product. Further, such regulations may stipulate prohibitions on the unauthorized use of the state recycling emblem.

3. The bureau shall implement and conduct a program of public education and information to inform the public and private sectors of the state as to the merits of the use of secondary materials and for consumers to actively seek consumer products which contain secondary materials or which are easily recycled or reused. Such program shall communicate the importance of minimizing the need for new solid waste disposal capacity and of conserving natural resources, avoiding harm to the environment or public health, and promoting resource conservation, recovery and reuse by industry, the state of New York, public and quasi-public agencies and authorities, local governments and the general public of the state.

4. The bureau shall be responsible for the administration of the New York state local resource reuse and development program established pursuant to sections 27-0403 and 27-0405 of this article.

§ 14. The public authorities law is amended by adding a new section twelve hundred eighty-five-i to read as follows:

**§ 1285-i. Commercial and industrial waste audits**

a. The corporation shall establish and be responsible for administration of a commercial and industrial waste audit program to help businesses identify and evaluate the potential at their New York facilities for reducing the amount of solid waste generated, increasing new materials recovery programs and otherwise reducing the amount of waste ultimately requiring disposal. The corporation shall in implementing said waste audit program coordinate activities with and actively foster the waste exchange program of the corporation and other waste reduction programs as is appropriate, and is further autho-

ized to obtain the services, as necessary, of waste management specialists to conduct such waste audits.

b. In implementing the commercial and industrial waste audit program, the corporation shall:

(i) establish an application process consistent with the rules and regulations of the program;

(ii) establish by rule and regulation a commercial and industrial solid waste audit program application evaluation procedure consistent with the requirements of this section; and

(iii) establish by rule and regulation, upon consultation with the director of the budget, a sliding fee schedule to offset the costs of the audit. The fee schedule established pursuant to this section shall be intended to provide revenues sufficient to meet solely the costs incurred by the corporation in performing such audits. The chairman is authorized and directed to deposit all money received in payment of fees under this section in an account within the miscellaneous special revenue fund.

c. Waste audits conducted pursuant to this section may include but need not be limited to identification of:

(i) all waste generated within the facility;

(ii) the regulatory requirements associated with the recovery, reuse or disposal of such waste, and the implications of such requirements for various reduction and reuse options;

(iii) any methodologies, processes, equipment, or production changes that could be utilized to reduce the amount of waste generated and consumer waste resulting from the product, process or service manufactured, distributed or sold;

(iv) on site recycling or waste treatment technologies that could be utilized to reduce the need for waste disposal capacity;

(v) potential markets for waste generated by the facility, including local materials recycling programs, and the ability of such markets to readily absorb the wastes generated by such facility; and

(vi) economic practicality of alternative waste reduction strategies.

d. Any person for whom a waste audit is prepared shall within one hundred eighty days submit to the corporation findings with respect to the report and the status of steps to implement any recommended strategies identified in such audit.

e. Beginning January first, nineteen hundred eighty-nine, the chairman shall make an annual report concerning the activities undertaken pursuant to this section which shall include, at a minimum (i) the number of businesses which received assistance, (ii) the nature of assistance provided through the programs, (iii) needs and problems confronted by such businesses in establishing and implementing programs, and (iv) the number of businesses which applied for assistance. The chairman shall submit to the director of the division of the budget, the chairman and the ranking minority member of the senate finance committee and the chairman and the ranking minority member of the assembly ways and means committee an evaluation of the program prepared by an entity independent of the authority. Such evaluation shall be submitted by September first, nineteen hundred ninety and by September first every two years thereafter.

§ 15. Such law is amended by adding two new sections twenty-eight hundred seventy-eight-a and twenty-eight hundred seventy-eight-b to read as follows:

#### **§ 2878-a. Purchasing of paper products**

1. When purchasing paper products made with and without significant recycled content, recovered from materials otherwise destined for disposal, the public authority, corporation, or commission shall, wherever the price is reasonably competitive and the quality adequate for the purpose intended, purchase the recycled paper products. For the purpose of this section "recycled paper" shall mean any paper products which have been manufactured from materials otherwise destined for the waste stream including, but not limited to, old newspapers, magazines, paperboard boxes, tabulating cards, mixed waste,

used fibrous material such as rags and overstock or obsolete inventories from distributors, wholesalers, printers and other companies as defined in rules and regulations promulgated by the commissioner of general services provided that such term does not include those materials and by-products generated from, and commonly reused within an original manufacturing process.

2. For the purposes of subdivision one of this section, "reasonably competitive" shall mean a comparable recycled paper product manufactured in whole or in part with secondary materials with a cost premium of no greater than ten percent.

