

STATE AUDITOR'S REVIEW OF VERMONT'S SOLID WASTE PROGRAM

For the period ending January 31, 1998

EXECUTIVE SUMMARY

The Vermont State Auditor's Office has conducted a review of selected components of the Solid Waste Program in the Department of Environmental Conservation (DEC) and of the role of the Agency of Natural Resources relative to solid waste management. We have specifically examined how DEC and the Agency have carried out the legislative mandates contained in Act 78, Vermont's solid waste planning law, passed in 1987. Our review mainly focused on the most recent three years of activities, although it did consider earlier years' activities when they impacted the current program.

Under Act 78, the duties of the State in solid waste management expanded dramatically. Act 78 gave DEC day-to-day responsibility for administering solid waste programs, directed the Agency to fulfill specific statutory mandates, and provided funds through which the Agency could support the implementation of regional solid waste projects which were carried out by regional solid waste districts and municipalities.

Act 78 also enumerated very specific priorities for Vermont's solid waste programs. In order of importance, those priorities are: (1) reduction of waste generation; (2) reuse and recycling of waste; (3) waste processing to reduce waste volume; and lastly (4) land disposal. Since 1987, in pursuit of these goals, more than \$60 million in state funds have been expended in four major areas: Planning grants; Implementation grants; grants to regions and organizations for innovative projects, technical assistance and education; and support for Agency internal administration.

Our review recognizes that Vermont state, regional and local governments have achieved a great deal in responding to solid waste issues during the ten years since passage of Act 78. However, our review highlights what we feel has been a serious weakness throughout this time period: failure by the State to exert decisive leadership. As we note below, we feel that lack of leadership has resulted in little progress in achieving Act 78's highest priority: reduction of waste generation. We have also noted that lack of leadership has resulted in a planning process that has been unnecessarily expensive and duplicative and a grants approval process that has focused on technical compliance with administrative requirements but has had little focus on outcomes or on whether solid waste grants are supporting activities consistent with the overall goals of Act 78.

The major findings of our review are summarized as follows:

1. **FINDING:** DEC has not focused on Act 78's highest priority -- waste reduction -- during its award of grants. As a result there has been little support for waste reduction

and no demonstrable progress towards this goal. DEC, in general has not prioritized grants, awarding them, instead, on a "first come, first served basis."

Pursuant to Act 78, the State has paid about 40 percent of the cost for districts and municipalities for solid waste projects through implementation grants, with over \$24.3 million awarded by the State so far; the local share, the remaining 60 percent, has been paid for by districts and municipalities and has totaled more than \$36 million. Act 78 established a clear set of priorities for solid waste activities. The top priority was waste generation reduction, followed by reuse and recycling, waste processing, and land disposal. However, DEC's grant awards have not reflected the statutory priorities and we found that waste reduction -- the highest priority -- has been, at best, an afterthought during the awarding of implementation grants. Instead, DEC processes and approves grant applications in the order in which they are received. There is no weighing of the merits of applications based on whether and how well they meet the list of solid waste priorities. Little emphasis is placed on upstream prevention of waste creation -- versus waste removal, waste diversion, and waste handling.

The consequences of DEC's failure to prioritize grants are revealed by its own statistics. According to a 1997 internal DEC report, Vermont generated 346,000 tons of waste in 1988, shortly after passage of Act 78. In 1996, Vermonters generated 407,000 tons. Clearly, there has been no reduction in waste generation, the highest statutory priority of Act 78. And while there has been an increase in recycling (32 percent in 1994 as opposed to 14 percent in 1989), reuse of waste, another high priority area, had declined during the same period from 5 percent to 3 percent.

RECOMMENDATION: DEC should evaluate and award grants based on the list of priorities established in statute and based on likely benefits toward achieving statutory priorities. In addition, the Agency should first fund pending applications that best meet statutory priorities for waste reduction.

2. FINDING: The Agency of Natural Resources has spent approximately 76 percent of the Solid Waste Management Assistance Fund for internal administration (\$12.5 million). Less than 10 percent of the fund has been used for grants to support innovative approaches to solid waste.

The Solid Waste Management Assistance Fund was established by the Legislature in Act 78, which also enumerated a number of specific purposes for which the fund is intended. Although one of these purposes is internal administration, the clear intent of the Legislature was to support innovative methods of achieving the chief priorities of waste reduction, reuse and recycling. These grants are, in fact, the sole source of funds to support innovative approaches to solid waste management through pilot programs and technology testing. However, the Agency has targeted less than 10 percent of the Fund for such grants. Instead, of the approximately \$16 million expended from the Fund to date, more than \$12.5 million has been used to fund Agency internal administration -- including for administrative expenses not necessarily directly related to solid waste. Only \$1.3 million of the Fund has been spent to support the grant programs anticipated by the

Legislature. Thus, the stated purpose and impact of the Fund has been diluted as it has almost exclusively served as a funding source for Agency-wide administration.

RECOMMENDATION: The Agency should establish a maximum percentage cap on Fund expenditures that can be used for internal administration and significantly increase funding for grants and other direct service for the support and stimulation of new and creative approaches to solid waste, as anticipated by law.

3. FINDING: The Agency did not evaluate solid waste plans and grant applications for project viability or likely outcomes. This has led to significant expenditures of state and local funds for flawed or failed projects.

Act 78 provided the Agency of Natural Resources two opportunities to review the viability of regional solid waste projects, first during the planning phase, and then again when considering implementation grant applications from districts. The State, however, did not provide the benefit of its in-house expertise to local entities during plan and grant application reviews. Although it houses numerous experts on solid waste management, the Agency has not pro-actively scrutinized the key questions of whether plans are workable technically, financially and administratively and whether a proposed project is likely to succeed. In addition, management of the entire Act 78 grant process is left to one administrator, and DEC provides no direct oversight of this individual's decisions.

As a result of this incomplete review, significant state funds have been spent on projects that were never started, such as the Lamoille Solid Waste District landfill (over \$450,000); projects that may likely never proceed, like the Greater Upper Valley Solid Waste District (Hartland) landfill (\$330,000); and facilities that used faulty technology or processes, such as the Chittenden Solid Waste District biosolids processing facility (\$1.4 million in state funds plus more than \$5 million in local funds).

RECOMMENDATION: The Agency of Natural Resources should change its procedures to include a thorough assessment of project viability and success before awarding funds. The Agency should also act early in project planning to redirect funding when plans that will realistically lead to effective implementation do not appear to be developing.

4. FINDING: There is currently almost \$1 million in encumbered but unexpended implementation grants, some for awards that were made 7 years ago. These funds are not available for new, active initiatives that have a much higher likelihood of proceeding, if funded.

Over \$965,000 has been awarded by the State for implementation grants that are over three years old, but are yet to be expended by the grantee district. \$615,000 of this amount dates back 5 years or more, indicative that these projects are not likely to proceed. Although there is no indication as to when, or if these funds will be used, they are effectively no longer accessible by the solid waste program for projects that might have greater benefits and might actually go ahead.

