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Office of
Solid Waste and
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EPA

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- ☐ A — Signed by AA or DAA
- ☐ B — Signed by Office Director
- ☐ C — Review & Comment

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2. Originator Information

Name of Contact Person	Mail Code	Office	Telephone Number
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Provides guidance on implementing the RCRA Subtitle C program and provides a framework for determining priorities at the national and State levels.

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8. Signature of Lead Office Directives Coordinator	Date
Sherry Fielding	4/1/87
9. Name and Title of Approving Official	Date

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D C 20460

MAR 31 '987

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

OSWER Directive 9420.00-4

MEMORANDUM

SUBJECT: FY 1988 RCRA Implementation Plan

FROM: J. Winston Porter
Assistant Administrator

TO: Regional Administrators
Regions I-X

The purpose of this memo is to provide you with a copy of the FY 1988 RCRA Implementation Plan. This document provides guidance on implementing the RCRA Subtitle C program and provides a framework for determining priorities at the national and State levels. The highest priorities are to meet the 1988 and 1989 permitting deadlines, to process permit modifications, new treatment and R&D unit permits, to address environmentally significant closures and to perform inspections as mandated by statute and Agency policy.

I would like to thank all of the Headquarters, Regional and State staffs who offered comments on our drafts. In particular, I appreciate the efforts of our workgroup members in ASTSWMO and Regions II, III, VI and VII. Our Lead Region is also to be commended for assisting in the resolution of outstanding issues. Together we have produced a document which will enable us to protect human health and environment and also meet statutory deadlines.

Attachment

cc: Jack McGraw
Thomas Devine
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FY 1988

RCRA

IMPLEMENTATION

PLAN

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Section 1

NATIONAL PRIORITIES

Program Direction

The goal of the Resource Conservation and Recovery Act (RCRA) program is the protection of human health and the environment. The annual RCRA Implementation Plan (RIP) provides the national direction and priorities for implementing the RCRA Subtitle C program; these priorities should be reflected in the State work programs and Regional work plans as appropriate.

In FY 1988 as in FY 1987, the RCRA program should be results oriented. The Regions and States should be issuing permits, enforcing to return handlers to compliance, requiring facilities to take corrective action, ensuring environmentally safe closures, and taking other actions to protect and reduce the risk to human health and the environment.

The Hazardous and Solid Waste Amendments (HSWA) provided this program with an ambitious agenda. The Agency has accomplished much toward achieving the Amendments' objectives. The RCRA program treats as the highest priorities the statutory deadlines for permitting land disposal (11/88), incineration (11/89), and treatment/storage facilities (11/92); statutory and policy-based inspections; and, other high priority enforcement activities as identified herein. Regions and States should address facilities that close on a priority basis, proceeding first with the most environmentally significant. Also, corrective action measures are an important aspect of processing permits and closure plans.

In addition, the FY 1988 RIP recognizes the need to devote resources to activities supporting the land ban, permit modifications, and call-in of storage applications, as well as reporting, technical assistance, State authorization, and effective oversight of State permitting and enforcement actions.

The RCRA program is a most complex environmental program, requiring technically difficult decisions and sustained management support to achieve statutory deadlines and environmental benefits. The new information management sytem, RCRIS, is expected to be operational late in FY 1988 and should provide the program a much needed data management tool.

Integrated use of all the management, technical, and enforcement resources in a strong Federal and State partnership will be necessary to achieve program progress. Superfund authorities and resources should be closely examined to assist

RCRA in addressing significant environmental problems at RCRA facilities accepting Superfund wastes, closing facilities, and Federal facilities needing corrective action. This RIP provides the framework for managing the regulated community while meeting statutory deadlines and achieving the greatest environmental results.

RIP Framework

The FY 1988 RIP continues the FY 1987 framework for determining priorities at the national and State levels for hazardous waste management. The framework consists of two components: 1) a set of high priority "must-do" activities, and, 2) a description of other priorities. As explained below, Regions must plan and budget for both components as well as for special Regional initiatives and other activities not specified in this document.