3. Whenever the public authority, corporation or commission shall purchase or cause the purchase of printing on recycled paper, it shall require the printed material to include a printed statement or symbol which indicates that the document is printed on recycled paper.

#### § 2878-b. Source separation of wastes

1. No later than September first, nineteen hundred eighty-nine each public authority, corporation or commission shall devise and institute a program to source separate waste paper generated within its facilities.

Such program shall include marketing arrangements and appropriate procedures to ensure the recovery of discarded paper in a noncontaminated condition. This program may be phased in, utilizing those office facilities most conducive to operation of a source separation program, but shall be fully implemented by July first, nineteen hundred ninety.

2. No later than July first, nineteen hundred ninety, each public authority, corporation or commission shall devise and institute a program to source separate all other waste generated within its facilities that is not covered by this section. Such program shall include marketing arrangements and appropriate procedures to ensure the recovery of waste for which the full avoided costs of proper collection, transportation and disposal of source separated materials are equal to or greater than the cost of collection, transportation and sale of said material less the amount received from the sale of said material. This program may be phased in, utilizing those office facilities most conducive to operation of a source separation program but shall be fully implemented by July first, nineteen hundred ninety-one.

3. A public authority, corporation or commission occupying facilities made available or provided by the office of general services may comply with the provisions of this section by participating in a program conducted by the office of general services pursuant to subdivisions four and five of section one hundred seventy-seven of the state finance law.

§ 16. Paragraphs j, k, l and m of subdivision five of section one hundred eighty-one of the economic development law are relettered paragraphs m, n, o and p and three new paragraphs j, k and l are added to read as follows:

j. Evaluate the relationship between estimated supply and likely demand for recovered materials in order to target the department's efforts to bring about utilization of (i) materials for which supply exceeds demand to the greatest degree; (ii) materials which would have the greatest impact on the waste stream if recovered or recycled; and (iii) materials for which a market can most readily be obtained;

k. Develop and facilitate the establishment of markets necessary for implementation of solid waste management programs;

l. Provide information concerning local and regional markets for secondary materials;

§ 17. Section one hundred eighty-one of such law is amended by adding two new subdivisions fifteen and sixteen to read as follows:

15. Reports. Beginning on January first, nineteen hundred eighty-nine, the commissioner shall make an annual report to the governor and the legislature which shall include, at a minimum, the status of the activities undertaken pursuant to paragraphs a, c, d, e, f, i, j and k of subdivision five of this section, the status of any other activities undertaken pursuant to this article, and recommendations for programs or policies that will further the objectives of expanding the utilization of secondary materials recovered



for reuse within the state. The provisions of this subdivision shall not be deemed to require or authorize the disclosure of confidential information or trade secrets.

16. Evaluation. The department shall submit to the director of the division of the budget, the chairman and ranking minority member of the senate finance committee and the chairman and ranking minority member of the assembly ways and means committee an evaluation of this program prepared by an entity independent of the department. Such evaluation shall be submitted by September first, nineteen hundred ninety and by September first, every two years thereafter.

§ 18. Section one hundred eighty-two of such law, as added by chapter six hundred fifteen of the laws of nineteen hundred eighty-seven, is renumbered section one hundred eighty-one-a and a new section one hundred eighty-one-b is added to read as follows:

**§ 181-b. Waste reduction and recycling program**

1. When used in this section, "solid waste" or "waste" shall have the same meaning as is found in subdivision one of section 27-0701 of the environmental conservation law, but shall not include source, special nuclear or by-product material as defined in the atomic energy act of 1954,<sup>1</sup> as amended, or hazardous waste which appears on the list or satisfies the characteristics of hazardous waste promulgated pursuant to section 27-0903 of the environmental conservation law, or low level radioactive waste as defined in section 29-0101 of the environmental conservation law.

2. The department shall serve as a clearinghouse for information pertaining to the reduction and recycling of solid waste generated by commercial and industrial enterprises, including the potential for such enterprises to coordinate their activities with existing and potential local recycling programs, and on methods and strategies which commercial and industrial enterprises within the state can undertake to reduce waste generation.

3. The commissioner, in consultation with the commissioner of environmental conservation, is hereby authorized and directed to confer and cooperate with authorities of other states and of the United States with respect to the development of regional markets for secondary materials and the reduction of waste from residential, commercial and industrial activities.

