

§ 751.9

or land uses established by zoning variances or special exceptions.

[40 FR 8551, Feb. 28, 1975, as amended at 41 FR 9321, Mar. 4, 1976]

§ 751.9 Effective control.

(a) In order to provide effective control of junkyards located within 1,000 feet of Interstate and Federal-aid primary highways, the State must:

(1) Require such junkyards located outside of zoned and unzoned industrial areas to be screened or located so as not to be visible from the main traveled way, or be removed from sight.

(2) Require the screening or removal of nonconforming junkyards within a reasonable time, but no later than 5 years after the date the junkyard becomes nonconforming unless Federal funds are not available in adequate amounts to participate in the cost of such screening or removal as provided in 23 U.S.C. 136(j).

(3) Prohibit the establishment of new junkyards unless they comply with the requirements of paragraph (a)(1) of this section.

(4) Exeditiously require junkyards which are illegally established or maintained to conform to the requirements of paragraph (a)(1) of this section.

(b) Sanitary landfills as described herein need not be screened to satisfy requirements of Title 23, U.S.C., but landscaping should be required when the fill has been completed and operations have ceased, unless the landfill area is to be used for immediate development purposes. A sanitary landfill, for the purposes of this part, is a method of disposing of refuse on land without creating a nuisance or hazards to public health or safety by utilizing the principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary.

(c) The State shall have laws, rules, and procedures sufficient to provide effective control, to discover illegally established or maintained junkyards shortly after such occurrence, and to cause the compliance or removal of

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same promptly in accordance with State legal procedures.

§ 751.11 Nonconforming junkyards.

Subject to the provisions of § 751.9 of this part, the following requirements for the maintenance and continuance of a nonconforming junkyard apply:

(a) The junkyard must have been actually in existence at the time the State law or regulations became effective as distinguished from a contemplated use, except where a permit or similar specific State governmental action was granted for the establishment of a junkyard prior to the effective date of the State law or regulations, and the junkyard owner acted in good faith and expended sums in reliance thereon.

(b) There must be existing property rights in the junkyard or junk affected by the State law or regulation. Abandoned junk and junkyards, worthless junk, and the like are not similarly protected.

(c) If the location of a nonconforming junkyard is changed as a result of a right-of-way taking or for any other reason, it ceases to be a nonconforming junkyard, and shall be treated as a new junkyard at a new location.

(d) The nonconforming junkyard must have been lawful on the effective date of the State law or regulations and must continue to be lawfully maintained.

(e) The nonconforming junkyard may continue as long as it is not extended, enlarged, or changed in use. Once a junkyard has been made conforming, the placement of junk so that it may be seen above or beyond a screen, or otherwise becomes visible, shall be treated the same as the establishment of a new junkyard.

(f) The nonconforming junkyard may continue as long as it is not abandoned, destroyed, or voluntarily discontinued. Each State should develop criteria to define these terms.

§ 751.13 Control measures.

(a) Consistent with the goals of the National Environmental Policy Act of 1969 (42 U.S.C. 4321), recycling of junk and scrap is to be encouraged to the greatest extent practicable in the implementation of the junkyard control