The activities in the following table are the "must-do's", critical for meeting statutory requirements and ensuring environmental protection. These activities must be carried out for all applicable handlers. Should a Region find that its resources are insufficient to fully address these activities, the Region should notify Headquarters and provide an explanation before August 15, 1987, so as to provide Headquarters with a better picture of the constraints facing the Regions and States and to see whether accommodations can be made.

Highest Priority Activities

1. Make final determinations on operating land disposal facility permits by November 1988 and process and make final determinations on incineration facility permits by November 1989.

2. Especially at environmentally significant closures, ensure that the facility has adequately assessed ground-water protection concerns.

3. Process permits for new and expanded treatment and incineration capacity, RD&D permit applications, off-site commercial treatment facilities, and permit modifications.

4. Conduct inspections mandated by HSWA, SARA and Agency policy and pursue enforcement against significant violators as defined herein.

This document also recognizes the importance of other directly and indirectly related activities essential to managing the RCRA program at the Regional/State level. These activities are described in Sections 2-10. Examples of directly related activities are planning for post-closure permits and case development inspections. Indirectly related activities include State authorization and oversight. To the extent that Regional/State resources do not allow accomplishment of these activities in the manner or to the extent discussed in this document, management discretion should be used. Note, however, with limited exceptions (which have been underlined), specific timeframes and accomplishments are not identified in the narrative. Rather, Regions have the discretion to determine the amount of attention a particular activity warrants based on Regional and State needs and circumstances. Some tools to assist in this effort are the Facility Management Plans (FMPs) and the multi-year facility strategies required in the FY 1987 RIP. In addition, Regions and States may want to refer to the "Categories of Handlers for Priority Grouping" (page 3 of the FY 1987 RIP) as an approach for establishing priorities for these activities.

Regions also should consider and budget for the RCRA program's contribution to other important activities not specified in this document, such as those identified in the regulatory implementation strategies, and special Regional initiatives. The FY 1989 RIP will address specifically setting aside a certain portion of resources to address special Regional initiatives. Regions should be prepared to explain their priority-setting scheme during meetings with OSWER management.

Section 2

PERMITTING

PROGRAM OBJECTIVE

The objectives of the FY 1988 permit program are to: 1) issue quality, enforceable operating permits or deny permit applications for land disposal (including land treatment) and incineration facilities in accordance with the 1988 and 1989 statutory deadlines; and, 2) focus attention on permitting facilities and approving permit modifications which provide alternatives to land disposal.

Relation to FY 1987 RIP

- New emphasis on timely processing of permit modifications;
- Increased emphasis on initial activities to meet 1992 deadline;
- Increased emphasis on developing schedules for post-closure permit issuance;
- Continued emphasis on meeting the 1988 deadline and increased emphasis on meeting the 1989 deadline;
- Continued emphasis on providing safe alternatives to land disposal of hazardous wastes;
- Continued need to process waivers.

Statutory Deadlines

In FY 1988 the top priority remains making permit decisions for land disposal facilities by the HSWA deadline of November 1988. Secondarily, Regions and States will need to focus on incinerator permits in order to meet the November 1989 deadline. For those incinerators that failed to submit adequate Part B permit applications, the Regions and States should take formal enforcement action in accordance with the applicable enforcement policies and Section 4 of this RIP (Compliance Monitoring and Enforcement). Permit denials are an appropriate response when the applicant fails to furnish in full the information required to make a final permit determination.

For all facilities other than land disposal and incinerators, interim status terminates on November 8, 1992, unless the owner/operator submits a permit application by November 8, 1988. Regions and HSWA-authorized States are to complete all call-ins for these facilities by May 1988. Note that processing of these permits is

a low priority in FY 1988 with the following exceptions: in those States without a heavy workload for issuing land disposal or incinerator operating permits; for facilities causing health or environmental problems; and for facilities providing alternative treatment capacity. Regions are reminded that the Joint Permitting Policy is applicable to such permit issuance.