4. The department shall provide to the governor, the legislature, and local governments on or before December thirty-first, nineteen hundred eighty-eight and annually thereafter, a report assessing the status of commercial and industrial waste reduction and the development of markets for secondary materials, and all other aspects of solid waste management for which the department is responsible. Such report shall include evaluations prepared in consultation with the department of environmental conservation and the environmental facilities corporation of the expected levels of waste reduction from present and future utilization of such practices, the anticipated effectiveness of such practices in meeting waste reduction goals, and associated savings due to avoided handling and disposal costs and program implementation costs. Such evaluation shall be submitted by September first, nineteen hundred ninety and by September first, every two years thereafter.

<sup>1</sup> 42 U.S.C.A. § 2011 et seq.

§ 19. Section one hundred seventy-seven of the state finance law, as amended by chapter eight hundred forty-nine of the laws of nineteen hundred eighty-seven, is amended to read as follows:

**§ 177. Purchasing of paper for state use**

1. When purchasing paper products made with and without significant recycled content, recovered from materials otherwise destined for disposal, the commissioner of general services and other state agencies shall, wherever the price is reasonably competitive and the quality adequate for the purpose intended, purchase the recycled product. For the purpose of this section: "recycled paper" shall mean any paper products which have been manufactured from materials otherwise destined for the waste stream includ-

ing, but not limited to, old newspapers, magazines, paperboard boxes, tabulating cards, mixed waste, used fibrous material such as rags and overstock or obsolete inventories from distributors, wholesalers, printers and other companies as defined in rules and regulations promulgated by the commissioner of general services provided that such term does not include those materials and by-products generated from, and commonly reused within an original manufacturing process, and "reasonably competitive" shall mean a comparable recycled product with a cost premium of no greater than ten percent.

2. The commissioner of general services shall review the procurement specifications currently used by the office in order to eliminate, wherever feasible, discriminations against the procurement of products manufactured with recovered materials; and shall annually review the paper specifications to consider increasing the percentage of recycled paper in paper product purchases.

3. Whenever the commissioner of general services or whenever other state agencies shall purchase or cause the purchase of printing on recycled paper, he shall require the printed material to include a printed statement or symbol which indicates that the document is printed on recycled paper.

4. No later than July first, nineteen hundred eighty-seven, the commissioner of general services and, no later than July first, nineteen hundred eighty-nine, each state agency shall devise and institute a program to source separate waste paper generated within state office facilities. Such a program shall include marketing arrangements and appropriate procedures to ensure the recovery of discarded paper in a non-contaminated condition. This The commissioner's program or the program of a state agency may be phased in, utilizing those office facilities most conducive to operation of a source separation program, but shall be fully implemented by July first, nineteen hundred eighty-nine or July first, nineteen hundred ninety, respectively.

5. No later than July first, nineteen hundred eighty-eight, the commissioner of general services and, no later than July first, nineteen hundred eighty-nine, each state agency shall devise and institute a program to source separate all other waste generated within state office facilities that is not covered by subdivision four of this section. Such program shall include marketing arrangements and appropriate procedures to ensure the recovery of waste for which the full avoided costs of proper collection, transportation and disposal of source separated material are equal to or greater than the cost of collection, transportation and sale of the recovered material less the amount received from the sale of said material. This program may be phased in, utilizing those ~~office~~ facilities most conducive to operation of a source separation program but shall be fully implemented by July first, nineteen hundred ninety.

6. In addition to carrying out the provisions of subdivisions four and five of this section, the commissioner, within ninety days of the effective date of this subdivision, shall identify and begin implementation of specific steps which will reduce, to the maximum extent practicable, waste generated in state facilities and maximize the recovery and reuse of secondary materials from such facilities. Such steps and their implementation shall be reviewed from time to time but no less frequently than annually or upon receiving recommendations for additional steps from the solid waste management board, the department of environmental conservation or the environmental facilities corporation.

7. All state agencies shall fully cooperate with the commissioner of general services in all phases of implementing the provisions of this section.

7. 8. The commissioner of general services shall report annually to the governor and the legislature concerning the quantities of recycled paper purchased by the office of general services and by state agencies pursuant to subdivision one of this section, and concerning the amounts of waste recycled from state ~~office~~ offices and other facilities pursuant to subdivisions four and five of this section, the extent of waste reduction, the kinds of materials eliminated from the waste stream, the full avoided costs of proper collection and disposal costs of implementing the programs under this section, the specific activities undertaken, goals for the subsequent year resulting from the implementation of steps pursuant to subdivision six of this section, and remaining issues and areas for improvement. Such reports shall be widely disseminated as a means of assisting those

outside state government in the design and implementation of waste reduction and recycling programs, through discussion of the state's experience in implementing all program aspects such as collection, sorting, handling, storage and marketing, and the resulting accomplishments.