RECOMMENDATION: DEC should set a time limit on initiating projects once a grant application has been approved. DEC should also develop and install a system of regular reporting by grantees on progress and compliance.

5. FINDING: The State has not developed policies and procedures with respect to privatization of solid waste facilities and programs despite the emergence of this significant trend.

Privatization of solid waste operations, including facilities, is now a reality. There have been discussions, for example, about possible changes in ownership at the Chittenden Materials Recycling Facility (MRF), Northeast Kingdom Materials Recycling Facility (MRF) and Chittenden Bio Solids Processing Facility. All of these projects were built with significant state support. Yet, there are currently no state policies and procedures to address the very real possibility of private sector take over of these and other solid waste facilities.

Key questions that face the State in cases of privatization include:

Who is responsible for ensuring that a privatized program adheres to the standards of the approved plan and the certification provisions?

How much, and in what manner, should private contractors reimburse the State for the value of facilities and equipment that were built or purchased with state grant funds?

RECOMMENDATION: The Agency should develop clear policies and procedures concerning privatization of solid waste facilities and programs to protect public interests and investment.

PURPOSE

The Office of the Auditor of Accounts of the State of Vermont has reviewed selected components of the Solid Waste Program in the Department of Environmental Conservation, a department within the Vermont Agency of Natural Resources. This review also included consideration of the Agency's overall role in relation to solid waste regulation. The purpose of this review was to determine compliance with the statutory and regulatory requirements with respect to the management of certain programs related to the siting, construction, equipage, funding, and ongoing operation of facilities and programs for the collection, storage, transport, and disposal of solid waste as defined in 10 V.S.A. §§ 6603c, 6604, and 6618.

SCOPE

While the assessment reviewed many aspects of the Solid Waste program, emphasis was placed on three areas:

Planning at the State level

Grant programs, particularly the Implementation grants for municipalities and solid waste districts

Use of the Solid Waste Management Assistance Fund

Although the last three years are of particular interest, activities in earlier years are also assessed, particularly where they have an impact on the current program.

AUTHORITY

This review has been conducted pursuant to the State Auditor's authority contained in 32 V.S.A. §§ 163 and 167.

METHODOLOGY

This study reviewed the state's compliance with applicable solid waste statutes as of January 31, 1998. In the course of the study, the Office of the State Auditor engaged in a number of evaluative and analytical activities, including:

Review of applicable documents: Vermont statutes, regulations issued in support of those statutes, the history of solid waste efforts in Vermont and nationally, approximately 35 separate project folders on specific grant requests and authorizations, agency reports and internal reviews, and external evaluations of the solid waste programs. Many of the documents were provided by the Vermont Department of Environmental Conservation in response to several written and oral requests from the State Auditor's Office. A list of key documents is included in Appendix B.

Interviews with most of the state officials who manage the solid waste and related efforts. Interviews were focused at the state level, since the study is limited in scope and less concerned with the current effectiveness of solid waste management statewide than with the validity of the processes by which state government leads and administers this effort.

Analysis of the data and other information available through document review and interviews. The analysis was conducted in the context of statutory authority for management of solid waste granted to the Agency of Natural Resources and its components. The analysis also considered the organizational model of state leadership and regional/district implementation, and the objectives and priorities for the program set forth in statute and subsequent planning documents.

Internal Controls

This review applied internal control standards contained in the Statement on Auditing Standards No. 78. In particular, as part of our review, we considered the following aspects on internal controls:

Control Environment: The control environment encompasses the following factors: 1) integrity and ethical values; 2) commitment to competence; 3) Board of Directors participation; 4) management's philosophy and operating style; 5) organizational structure; 6) assignment of authority and responsibility; and 7) human resource policies and procedures.

Risk Assessment: Risk assessment includes identification, analysis, and management of risks relevant to the organization.

Control Activities: Control activities usually include performance reviews, information processing, physical controls, and segregation of duties.

Information and communication: This element of internal controls considers whether existing information systems can generate information sufficient for the entity to manage itself effectively.

Monitoring: Monitoring involves assessing the design and operation of controls on a timely basis and taking the necessary corrective actions. This process is accomplished through ongoing monitoring activities, evaluations, or a combination of the two."

BACKGROUND

Over the past several decades, Vermont, along with the rest of the nation, has become increasingly concerned about the problems of solid waste - its generation, its transportation, and its storage. As it became clear that our traditional solutions of dumps and other informal methods of putting waste "away" were no longer suitable in an era of stronger environmental awareness, increasing population and consumption, and real dangers from improper disposal methods, Vermont responded by creating an entirely new system of waste management.

Act 78 of 1987 was the watershed event in this evolution. It forced the closing of numerous unlined dumps and landfills around the state, set up a whole new administrative partnership between the State and newly formed municipal and regional entities, and channeled monies from the State to fund a wide range of waste-related

facilities and programs. In fulfilling the provisions of this law and subsequent amendments and additions, state government spent many tens of millions of dollars, and regional and local governments many hundreds of millions of dollars, to construct and operate new landfills, transportation networks, waste transfer stations, recycling centers, and a myriad of other activities. From 1987 to the present, state spending alone has been in excess of \$60 million.

Several comprehensive studies of solid waste efforts have been conducted by the Legislature and by the agency itself. This review is more narrow in scope, and focuses on the internal procedures of the agency and its component units in managing selected solid waste programs, and on the results of those management efforts.

Administrative History

Under Act 78 of 1987, the role of the State in the management of solid waste expanded dramatically. Initially the responsibility for these activities was split between the Agency of Development and Community Affairs and the Agency of Natural Resources, but the entire program was transferred within two years to Natural Resources. Act 78 had three major objectives:

to establish a planning process whereby solid waste management would be conducted in as systematic way, in accordance with an established set of rules that applied statewide;

to divide responsibilities for solid waste management between the State as the planner and a major funding source, and local/regional governments acting as solid waste districts that actually ran the programs;

to provide funding mechanisms to support a substantially enhanced set of solid waste management activities.

The law established separate ways in which the State could support regional projects in solid waste management. Funds have been expended since 1987 in 4 major areas, as well as to support the closure of unlined landfills. Over the past decade, the Legislature made numerous changes to the solid waste statutes, including changes in the kind and amounts of funds available, but the basic framework remains the same. Our review has focused on capital expenditures for Planning grants and Implementation grants (items #1 and #2 below), and on expenditures from the Solid Waste Management Assistance Fund for grants to regions/districts/municipalities (item #3) and for Agency internal management expenditures (item #4):

1. Planning grants. These paid the regions to prepare plans for their solid waste that would then become blueprints for detailed actions to manage that waste (\$20.8 million awarded to date);

2. Implementation grants. The State paid about 40% of the cost of the on-the-ground efforts of the districts and municipalities through a grant process based on application by the districts and retrospective reimbursement by the State for eligible costs (more than \$24.3 million awarded to date);
3. Grants to regions and organizations from the SWMAF for innovative projects, education efforts, and technical assistance (more than \$1.3 million awarded to date);
4. Support for Agency internal management from the SWMAF for expenditures the Agency has deemed related to solid waste (more than \$12.5 million spent to date).