In addition to imposing statutory deadlines for permit decisions, HSWA requires permits to address corrective action for releases. At a minimum, an RFA must be completed prior to permit issuance. While additional corrective action steps should not delay permit issuance beyond statutory deadlines, Regions and States are encouraged to complete the process as much as possible prior to permit issuance. Where corrective action activities cannot be completed prior to issuance, the permit must contain a corrective action compliance schedule.

Given these statutory deadlines and the resources available for permitting, Regions and States should continue to expand and update their multi-year strategies to ensure that permit decisions are made for all facilities by the HSWA deadlines and that priority attention is focused on those facilities causing or likely to cause the greatest health and environmental threats. The strategies are to be used as a management tool to plan resource and workload allocation. The effectiveness of the strategies will depend on regular discussions between the Region and States on revisions necessary to reflect changing circumstances.

OSW has been working with Region 9 to coordinate the development of an automated tracking system for the multi-year strategies that can be adopted for use by other Regions and States. This system will be available to interested Regions and States. To the extent that data from this system also will be used for HWDMS, Regions must ensure that such data is consistent with that in HWDMS. For futher information on the tracking system and its availability, call State Programs Branch at FTS 382-2233.

Permit Modifications

In addition to final determinations, FY 1988 will see an increase in the workload associated with processing permit modifications. Attention should be focused on permit modifications for ground water (Subpart F), HSWA corrective action, and expansion/new units which result in reduced risk to human health and the environment and/or improved facility management. For facilities permitted in FY 1986 and 1987 with corrective action schedules, close attention should be paid to ensuring compliance with corrective action milestone dates and to planning/scheduling resultant permit modifications.

Alternatives to Land Disposal/Additional Capacity (New Applications and Interim Status Changes)

Disposal, storage, and treatment capacity shortages due to the large number of closures, more stringent land disposal facility requirements, and the land disposal bans are having a dramatic impact on the capacity used to handle hazardous wastes. This disposal capacity shortage requires increased emphasis on the processing of new storage, treatment, and disposal permit applications; research, development, and demonstration (RD&D) permit applications; and changes to existing interim status facilities for expansion of storage, treatment, and incineration capacity.

Processing of RD&D permit applications will aid in the development of safe alternatives to land disposal of hazardous wastes. Permits must be tailored to the scope of the research proposal, and include those conditions necessary to protect human health and the environment. See Guidance Manual for Research, Development, and Demonstration Permits Under 40 CFR Section 270.65, dated July 1986 (EPA/530-SW-86-008, OSWER Policy Directive No. 9527.00-1A). Regions should encourage authorized States to adopt equivalent RD&D regulations (40 CFR 270.65) as soon as possible so that applicants in those States are not precluded from obtaining RD&D permits.

Further opportunities to permit alternative treatment facilities will occur with the issuance of the Subpart X regulations for miscellaneous units currently scheduled for early FY 1988. Subpart X will enable the permitting of those hazardous waste management practices that do not fit the description of any of the units covered by existing regulations such as open burning/open detonation of explosives, waste placement in salt domes or underground mines, and thermal treatment other than incineration. Permitting under Subpart X will be based on a combination of performance standards in the regulation and site-specific design criteria and performance standards in the permit.

Another FY 1988 rulemaking that will facilitate alternative treatment is the mobile treatment unit regulations to be promulgated in final form in March 1988. Current rules and policy allow an applicant who has received a RCRA permit for the first site at which a mobile treatment unit operates to reuse the relevant portions of the initial application at subsequent sites and the permitting agency to reuse the relevant permit conditions.