9. The office shall submit to the director of the division of the budget, the chairman and ranking minority member of the senate finance committee and the chairman and ranking minority member of the assembly ways and means committee an evaluation of the source separation programs for paper and other waste prepared by an entity independent of the office. Such evaluation shall be submitted by September first, nineteen hundred ninety and by September first, every two years thereafter.

§ 20. Subdivision four of section one hundred sixty-one-a of such law, as added by chapter five hundred ninety-seven of the laws of nineteen hundred seventy-nine, is amended to read as follows:

4. The commissioner shall ~~investigate the possibility of the use by the state of recycled refined oil and shall utilize such recycled refined oil wherever, in his judgment, such use is found to be feasible:~~ (a) examine the feasibility of a program to utilize to the maximum extent feasible, rerefined used oil for state lubricating oil needs and to provide for the state's used oil as the oil feed stock to a rerefiner or rerefiners.

(b) compile an inventory of state facilities that have the capacity for high efficiency combustion and are capable of complying with the regulations promulgated pursuant to paragraph a of subdivision one of section 19-0301 of the environmental conservation law. If such capacity exists, the commissioner shall purchase such reprocessed oil for use as fuel oil for state facilities pursuant to sections one hundred sixty-three and one hundred sixty-four of this chapter.

(c) develop a feasibility study with cost estimates for the retrofitting or replacement of state combustion facilities to the extent necessary for compliance with the regulations promulgated pursuant to paragraph a of subdivision one of section 19-0301 of the environmental conservation law.

§ 21. The county law is amended by adding a new section six hundred twenty-six to read as follows:

#### § 626. Purchasing of paper for county use

Notwithstanding the provisions of section one hundred three of the general municipal law, when purchasing paper products made with and without significant recycled content, recovered from materials otherwise destined for disposal, the county purchasing agent may, wherever the price is reasonably competitive and the quality adequate for the purpose intended, purchase the recycled product. For the purpose of this section, "recycled paper" shall mean any paper products which have been manufactured from materials otherwise destined for the waste stream including, but not limited to, old newspapers, magazines, paperboard boxes, tabulating cards, mixed waste, used fibrous material such as rags and overstock or obsolete inventories from distributors, wholesalers, printers and other companies as defined in rules and regulations promulgated by the state commissioner of general services provided that such term does not include those materials and by-products generated from, and commonly reused within an original manufacturing process, and "reasonably competitive" shall mean a comparable recycled product with a cost premium of no greater than ten percent. Whenever the county purchasing agent shall purchase or cause the purchase of printing on recycled paper pursuant to this section, he shall cause the printed material to include a printed statement or symbol which indicates that the document is printed on recycled paper.

§ 22. The general municipal law is amended by adding a new section one hundred four-a to read as follows:

#### § 104-a. Purchasing of paper for public use

Notwithstanding the provisions of section one hundred three of this chapter, when purchasing paper products made with and without significant recycled content, recovered from materials otherwise destined for disposal, the officer, board or agency of any

political subdivision or of any district therein charged with the awarding of public contracts may, wherever the price is reasonably competitive and the quality adequate for the purpose intended, purchase the recycled product. For the purpose of this section, "recycled paper" shall mean any paper products which have been manufactured from materials otherwise destined for the waste stream including, but not limited to, old newspapers, magazines, paperboard boxes, tabulating cards, mixed waste, used fibrous material such as rags and overstock or obsolete inventories from distributors, wholesalers, printers and other companies as defined in rules and regulations promulgated by the state commissioner of general services provided that such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process, and "reasonably competitive" shall mean a comparable recycled product with a cost premium of no greater than ten percent.

Whenever such officer, board or agency shall purchase or cause the purchase of printing on recycled paper pursuant to this section, he shall cause the printed material to include a printed statement or symbol which indicates that the document is printed on recycled paper.

§ 23. Section one hundred twenty-aa of such law, as added by chapter five hundred fifty-two of the laws of nineteen hundred eighty, is amended to read as follows:

**§ 120-aa. Source separation and segregation of recyclable or reuseable materials**

1. The legislature hereby finds that ~~there are circumstances when~~ it is in the public interest, in order to further the purposes of the state policy on solid waste management articulated in section 27-0106 of the environmental conservation law, for a municipality to adopt a local law or ordinance to require the source separation and segregation of recyclable or reuseable materials from solid waste.