Response of Department of Environmental Conservation

Although the day-to-day administration of many of the solid waste programs we examined rests specifically with the Department of Environmental Conservation (DEC), the actual solid waste statutory mandates are directed to the Agency of Natural Resources, through the Agency secretary. Many of the recommendations we have made throughout this review have validity and applicability in programs that may be administered in other components of the Agency. Also, the Agency (through the secretary) effectively determines expenditures of Solid Waste Management Assistance Fund (SWMAF) monies. A review of SWMAF expenditures forms a major portion of our report. Therefore, some of the Findings and Recommendations are directed to the Agency as a whole, as opposed to just the DEC. Following completion of a draft report, we shared that draft with the Agency of Natural Resources and the Department of Environmental Conservation for their response. DEC prepared a detailed response on behalf of itself and on behalf of the Agency as a whole. (DEC's response is attached as Appendix D.) We have taken that response into account in preparing this final report. However, we continue to disagree with DEC on two key issues:

1. The Interpretation of State and Local Responsibility. We feel that the former and existing statutes allow(ed) the State more latitude in assisting and directing regions and districts, both in terms of meeting overall state goals and ensuring project viability. Both roles are appropriate when the State is contributing grant funds to support projects.

DEC, in its administration of the grants and in its response to our draft report, has taken a narrow view of its role as grantor, and asserts that the intent of Act 78 was for local decision making, including "the ability to make the 'wrong' decisions." We continue to believe there was more the State could have and should have done to lend more active assistance and direction to the entire Planning and Implementation grants process. Our report indicates that had the State been more proactive in the development of plans and the approval of implementation requests, the result would have been a better and more efficient solid waste management process; overall state and local costs would have been

reduced and quite possibly more progress achieved in reaching the top goal of Act 78: reduction of waste generation.

2. Expenditures of Solid Waste Management Assistance Fund Monies. We believe that the Agency's use of almost 80 percent of this fund to support internal administration over the years is not consistent with overall legislative intent. Although the statute references Agency internal administration as one use for the fund, it limits such internal administration to solid waste management related expenditures and our review indicates that some of the Agency internal administrative uses of the SWMAF are related to solid waste management only tangentially, at best. Further, the statute clearly anticipates that the SWMAF be a support for innovative grants to the districts, but less than 10 percent of the SWMAF has been expended on direct grants of any sort.

In response to our recommendation that internal administration be capped so that more monies could go to direct grants for the purposes outlined in the statute, DEC said that it thought it would be preferable to instead institute an annual cap of \$150,000 for grant activities. This would simply continue the longstanding pattern of Agency use of almost all of the SWMAF for internal administration with less than 10 percent being used for direct grants.

DEC, in its response, also contends that its use of SWMAF funds for Agency internal administration has received full legislative approval. However, even though the Legislature has allowed the use of SWMAF monies for internal administration, it has never suggested that almost all of it be expended in this fashion. In fact, recent action by the Legislature indicates that it does not wholly approve of the almost exclusive use of the SWMAF to support internal Agency administration. In January 1997, the Legislature's Act 78 Study Committee was critical of this practice, noting that because the fund has been used for administrative purposes which are only indirectly related to solid waste programs, less monies have been available to fund grants for research and development, education, and pilot and demonstration projects. Significantly, in 1997, after the release of the Study Committee's report, the Vermont House passed legislation that would require the Agency to fully report all appropriations and disbursements to the Legislature from the SWMAF. This would increase accountability over the uses of the fund and is a recommendation we have incorporated in our report.

FINDINGS AND RECOMMENDATIONS

A. PLANNING GRANTS

Vermont solid waste statutes have a strong planning component (10 V.S.A. § 6604). The state is required to complete and maintain a statewide plan that outlines state objectives and procedures. This serves as the basis for local plans, that in turn provide the

justification for specific projects and programs. Before they are eligible for state financial support in building solid waste facilities, municipalities or multi-jurisdictional solid waste districts must complete this comprehensive plan.

The State has committed significant resources to district planning efforts since the passage of Act 78. Over \$20.8 million has been awarded for "planning grants" to districts, and although some of these grants included significant sums for implementation, it is clear that the Legislature intended for planning to precede implementation. Importantly, the State Solid Waste Plan was to precede, and serve as the basis for, local plans, and local plans are a pre-condition for most implementation activities.

A number of issues around the planning process are of concern, either because they directly caused problems in planning solid waste programs, or because they created an environment in which problems arose subsequently during implementation.

1. Late State Plan Update

FINDING

The statutorily required update to the State Solid Waste Plan has not been completed, although the five-year deadline for it passed in 1993. To date, no revisions have been filed, and the plan update is not expected to be completed until early 1999.

10 V.S.A. § 6604 required that state solid waste management plan be adopted by April 30, 1988 and then updated at least every five years. However, the state plan has not been updated for almost a decade. This delay can have substantive implications, as the environment around solid waste management is changing rapidly, and these new conditions should be addressed in an up-to-date plan with accompanying regulations. There is also concern in the Solid Waste Division about the effect on state credibility in the field created by the failure to complete plans and updates as specified by statute.

RECOMMENDATION

The Agency should complete the update to the State Solid Waste Plan as quickly as possible. It should also file regulations in support of the plan immediately upon its completion. The Agency should prepare a schedule and time line for preparation of future updates in order to ensure that they are completed in a timely fashion.

2. Implementation Preceded Planning

FINDING

Planning grants were expanded to include implementation activities such as site design and exploration for landfills. The State allowed certain implementation activities to proceed prior to completion of local plans. This is inconsistent with good planning practices and may have resulted in poorly conceived implementation projects.

It is important to recall that the statute that established the current solid waste program was clear that planning was to precede and guide the development of facilities and waste management programs. Plans were specifically required, and the sequence of "plan first, then implement" was established throughout Act 78. Language in earlier law referencing "systems" for "storage, collection, transportation, processing, recovery and disposal" were replaced by references to a "strategy" for "management" of waste. Finally, all state funds for planning were terminated in 1993. By this time, the Legislature reasoned, the up-front planning should have been completed, and emphasis on implementation of these plans became the higher priority.