Regulatory Exceptions

The list of regulatory "exceptions" which EPA and the States will be processing in FY 1988 remains essentially the same as in

FY 1987 with the addition of tank secondary containment waivers and the deletion of surface impoundment retrofitting waivers. The exceptions are:

- Delisting petitions (§260.22)
- Requests for alternate concentration limits (ACLs) for hazardous waste constituents in ground water (§264.94(b))
- Tank secondary containment waivers (§264.193(g) and §265.193(g))
- Petitions for exemption from land disposal bans (RCRA §3004(d), (e), and (g) and §268.6)
- Double liner variances (RCRA §3004(o)(2))

Headquarters, and States authorized for those provisions, will process delisting petitions and land disposal restrictions petitions (technology waivers and no migration petitions). Headquarters also will process case-by-case extensions under the land disposal restrictions program. The Regions, and States authorized for these program areas, will process ACLs, double liner waivers, and tank secondary containment waivers. The importance of effective coordination is recognized and available information and evaluation methodologies will be shared by Headquarters, the Regions, and States. Headquarters permit assistance teams will be available as requested. In order to track Regional and State progress in processing these petitions and waivers, a new measure has been added to SPMS.

ACLs and double-liner waivers are an integral part of the permit and requests for these waivers should be processed with the permit applications. To the extent possible, processing of other waiver requests, such as tank secondary containment waivers, should be coordinated with permit application reviews so that final determinations are made concurrently. However, where the simultaneous processing of non-land disposal waiver requests and permit applications will delay the final determination significantly, Regions and States should proceed with land disposal and incineration parts of the permit and treat the non-land disposal waiver requests and applicable portions of the permit application separately as major modifications to the issued permit. In other words non-land disposal waiver requests should not delay final permit determinations for land disposal facilities and incinerators.

Review of Permit Conditions and Compliance Schedules

State and Regions will need to review documents submitted in accordance with permit conditions and schedules of compliance. These activities should be considered when developing and updating multi-year strategies and associated workload planning.

Post-Closure Permits

Section 3008(h) orders can be used to impose corrective action at closing facilities with interim status. Eventually, however, Regions and States will need to issue post-closure permits to all land disposal facilities (landfills, land treatment units, surface impoundments, and waste piles) that received hazardous wastes after July 26, 1982, except for those surface impoundment and waste piles that successfully closed by removal and met the requirements of §3005(i). In addition, Regions and States must issue post-closure permits to those tank systems that fail to meet the requirements of §264.197(a).

Regions and States should plan for post-closure permit issuance by updating existing multi-year strategies to indicate when the permitting agency expects to issue the post-closure permits. Although submittal to Headquarters of these updated strategies is not required at this time, this is part of the information we will need in the Spring of 1988 for the FY 1990 workload and budget planning process.

Public Involvement

Effective implementation of the expanded public involvement program should continue to be an integral part of RCRA activities. Public involvement plans developed in previous years for targeted facilities should be implemented during FY 1988. Additional facilities that warrant expanded public involvement should be identified through the facility management planning process in FY 1988. State grant work programs should contain specific public involvement activities with appropriate grant funds identified. At a minimum, Regions and States are expected to comply with the Guidance on Public Involvement in the RCRA Permitting Program, January 1986. Regional RCRA staff also should be aware of CERCLA community relations and enforcement activities, and fully cooperate to ensure that the mutual objectives of both community involvement programs are met, especially for RCRA sites listed on the NPL.

List of Applicable Regulations

- Schedules of Compliance for Corrective Action at Regulated Units: Changes information requirements related to ground-water corrective action at regulated units; engineering feasibility studies and corrective action plans will no longer be required in the permit application; these studies and plans may be developed in accordance with a schedule of compliance in the permit; proposed December 1986; final June 1987*.

- RCRA Facility Changes Rule: Clarifies facility's obligation to comply with post-closure requirements even when a portion of an operating permit is denied; provides for continued handling of

newly identified or listed wastes at facilities, removes the reconstruction limit for certain changes at interim status facilities (closure, corrective action orders, and compliance with new requirements); proposed April 1987*; final November 1987*.