2. a. Pursuant to the authority of this section, no later than September first, nineteen hundred ninety-two, a municipality may shall adopt such a local law or ordinance to require that solid waste which has been left for municipal or municipally contracted collection or which is delivered by the generator of such waste to a municipally-owned solid waste management-resource recovery facility, shall be separated into recyclable, reuseable or other components for which economic markets for alternate uses exist. For purposes of this section, the term "economic markets" refers to instances in which the full avoided costs of proper collection, transportation and disposal of source separated materials are equal to or greater than the cost of collection, transportation and sale of said material less the amount received from the sale of said material.

~~These components may~~ b. For purposes of this section, "components" shall include ~~newspapers, corrugated containers, magazines, different colored glass containers, aluminum, metal containers~~ paper, glass, metals, plastics, garden and yard waste, and may include other elements of solid waste.

c. Prior to exercising the authority of this section to enact such a local law or ordinance, the municipality shall hold a public hearing relating to its proposed provisions and shall give due consideration to existing source separation, recycling and other resource recovery activities in the area, to the adequacy of markets for separated materials, and to any additional effort and expense to be incurred by residents in meeting the proposed separation requirements. The authority provided in this section shall be in addition to and without limitation upon the authority vested in municipalities under any other statute.

d. In fulfillment of the provisions of this section a municipality may use public lands or buildings or private lands or buildings, open to the public, upon written consent of the owner, as a recycling center or depot for the storage of recyclable materials. The office of general services and any other agency, authority or commission holding title to lands or buildings in the name of the people of the state shall fully cooperate with any person acting under the authority of this section to establish a recycling program, provided that such use is not inconsistent with the principle purpose of such lands or buildings, subject to local zoning restrictions.

§ 24. The town law is amended by adding a new section one hundred twenty-two-a to read as follows:

**§ 122-a. Purchasing of paper for town use**

Notwithstanding the provisions of section one hundred three of the general municipal law, when purchasing paper products made with and without significant recycled content, recovered from materials otherwise destined for disposal, every officer, board or agency of a town may, wherever the price is reasonably competitive and the quality adequate for the purpose intended, purchase the recycled product. For the purpose of this section, "recycled paper" shall mean any paper products which have been manufactured from materials otherwise destined for the waste stream including, but not limited to, old newspapers, magazines, paperboard boxes, tabulating cards, mixed waste, used fibrous material such as rags and overstock or obsolete inventories from distributors, wholesalers, printers and other companies as defined in rules and regulations promulgated by the commissioner of general services provided that such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process, and "reasonably competitive" shall mean a comparable recycled product with a cost premium of no greater than ten percent. Whenever such officer, board or agency shall purchase or cause the purchase of printing on recycled paper pursuant to this section, he shall cause the printed material to include a printed statement or symbol which indicates that the document is printed on recycled paper.

§ 25. The village law is amended by adding a new section 5-525 to read as follows:

**§ 5-525. Purchasing of paper for village use**

Notwithstanding the provisions of section one hundred three of the general municipal law, when purchasing paper products made with and without significant recycled content, recovered from materials otherwise destined for disposal, every officer, board or agency of a village may, wherever the price is reasonably competitive and the quality adequate for the purpose intended, purchase the recycled product. For the purpose of this section, "recycled paper" shall mean any paper products which have been manufactured from materials otherwise destined for the waste stream including, but not limited to, old newspapers, magazines, paperboard boxes, tabulating cards, mixed waste, used fibrous material such as rags and overstock or obsolete inventories from distributors, wholesalers, printers and other companies as defined in rules and regulations promulgated by the commissioner of general services provided that such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process, and "reasonably competitive" shall mean a comparable recycled product with a cost premium of no greater than ten percent. Whenever such officer, board or agency shall purchase or cause the purchase of printing on recycled paper pursuant to this section, he shall cause the printed material to include a printed statement or symbol which indicates that the document is printed on recycled paper.

[§ 26. Appropriation.]

§ 27. Nothing in this act shall be deemed or is intended to diminish the requirements otherwise imposed pursuant to the state administrative procedure act.

§ 28. The provisions of this act shall be severable and if any portion thereof or the applicability thereof to any person or circumstances shall be held invalid, the remainder of this act and the application thereof shall not be affected thereby.

§ 29. This act shall take effect immediately, except that sections four, eight, eleven and twelve of this act shall take effect on the first day of April, nineteen hundred eighty-nine; provided, however, that all actions and procedures with respect to the proposed adoption, amendment, suspension or repeal of any rule or regulation necessary to the implementation of the provisions of this act, except for sections four, eight, eleven and twelve of this act, are directed and authorized to be completed on or before January first, nineteen hundred eighty-nine.