Even when the Legislature in 1989 amended the solid waste statutes to allow districts that had not completed their plans to receive so-called "Interim Implementation Grants," it recognized the importance of ensuring that thorough planning and exploration of all options take place. The Legislature required that Interim Implementation Grant projects not "foreclose any of the options for solid waste management being developed in the plan"[emphasis added]. However the State allowed districts to move ahead on design and siting of specific projects (landfills, recycling, transfer stations, etc.) with these funds. Some of the projects initiated with these grants included landfill exploration, procurement of heavy equipment, and construction of project-specific facilities. These projects may have been appropriate, but by spending money on them before completing the plan, districts did foreclose some of their options.

The concept of an open-ended plan based on objectives and outcomes was also not well served by the Agency decision to allow project specific activities to proceed under Planning grants. It is possible that if Planning grants had not included funding for activities related to implementation, such as site-design, grant recipients might have picked other solid waste solutions after they had completed their planning. But since planning was not completed before these funds were expended for site-specific activities, the districts were effectively locked into a course of action, without the benefit of the thorough analysis and consideration of alternatives that is part of any proper planning process.

Since they had already received the state grant and spent the money, districts became committed to courses of action that may have been less than ideal, and which could have been avoided, prospectively, if the planning anticipated under Act 78 had been accomplished. Some of the projects that proceeded under these arrangements were:

\$1,175,391 to Bennington for a municipal sludge composting facility (1991). Subsequently, there has been considerable criticism of sludge composting, and its desirability is certainly in question.

\$236,000 for landfill site exploration in the Lamoille district (1992). For a variety of reasons, this project never went ahead; the funds could have been used more effectively elsewhere.

RECOMMENDATION

None for the current solid waste program, since the local planning grant component of this program is effectively over. But comparable Agency programs, now and in the future, should make comprehensive planning a priority.

3. Duplicative Planning

FINDING

During the local planning phase, the State failed to actively assist or oversee the plan development. As a result regional plans were duplicative of each other, often reached very similar conclusions and the State spent more than it would have if it had tried to avoid duplication of local efforts.

It is not required by statute, but the State missed an opportunity to reduce the redundancy in plans. While each region and district is unique, our review of grant application and administration folders at DEC, and conversations with Agency staff, shows that there are numerous similarities in waste generation and waste management options among the plans that could have been dealt with on a statewide basis. Instead, the local entities each prepared individual complete plans, frequently using costly outside consultants.

The Legislature's 1992 review of the solid waste program, *Solid Waste Management in Vermont: A Program Evaluation*, supports this view, and states that "Agency planning requirements have resulted in duplication of work by districts...." The report goes on to ascribe this "duplication" to Agency actions, but in fact it was, in many ways, the result of Agency inaction and failure to take the lead in planning activities. Because it chose to not take an active leadership role during local plan development, the State ended up

spending more than it might have. As the 1992 report noted: "District level planning as administered by the Agency of Natural Resources has been inefficient and wasteful of state appropriations."

RECOMMENDATION

The Agency should take a more pro-active role in assisting districts or other entities in planning in the future for this and other comparable programs. Specifically, the Agency should avoid duplication by districts in planning efforts.

4. Insufficient State Leadership in Substantive Planning Matters

FINDING

The Agency did not evaluate plans for viability. This has led to significant expenditures of state and local funds for flawed or failed projects.

The State does not provide substantive direction for local planning efforts, although DEC may give assistance in meeting the administrative requirements. Plans must conform to state law and, ultimately, to the state plan, but within those rather broad criteria, districts are allowed to do whatever they think best, so long as it is not inconsistent with law or regulation. This process may have honored local control, but it deprives districts of the benefits of the trained personnel and experience available at the Agency. As in the case of duplicative district plans, the Agency did not insert itself pro-actively in the planning process. Even though the Agency housed numerous experts on solid waste management, it did not regard its role as including a thorough assessment of district plans, specifically with a view toward whether plans were workable technically, financially or administratively. At least in part because of poor planning practices and lack of planning oversight by Agency, significant state and local dollars were invested in projects that did not serve the regions or the State well.

a) In some projects, the concept was not thoroughly explored and defined. The result was that initial choices were reconsidered and changed after considerable time and effort were expended. In several cases, planning monies were paid to districts for projects that didn't go ahead. This money may be lost forever. Examples include:

Lamoille Solid Waste District Landfill. Over \$450,000 in state funds was granted for siting, design and permitting of this proposed regional landfill. For a variety of reasons, including a local controversy about the potential need for the facility, the plans were aborted and the project never went ahead.

Greater Upper Valley Solid Waste District (Hartland) Landfill. This project, with a state investment of \$330,000 in site assessment, design, and permitting, is on hold, with no assurance that it will ever proceed.

b) In some projects the wrong approach was chosen.

Chittenden Solid Waste District Biosolids Processing Facility, where the untested technology failed, resulting in the closing and likely sale of the facility, possibly for non-solid waste uses. Total state participation in this project to date is \$1.4 million. Total costs for the failure of the Bio Solid Processing Facility are, in fact, much higher than the State's \$1.4 million grants. The facility cost \$4.7 million to build and \$1.8 million to repair. Local tax payers and users have borne the brunt of this failure, which possibly could have been avoided through better planning and assistance from the State.

Although the number of major failures may be small, it is likely that the lack of state direction resulted in other unnecessary expenditures at both the state and the local levels, particularly in planning. In the 1992 Legislative report, the committee commented: "No statewide, comprehensive overview exists of the solid waste management system, concerning long-term, empirically-based planning for system needs or resource allocations, source reduction, recycling, facility siting, or hauling." The context for these language was a recommended overhaul of Act 78 to give the state more authority in planning and direction. While the conclusion is consistent with our findings, we believe that Act 78 did give the State authority to engage in such comprehensive planning and direction, but that the Agency did not implement it in that way.

RECOMMENDATION

The Agency should exercise greater oversight over district planning efforts to ensure that plans are viable and in-line with the State's overall goals. The Agency should also act early in project planning to redirect funding when plans that will realistically lead to effective implementation do not appear to be developing.

B. IMPLEMENTATION GRANTS

The implementation grant program provides state funding for the creation of facilities, purchase of equipment, and development of services to process, store, ship, or otherwise manage waste. Such facilities, equipment, and services must be consistent with the state waste management plan or necessary to implement a district plan.

Districts and municipalities apply for implementation grants. Application is made to DEC of Environmental Conservation. Application requirements are set out in law. (Planning is again emphasized: one of the requirements of the application is an explanation of how the project fits into the regional solid waste plan.) The application and award process involves submission of a grant request by the district, review of that request by DEC, awarding of the grant, expenditures by the district for the agreed-upon purposes, financial audit by the Agency, and reimbursement from the State for legitimate district expenditures. Successful applicants receive 40 percent of the total cost for funded projects from the State; the districts are responsible for funding the remaining 60 percent.

Table 1 summarizes legislative appropriations to the solid waste program for planning and implementation.