- Financial Assurance for Corrective Action: Codifies §3004(u) requirement that permitted facilities have financial assurance for corrective action; proposed October 1986; final November 1987*.

- Mobile Treatment Unit Rule: Establishes a new, two-staged permitting process for MTUs; incorporates delisting procedure for residues into the permitting process; proposed May 1987*; final February 1988*.

- Codification Rule: Pushes back date of post-closure permitting requirements, facilities receiving waste after July 26, 1982, or closing after January 26, 1983, will need post-closure permits; proposed March 1986, final March 1988*.

- Permit Modifications Rule: Replaces current major minor permit modification process with a new, three-part classification system and associated approval processes; proposed August 1987*; final May 1988*.

- Revision of Subpart H Liability Regulations; proposed November 1987*, final November 1988*.

- Procedural and Technical Regulations for §3004(u) Corrective Action: Provides standards and procedures for conduct of §3004(u) corrective action requirements; proposed November 1987*; final December 1988*.

<u>List of Applicable Guidances</u>

- Guidance on Limiting Metals Emissions from Hazardous Waste Incinerators; draft March 1987.

- Guidance on Limiting Carbon Monoxide from Hazardous Waste Incinerators to Control PIC Emissions; April 1987*.

- Hazardous Waste Incineration Measurement Guidance; May 1987*.

- Guidance for Continuous Monitoring of Carbon Monoxide at Hazardous Waste Incinerators (will also include performance specifications for oxygen monitors); June 1987*.

- Guidance on Trial Burn Reporting and Setting Permit Conditions; June 1987*.

- Problem POHC Reference Directory; mid-to-late 1987*.

* Scheduled date.

- Guidance Manual for Hazardous Waste Incinerator Permits (update of 1983 guidance); September 1987*.
- Model Trial Burn Plan, September 1987*.
- Trial Burn Observation Guide; early 1988*.
- Incinerability Index (preliminary output in FY 1987 will include POHC soup and incinerability ranking of 20 compounds); ongoing over next two to three years.
- Minimum Technology Guidance on Double Liner Systems -- Design, Construction, and Operation; March 1988*.
- Minimum Technology Guidance on Leak Detection Systems for Land Disposal Units; June 1988*.

* Scheduled date.

Section 3

FACILITY CLOSURE and POST-CLOSURE

Program Objective

The objective of the closure and post-closure program is to minimize the post-closure escape of hazardous constituents into the environment and to take corrective action to remedy existing environmental problems at closing/closed facilities, including storage and treatment facilities with contamination. Sections 3008(a) and (h) and 3004(u) of HSWA and various State authorities provide flexible tools for ensuring the environmental integrity of closing/closed facilities. Decisions and priorities are to be based on environmental significance.

Relation to FY 1987 RIP

- Emphasizes need to re-examine facilities that closed by removal;
- Increases emphasis on planning for post-closure permit issuance;
- Continues emphasis on land disposal facilities that closed after LOIS;
- Continues emphasis on conducting RCRA Facility Assessments (RFAs).

Implementation of Multi-Year Strategies as Reflected in FMPs

Regions and States should continue to use the facility management planning process to refine their multi-year permit/closure strategies, taking into account the priorities discussed below. FY 1988 closures should occur in accordance with these strategies.

a. Post-Closure Requirements/Closure by Removal

Under §3005(i), all interim status landfills, surface impoundments, land treatment units, and waste piles that received hazardous wastes after July 26, 1982, must meet Section 3004 standards for ground-water monitoring, unsaturated zone monitoring, and corrective action. These standards initially may be imposed through an enforcement order, but eventually a post-closure permit must be issued if these standards have not been met. These standards also apply to facilities receiving waste after July 26, 1982, that attempt, or have attempted, to close by removal under Part 265. If these facilities do not meet, or have not met, the 3004 standards, post-closure requirements are applicable.

