



DIRECTIVE NUMBER: 9543.00-2

TITLE: Additional Guidance on RCRA State Capability Assessments

APPROVAL DATE: 12/27/84

EFFECTIVE DATE: 12/27/84

ORIGINATING OFFICE: OSW

FINAL

DRAFT

STATUS: [] A- Pending OMB approval
[] B- Pending AA-OSWER approval
[] C- For review &/or comment
[] D- In development or circulating

REFERENCE (other documents): headquarters

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United States Environmental Protection Agency
Washington, DC 20460

OSWER Directive Initiation Request

Interim Directive Number

9543.00-2

Originator Information

| | | |
|---|---|---|
| Name of Contact Person SDB | Mail Code - Branch State Programs | Telephone Number 382-2210 |
| Lead Office <input type="checkbox"/> OERR <input checked="" type="checkbox"/> OSW | <input type="checkbox"/> OUST <input type="checkbox"/> OWPE <input type="checkbox"/> AA-OSWER | Approved for Review Signature of Office Director Date |

Title

Additional Guidance on RCRA State Capability Assessments

Summary of Directive

Additional Guidance on State Capability Assessments.

Key Words:

Capability Assessment

Type of Directive (Manual, Policy Directive, Announcement, etc.)

Status
 Draft
 Final
 New
 Revision

Does this Directive Supersede Previous Directive(s)? Yes No
 Does It Supplement Previous Directive(s)? Yes No
 If "Yes" to Either Question, What Directive (number, title)

Review Plan

AA-OSWER OUST OECM Other (Specify)
 OERR OWPE OGC
 OSW Regions OPPE

This Request Meets OSWER Directives System Format

Signature of Lead Office Directives Officer

Date

Signature of OSWER Directives Officer

Date

DEC 27 1984

MEMORANDUM

SUBJECT: **Additional Guidance on RCRA State Capability Assessments**

FROM: **Lee M. Thomas /s/ Jack W. McGraw**
Assistant Administrator (WH-562-A)

TO: **Regional Administrators**
Regions I - X

Your assessment of the State's capability to implement a quality RCRA program is an important part of the process of making a Tentative Determination to grant RCRA final authorization. (Guidance on conducting the capability assessments was issued on June 26.) To help ensure timely Headquarters' concurrence on both tentative and final determination decision packages, this memorandum provides additional guidance on capability assessments.

Our review of the assessments indicates the need for a more formalized process to collect the information needed to assess the State capability. This process will ensure that program quality/capability can be readily discerned from the decision packages and that the packages can be processed well within the 10-day concurrence period.

Please make sure that your tentative and final determination decision packages include the following:

1. A chart outlining specific grant commitments and State accomplishments in the areas of permitting, compliance monitoring and enforcement for FY 84 (suggested format attached). A similar chart should also be updated upon submittal of the Final Decision (and for Notices of Tentative Decisions submitted later this year) with respect to State commitments and accomplishments to date in FY 85.
2. As you know, the assessments must include an agreement in the form of a Letter of Intent or Memorandum of Agreement that outlines specific State and EPA actions necessary to strengthen State program capability and sustain a quality RCRA program over time. The Letter

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of Intent or Memorandum of Agreement must include specific schedules and/or dates for implementing both EPA and State activities identified as necessary for enhancing the State's RCRA program. Letters or Memoranda which are vague or generalized are more likely to lead to unachieved expectations and misunderstandings. It is imperative that both we and the State clearly understand and agree to these specific milestones so that each program knows what is expected. For example, if the State has not met its inspection commitments for ground-water monitoring facilities, the agreement should reference a schedule identifying specific facilities to be inspected and a timetable for completion of those inspections in the coming year. The agreement would also specify a timetable for the State to hire additional inspectors, and an EPA inspection schedule that would temporarily augment the State program and enable the State to meet its inspection commitments.

3. Where weaknesses are found in State program areas not identified in the grant accomplishment chart, include specific documentation to support the findings. For example, a State capability assessment may conclude that the State attorney general has been slow in processing cases referred by the program office. The assessment would identify the specific number of cases referred in FY 84, and the current status of those cases at the time of the assessment (pending, filed etc.). Corrective measures for this situation would be addressed in the Letter of Intent or in the Memorandum of Agreement.

I encourage you to submit drafts of your capability assessments to Headquarters (OSW's State Programs Branch) prior to transmitting your tentative or final determinations. By reviewing drafts in advance, the Office of Solid Waste and the Office of Waste Programs Enforcement are able to identify and assist in resolving potential problem areas in the document without being constrained by the 10-day concurrence period.

Attachment

cc: Waste Management Division Directors,
Regions I - X