Table 1 - Grant Appropriations for Planning Grants and Implementation Grants

Fiscal Year

Amount

1988

\$1,000,000

1989

2,500,000

1990

4,700,000

1991

7,662,456

1992

9,451,000

1993

9,428,000

1994

3,000,000

1995

5,964,000

1996

915,000

1997

399,478

1998

0

1999

0

TOTAL - \$45,116,089

As Table 1 shows, to date, the state has appropriated more than \$45.1 million for the Planning and Implementation Grant program, with implementation grants accounting for at least \$24.3 million of the \$45.1 million, with the rest going for planning. (Districts, therefore, have spent at least an additional \$36 million on implementation.) Since 1993,

when planning, design, and other miscellaneous grant categories were eliminated, all of the \$19.7 million appropriated have been for implementation grants.

If planning provides the conceptual frame of reference for the program, implementation is the heart of the solid waste management process. It is also the area where problems and issues arise in meeting the program objectives. These include:

1. No Prioritization of Grants

FINDING (a)

In administering the grant programs, DEC has not established priorities in its allocation of funds, and has not focused on the highest priority specified in statute -- waste reduction -- when it makes grant awards. As a result there has been little support for waste reduction and no demonstrable progress toward this goal.

Throughout the grants process, implementation grants have been awarded to districts on "a first come, first served basis," without regard for the substance of the request. Little emphasis is placed on the highest priority of Act 78 - upstream prevention of waste creation - versus waste removal, waste diversion, and waste handling.

The basic statute that created the current solid waste program -- Act 78 of 1987 -- is very specific about the State's priorities in solid waste. It clearly directs state and local organizations to focus on the highest of these priorities as they plan solid waste solutions. The statutory language, 10 V.S.A. § 6604(a)(1), establishing priorities for the State and the district's solid waste plans says [emphasis added]:

(1) The plans shall be based on the following priorities, in descending order:

(A) The greatest feasible reduction in the amount of waste generated

(B) reuse and recycling of waste to reduce to the greatest extent feasible the volume remaining for processing and disposal

(C) waste processing to reduce the volume or toxicity of the waste stream necessary for disposal

(D) land disposal of the residuals.

Despite the clear direction from the original statute, (the cited language still remains in the current law), the system as managed by the Department of Environmental Conservation does not discriminate among projects on the basis of statutory mandates

when awarding grants, even though 10 V.S.A. §6603(c)(2) clearly requires that "the secretary shall give priority proposals...that are determined...as being able to effectively accomplish the priorities set forth in section 6604(a)(1) of this chapter." Instead, applications are processed and approved in the order in which they are received. There is no weighing of the merits of applications based on whether and how well they meet the list of solid waste priorities. Consequently, during the implementation grants application process there is no pressure for, or focus on, the high priority objective of waste prevention. In fact, the highest priority, waste reduction has been an afterthought at best during the awarding of implementation grants.

It can be argued that, by not establishing a system to aggressively support waste reduction, the Agency (through DEC) failed to exercise leadership, and missed an opportunity to develop and/or import creative solutions. Currently, the only unit of state government actively involved in waste reduction is the small part of the Environmental Assistance Division providing technical assistance to organizations, districts, and communities within the general area of pollution prevention.

Perhaps the most telling numbers concerning DEC's failure to prioritize grants comes from its own statistics. According to a 1997 internal DEC report, Vermont generated 346,000 tons of waste in 1988, shortly after passage of Act 78. In 1996, Vermonters generated 407,000 tons. Clearly, there has been no reduction in waste generation, the highest statutory priority of Act 78. Significantly, this represents an increase of 17.6 percent in waste generation. Vermont's population grew by less than seven percent during the same time period. And while there has been an increase in recycling (32 percent in 1994 as opposed to 14 percent in 1989), reuse of waste, another high priority area, had declined during the same period from 5 percent to 3 percent.

The Legislature clearly emphasized its belief in the overarching importance of reduction in waste generation when it passed Act 78 over a decade ago. The Act 78 Study Committee appointed by the Legislature re-emphasized that goal in its January 1997 report noting that "Vermont needs to reduce the volume and toxicity of waste generated. ...Overall waste prevention should be a priority. ...Waste prevention is Act 78's top priority." The committee also suggested that the State Plan for solid waste should have a diversion goal of 50 percent by the Year 2004 and that a reduction in waste generation was critical to meet that goal. That view is one solid waste professionals increasingly embrace. A recent news article about recycling in Vermont quoted Burlington's Public Works Director as saying that without significant reduction in waste generation, there is little more waste that can be diverted from landfills by recycling. If Vermont's long term solid waste management strategy is to include significant reduction in waste generation, then the Agency should begin to encourage and fund reduction strategies.

Our review also suggests little Agency leadership on this entire issue. In general, the State has done little to stimulate grant applications that focus on the high priorities of Act 78. Districts have not been urged to apply for activities that support these high priorities, nor has the State reserved any portion of Implementation grants for high priority activities. With little encouragement or incentive from the State, districts have largely not

focused on Act 78's highest priorities. And, as we note in the next finding, Implementation grant funds are now almost all exhausted and therefore, grant applications that may now come forth that do, in fact, support the highest priorities of Act 78 will not likely have a funding source.

RECOMMENDATION

DEC should evaluate and award grants based on the list of priorities established in statute and based on likely benefits towards achieving statutory priorities.

FINDING (b)

Implementation grant funds are almost all committed, and several projects that do address waste reduction may not be funded because there will be no money left.

One result of this failure to establish priorities is that, in 1998, projects that do, in fact, serve one or more of the high priority objectives, may be excluded because grant funds are exhausted, while projects that serve only lower priority objectives but submitted applications earlier have been approved. Table 2 details the status of grant funds as of January 31, 1998.

Table 2 - Current Implementation Grant Status

Implementation grant funds appropriated but not awarded

\$ 297,495

Grant applications currently awaiting funding (approximate)

\$ 600,000

Dollar amount of applications that will likely not be funded

\$ 302,505

Examples of waste reduction projects that may not be funded include:

A reuse facility in Middlebury (\$175,000 grant) for storing and displaying reusable items like books, dishes, and furniture.

Purchase of a building by the Northwest Solid Waste District (approximately \$50,000 grant) for multiple purposes, including a reuse facility.

RECOMMENDATION

The Agency should first fund pending applications that best meet statutory priorities for waste reduction.

2. Insufficient State Review of Project Viability

FINDING

DEC reviews grant applications for technical compliance, but not for project viability or likely outcomes.

Before approving a project for grant funding, the State ensures that expenditures are legitimately related to solid waste, appropriate permits are secured, and that the required 60 percent local match is assured. Less attention is paid to the ability of the district to manage and financially support the project after it is completed. Revenue projections are part of the grant application, but the review does not focus on their reasonableness or accuracy. Overall, there is no close scrutiny to the key question of whether a proposed project is likely to succeed.

DEC actually has two opportunities to review project viability, first during the planning phase, and then later when considering implementation grant applications. But as noted previously, DEC has failed to consider project viability at the planning phase. This same failure by DEC at the application review stage to critically review project viability has likely resulted in approval for projects with flawed assumptions concerning key project aspects such as technology, revenues, waste stream generation, and management. As a result, projects have been approved and completed that are not supportable through local revenues, or that require far higher user fees and other charges than originally anticipated.

Given the sizeable commitment of state funds to project implementation, closer scrutiny to project viability should be incorporated into the application review process. Further,

DEC, not the individual districts, is the repository of the expertise concerning solid waste management. It is only appropriate that DEC critically evaluate whether a proposed project "will fly or not."

RECOMMENDATION

Agency procedures for processing implementation grant applications (in solid waste and other programs) should be changed to increase state technical and management services to applicants, and to include a thorough assessment of project viability and success before awarding grant funds.

3. Insufficient Ongoing Review

FINDING

There is virtually no DEC review to certify compliance with grant specifications or to measure project progress and/or outcomes.

Current post-grant review of funded projects focuses on approval of plans and grant applications, monitoring of required reports and fee payments, and auditing of expenditures for reimbursement. Although these are important, there are major concerns that are not being addressed by this level of review. These include:

Outcomes/results

What projected outcomes and results are included in the grant application?

What is the project accomplishing, and how does this compare with the projected outcomes?

Compliance with state grant program requirements:

What is the nature of operations on a completed project? Is it in operation at all? Is it working? Is it doing what the grant application claimed it would do?

Are the operating costs consistent with projections?

Continued conformity with the State Plan

As part of its five-year update to the state solid waste plan, the State is to assess how existing facilities, operations, etc., conform with any new or updated statewide goals. On-going review of funded projects would seem to be a necessary component of any such assessment.

In a review of 15 planning grants, outcome measures did not appear to be an important consideration. The grants administrator confirmed that the major priorities in reviewing planning and implementation grant applications were conformance with funding requirements, certification of any facilities, and securing the necessary permits -- not outcomes. There is no emphasis or system in place for actually measuring results and ensuring that funded projects are still consistent with overall state goals.

RECOMMENDATION

DEC post-grant review should include on-going outcome measurements, measurements of compliance with state grant program requirements and assessment of continued conformance with state solid waste goals.

4. Insufficient Field Presence and Complaint Investigation

FINDING (a)

On-site inspections of operating facilities are rare after the grant is awarded. Such site and program inspections occur only when there is a complaint.

With the exception of some education programs for district and regional personnel, almost all of the work in solid waste by the Department of Environmental Conservation is administrative in nature. Field reviews and on-site inspections are rare. All responsibility for field examination of grantee solid waste facilities and programs rests with the 8-person staff distributed between the Certification and Compliance Section and the Technical Assistance Section within the Solid Waste Division of DEC. The primary

function of this unit is to certify that a particular facility has met the physical preconditions for grant approval, including proper design and compliance with environmental and other regulatory conditions. Since the staff from the two units also have administrative duties, including monitoring fee payments and periodic reports, they have very little time for on-site reviews after the certification process is complete. Consequently, the Solid Waste Division only investigates facility performance in response to complaints about certified facilities, a relatively infrequent occurrence. Since August 1997, when it began keeping records, 10 such complaints have been filed and investigated. Typically, a staff member will visit the facility, make a determination about the complaint, and work with the operator to resolve the problem. Since these facilities depend on certification and operating permits to remain in business, they generally cooperate in correcting any offending conditions.

However, there is no organized process for inspecting facilities to ensure that they are in compliance with the conditions of their permit, determine the level of throughput, assure correct practices, or review outcomes. According to the Chief of the Certification and Compliance Unit, there is a realization and a desire to undertake a more regular inspection process but the Unit is unable to do so because of lack of staff resources. There are over 100 certified solid waste facilities throughout the state, and if it were assumed that each of the ten complaints was for a separate facility, that would suggest a 10 percent rate of non-compliance of some sort or other. The Chief acknowledges that with regular inspection, this rate of complaints would likely drop.

RECOMMENDATION

Field inspection of all facilities that have received state grant funds should be required. If lack of resources for inspection is a problem, the Agency should consider re-prioritization of administrative monies currently used from the Solid Waste Management Assistance Fund.

FINDING (b)

Record keeping about complaints and other possible violations of law, regulation, and good practice in the solid waste area is inadequate.

Until August 1997, there was no organized system for receiving, recording, filing, and summarizing complaints about certified facilities. Since that time, a record of the complaint has been entered in the file of the facility when it is received, but there is still no database to which managers or inspection staff can refer that would support:

systematic corrective actions, and
analysis of complaints by type, status, remedial actions, resolution, or follow-up referral.

There is also no system to gather and share information from other state and local agencies that interact (and visit) certified facilities on a regular basis. If staff shortages prevent regular inspections by the Solid Waste Division staff, such a system would at least allow the Division to gather information more frequently from the field concerning what is actually happening at certified facilities. Division staff could perhaps even train their counterparts in these other agencies to be on the look-out for possible violations of law, regulation or good practice.

RECOMMENDATIONS

All complaints and the results of all inspections should be recorded in a database where they can be accessed by all appropriate criteria -- date, facility, type of complaint, status, remediation, referral, resolution.

The Solid Waste Division should develop a system to support follow up on all complaints and inspection results.

DEC should create ongoing dialogue and a common reporting system among the state and local agencies concerned with solid waste facilities and programs. These include Regional Planning Commissions, Health Departments, as well as Vermont Office of Safety and Health Administration, and Fire Marshals.

5. Privatization

FINDING

The State has not developed policies and procedures with respect to privatization of solid waste facilities and programs despite the emergence of this significant trend.

Privatization of solid waste operations, including facilities, is now a reality. As waste removal, processing, and disposal become better organized and subject to greater control and restrictions, the prospects for profitable operations expand.

The private sector is able and willing to provide services, and is aggressively pursuing this business. At the same time, some districts and municipalities are finding that management of solid waste is a difficult and time-consuming service, and often one that threatens to be a cost, rather than a profit, center, particularly when operated by public entities.

In this new environment, professional waste management firms with expertise, extensive organizations, and considerable capitalization now approach the market in a comprehensive and systematic way, either through:

Increased investment in new or refurbished private facilities and services that compete with public sector waste management programs;

Contractual arrangements with public entities (solid waste districts, municipalities) to manage and operate their programs.

Special issues for the state planning and grant efforts arise when districts and municipalities enter into contracts with private firms to manage facilities and programs that were begun with state grants and that are required to meet the conditions of state and local plans. There have been discussions about possible changes in ownership at:

Chittenden Materials Recycling Facility (MRF). The state portion of the implementation cost for this major project was approximately \$1,440,000. Private interests have an expanding role in the management of the facility, and may exercise control at some point.

Northeast Kingdom Materials Recycling Facility (MRF). This facility was built with \$133,000 of state funds. The district is now exploring the desirability of creating a non-profit cooperative to run the business.

Chittenden Bio Solids Processing Facility. This project has been abandoned by the district due to failure of the technology to do the job for which it was designed, and the building and equipment may be sold. State investment to date is approximately \$1.4 million, with an additional \$5.1 million spent locally.

Key questions in cases of privatization include:

Who is responsible for ensuring that a privatized program adheres to the standards of the approved plan and the certification provisions? Such requirements might include continuation of recycling programs, operating hours, and public participation in decision making. This may be clear if a private contractor operates the facility but the district retains ownership and overall management authority. However, what if a district actually turns the program over to a private contractor and does not have control? Does the private contractor have the same obligation to serve the public interest as we would expect of a public entity? How can this be enforced?

How much, and in what manner, should private contractors reimburse the State for the value of facilities and equipment that were built or purchased with state grant funds?

How shall the current value of these assets be determined? The principle has been established that districts must reimburse the State for the state-funded portion of the current value of equipment when they sell such equipment. This is a fairly simple concept and easy to execute when dealing with trucks or front loaders. It has not yet been tested, and may be more difficult, to determine reimbursement to the State when whole facilities (transfer stations, recycling buildings, processing plants) are involved.

RECOMMENDATION

The Agency should develop clear policies and procedures concerning privatization of solid waste facilities and programs to protect public interests and investment.

6. Failure to complete projects in a timely fashion

FINDING

There is currently almost \$1 million in encumbered but unexpended implementation grants, some for awards that were made 7 years ago. These funds are not available for new, active initiatives that have a much higher likelihood of proceeding, if funded.

Over \$965,000 has been awarded by the State for implementation grants that are over three years old, but are yet to be expended by the grantee district. \$615,000 of this amount dates back 5 years or more, indicative that these projects are not likely to proceed. Although there is no indication as to when, or if, these funds might be required, they are effectively no longer accessible by the solid waste program for projects that might have greater benefits and might actually go ahead. Table 3 details the amounts of unused grants by year.

It is noteworthy that of the \$45 million appropriated for implementation and planning grants, more than \$44.7 million has been awarded. Only \$297,000 remains in the Implementation Grant program, and the Legislature would have to appropriate more to increase that amount. Since the probability of additional appropriations is low, given recent history of no appropriations in fiscal years 1997 and 1998, the nearly \$1 million in unexpended grant funds takes on even greater importance for those who wish to compete for grants in the future. Unfortunately, there are some pending grants whose primary purpose is to reduce waste -- the highest statutory priority -- but may not be funded (see

Finding 1(b) this section). Clearly, if these unexpended grant funds were available these pending projects and other future projects that match statutory priorities could be funded.

Table 3 - Implementation grants awarded but not used

Fiscal Year

Awarded, not disbursed

Aggregate undisbursed total

92

\$62,319

\$62,319

93

554,007

616,326

94

181,639

797,965

95

168,901

966,866

[Source: Facilities Engineering Division, DEC]

DEC could condition grant application approval on project initiation within a set time-frame. This would not be a hardship to the districts. Since conditions for approval of the grant include completion of all permit processes and availability of the 60 percent local match funding, there are, in theory, no impediments to starting the project once a grant is approved. The large amount of undisbursed grants may be indicative of inadequate DEC review of grant applications. With better and more thorough reviews of applications (see Finding 2, this section), DEC should be able to spot projects that are not ready to go due to management, technical, financial or other problems and not award grants to such projects until these problems are resolved.

RECOMMENDATIONS

DEC should set a time limit on initiating projects once a grant application has been approved. DEC should also develop and install a system of regular reporting by grantees on progress and compliance.

7. Staffing/management of the grant process

FINDING

The grant management process in the Solid Waste Division is less than adequate.

Problems include:

Staffing. At present, management of the entire grant process, with the exception of fiscal audits, is the responsibility of one individual. Although the grants administrator is experienced and committed to making the best possible decisions, and the process is not particularly difficult to understand, it is information intensive and dependent on multiple communications between the State and the districts. As issues like privatization become more important, it will only get more complex.

Oversight. At present, there is no direct oversight of the administrator's evaluation of plans, grant applications, and requests for reimbursement (the financial accounting review is assigned to another group, and is only concerned with verification of expenditures). Because the program is loosely regulated, and local decisions are usually approved, much of the background information and justification is in her head.

Succession. The grants administrator plans to retire in June, and no successor has yet been selected to work with her.

Analysis. For many reasons discussed earlier, but also because of the staffing model, grant requests are not adequately analyzed for technical feasibility, output adequacy, or cost details.

RECOMMENDATIONS

DEC should assign another staff member at once to work with the administrator, learn the systems, and, most importantly, become familiar with the major issues, unresolved problems, and key players around the state.

DEC should also involve one or more supervisors in the decision process in a more formal way, so that critical decisions are made jointly, and both State and field concerns are systematically addressed.

C. SOLID WASTE MANAGEMENT ASSISTANCE FUND (SWMAF)

This fund was established in Act 78 and is now codified 10 V.S.A. § 6618, which also enumerates a number of specific purposes for which the fund is intended. One of these purposes is internal administration as related to administering solid waste management functions, but the clear emphasis by the Legislature was that the fund should support innovative methods of achieving the high priorities of waste reduction and reuse/recycling. This charge, in turn, implies that the Agency should make a strong effort to identify and fund these kinds of innovative programs.

The primary source of revenue for the fund is from the dedicated franchise tax on waste facilities as outlined in 32 V.S.A. §§ 5951- 5954. The tax is imposed on waste disposal facilities based on the tonnage (or, at the request of the taxpayer, volume) of waste delivered to a facility for disposal. The tax rates are fixed by statute at \$6.00 per ton or \$2.80 per cubic yard, and are unrelated to the tipping fees paid to the facility. Taxes are due quarterly, and records of waste subject to the tax must be maintained and provided to the State for verification.

Because revenues are dedicated to specific purposes, the fund has had a certain independence from normal fiscal constraints throughout its history. Unlike the planning and implementation grants, which either have been, or probably will be terminated, the SWMAF will continue, supported by ongoing fees. Since its inception, the fund has generated over \$16 million in revenues for the Agency.

1. Allocation of Fund Revenues

FINDING (a)

The Agency has spent approximately 76 percent of the SWMAF (\$12.5 million) for internal Agency personal services and expenses. Less than 10 percent of the fund has been used for direct grants, including grants to support innovative approaches to solid waste.

Although one of the primary purposes for the SWMAF was supporting field efforts to develop creative ways to deal with solid waste, Table 4 shows how over the years the proportion of the fund used for grants and for direct services to communities in the design and development of better approaches to solid waste has declined substantially, and a larger portion has gone to internal administration. Over the entire period, more than 76 percent of the SWMAF has been expended for Agency internal administration. Meanwhile only 8 percent of the SWMAF has gone to support the grant programs anticipated in the statute. Although the Legislature authorized use of the SWMAF for administrative expenses, it is not clear that it expected these to overwhelm other purposes -- support for internal administrative expenses is only one of eight uses outlined in the statute (10 V.S.A. § 6618) which created the SWMAF. Further, those expenses are limited expenditures related to "administering solid waste management functions."

DEC contends that its use of SWMAF funds for Agency internal administration has received full legislative approval. However, recent action by the Legislature indicates that it does not wholly approve of the almost exclusive use of the SWMAF to support internal Agency administration. In January 1997, the Legislature's Act 78 Study Committee was critical of this practice, noting that because Fund "revenues have been used to cover purchases and staff only indirectly related to solid waste programs," less monies have been available to fund grants for research and development, education, and pilot and demonstration projects. Later the committee noted that it wanted to see the SWMAF used more to support "new approaches or projects to carry out programs that are not self-supporting yet valuable to achieving the state's goals." The committee specifically recommended that the Fund's revenues and actual disbursements be fully reported. Significantly, in 1997, after the release of the Study Committee's report, the Vermont House passed legislation (H. 123) that would require the Agency to fully report all appropriations and disbursements to the Legislature from the SWMAF. Currently, during the budget process, the Legislature is not given a breakout of the uses of the SWMAF such as we have reported in Table 4. If a report of this sort were generated by the Agency, we believe this would increase accountability over the uses of the fund.

Table 4 - Solid Waste Management Fund Revenues and Expenditures (in \$1,000's)

Fiscal Year

Internal Admin.

Grants

Other

Total

Percent Internal Admin.

FY 88

420

0

100

520

80.7

FY 89

402

108

159

669

60.0

FY 90

729

308

867

1,904

38.3

FY 91

898

208

694

1,800

48.9

FY 92

1,122

181

615

1,918

60.0

FY 93

1,254

325

1,579

79.4

FY 94

1,022

56

244

1,322

77.3

FY 95

1,085

174

124

1,383

78.4

FY 96

1,009

5

185

1,199

84.2

FY 97

1,183

37

131

1,351

87

FY 98

1,677

77

14

1,900

88

FY 99

1,721

170

108

1,999

86.1

Total (reported)

12,522

1,324

3,698

16,355

76.6

[Source: Department of Environmental Conservation summaries and budget documents]

The decline in grants reflected in Table 4 means less effort in innovative solutions for waste reduction, recycling, and reuse. The significance of the SWMAF grants is that they are the only source of funds that supports innovative and creative approaches to solid waste issues through pilot programs and technology testing. New reuse methods, composting, and small scale recycling are not likely to win approval in a multi-town district with substantial waste management issues, but can provide valuable experience at schools, single commercial sites, and similar manageable projects. SWMAF grant dollars are one of the very few possible sources of support for these activities that may result in important new ways to deal with solid waste in Vermont and/or elsewhere and as the Act 78 Study Committee noted, this is an appropriate and important use for the fund. Innovative projects that have been funded by the SWMAF include:

establishment of the Vermont Business Materials Exchange (\$14,000)

on-farm composting pilot project - Rutland (\$3,000)

grinding plastics waste - Chittenden SW District (\$15,000)

a recent agency proposal to solicit grant applications for on-farm or institutional composting (\$20,000)

It is arguable that if more SWMAF funds had gone to projects like these (and less to internal Agency administration), Vermont might have instituted a greater number of and more far-reaching innovations in approaches to reducing solid waste generation and waste disposal. Certainly, the funding of more such projects is what the Legislature

anticipated when it established the SWMAF. DEC has indicated it disagrees with this approach and has suggested it would be preferable to instead institute an annual cap of \$150,000 for grant activities. This would simply continue the longstanding pattern of Agency use of almost all of the SWMAF for internal administration with less than 10 percent being used for direct grants.

RECOMMENDATIONS

The Agency should establish a maximum percentage cap on Fund expenditures that are used for Agency internal administration.

The Agency should develop a planning process and comprehensive annual plans for the use of SWMAF revenues. The plan should include objectives, projected outcomes, and performance measures.

The Agency should report annually to the Legislature on receipts and disbursements from the SWMAF, clearly showing the amounts directed to specific internal administrative activities, Agency programs and grants.

The Agency should also report results of programs funded by the SWMAF using agreed-upon performance measures.

The Agency should significantly increase funding for grants and other direct service for the support and stimulation of new and creative approaches to solid waste, as anticipated by law.

FINDING (b)

For the grants that are actually awarded, there is no prioritization of the solid waste activities that are funded by the SWMAF.

As with the implementation and planning grants, DEC has failed to consider the priority of the statutory mandates when making grant awards. The high priorities are the same as the ones established for those grants: waste reduction, reuse and recycling.

RECOMMENDATIONS

SWMAF grant allocations should be made on the basis of established priorities that parallel the broad priorities for the entire solid waste program as presented in current statute.

FINDING (c)

There is no evidence of a plan within the Agency for the use of SWMAF resources.

Although the Agency has used the lion's share of the fund for internal administration, there is no evidence that even these uses are guided by any particular principle, such as funding support for solid waste projects. Instead the fund is treated more like an available pot of money that is distributed across the Agency as far as it will go. Significant dollars from the SWMAF go to units within the Agency other than the Division of Solid Waste. (See Table 5.) These allocations are based on some connection that activities in those units have to solid waste - e.g. to air pollution for monitoring of emissions from landfills. These activities are legitimate, but it is questionable whether the statutory intent was, and is, to fund these far ranging positions at the expense of direct service to manage solid waste. The Act 78 Study Committee's view was that too much of the fund was being used for Agency internal administration that was only indirectly related to solid waste programs.

Table 5 - Requested Allocation of SWMAF - Fiscal Year 1999 Budget

DEPARTMENT OR DIVISION

AMOUNT

DEC Commissioner's Office

\$ 74,000

Waste Water

219,097

Environmental Assistance

389,035

Air Pollution

15,875

Waste Management, including Solid Waste

987,172

Waste Facilities Commission (Statutory)

100,000

Other

204,115

TOTAL

\$1,989,294

[Source: Fiscal Year 1999 Department of Environmental Conservation budget request]

It is noteworthy that the Solid Waste Division and the Enforcement Division both state that they lack adequate resources to monitor certified facilities and to follow-up on solid waste complaints. (See Findings 4(a) and (b), previous Section.) Clearly the SWMAF is an obvious source of funding to provide such resources. These activities are arguably far more closely tied to solid waste programs than some other internal Agency administrative functions currently supported by the fund.

RECOMMENDATIONS

The Agency should develop a clear set of criteria for determining whether an internal activity qualifies for SWMAF support. These criteria should ensure that activities that are funded devote significant time and effort to issues of solid waste management.