To determine whether facilities that closed by removal under Part 265 met the 3004 standards, Regions and States should re-examine the interim status closure plans for such facilities. Facilities that did not meet the 3004 standards (facilities that have known ground-water contamination, inadequate ground-water monitoring data, closed by removal based on the waste no longer exhibiting a characteristic, etc.) should be easily identified by a cursory review. Identification of facilities that have not met the 3004 standards should be completed during FY 1988. This information will be used to supplement the information submitted in response to the need identified under post-closure permits (page 2.5). The results should be used to develop a strategy for addressing the identified facilities. When specific activities are identified for a facility, they should be reflected in the facility management plan and the multi-year strategy.

As always, attention should focus on facilities likely to have releases of concern. In those States that have no operating land disposal facilities or operating incinerators, post-closure permits and §3008(h) orders to address releases at closing or closed facilities are a priority. Post-closure permits and corrective action orders also are a priority when necessary to obtain an important environmental gain such as when an operating permit is denied at a facility needing corrective action. (See also Section 2, Permitting.)

b. LOIS Closures

The FY 1987 RIP required Regions and States to conduct RCRA Facility Assessments (RFAs) at 30% of the closing or closed LOIS facilities and to approve 30% of the LOIS closure plans by the end of FY 1987. During FY 1988, RFAs should be conducted at an additional 30% of the closing or closed LOIS facilities and an additional 30% of the LOIS closure plans should be approved. The facility management planning process will help establish Regional priorities for conducting RFAs at closing or closed LOIS facilities. The FMPs should indicate that RFAs are scheduled at closing facilities where there is no unit subject to permitting and will be completed prior to the regulatory deadline for releasing the firm's financial mechanism.

List of Applicable Regulations

- Conforming Changes: Conforms 265.228 with 264.228; proposed July 26, 1982; final March 1987.

- Financial Assurance for Corrective Action: Codifies §3004(u) requirement that permitted facilities have financial assurance for corrective action; proposed October 1986; final November 1987*.

- RCRA Facility Changes Rule: Clarifies facility's obligation to comply with post-closure requirements even when a portion of an operating permit is denied; provides for continued handling of newly identified or listed wastes at facilities; removes the reconstruction limit for certain changes at interim status facilities (closure, corrective action orders, and compliance with new requirements); proposed April 1987*; final November 1987*.

- Codification Rule: Pushes back date of post-closure permitting requirements; facilities receiving waste after July 26, 1982, or closing after January 26, 1983, will need post-closure permits; proposed March 1986; final March 1988*.

- Hybrid Closure Rule: Provides hybrid option based on waste-specific and site-specific factors that would allow some waste residues to remain in place with modified post-closure care requirements; proposed March 1987; final May 1988*.

- Revision of Subpart H Liability Regulations; proposed November 1987*; final November 1988*.

<u>List of Applicable Guidances</u>

- RCRA Guidance Manual for Subpart G Closure and Post-Closure Care Standards and Subpart H Cost Estimating Requirements; January 1987.

- Clean Closure Guidance; draft March 1987; final September 1987*.

- Hybrid Closure Guidance, draft July 1987*; final July 1988*.

* Scheduled date.

Section 4

COMPLIANCE MONITORING AND ENFORCEMENT

Program Objective

The compliance monitoring and enforcement program objectives are to ensure compliance and corrective action. Timely and appropriate enforcement action should be taken against violators.

The program is in a major transition from enforcing pre-HSWA interim status requirements to enforcing requirements in permits and closure plans, requiring and enforcing corrective action measures and enforcing other major HSWA requirements, including the land ban and surface impoundment retrofitting requirements.

Relation to FY 1987 RIP

- Continued emphasis on:
  - -meeting statutory inspection requirements;
  - -achieving compliance with groundwater monitoring, closure, post-closure and financial responsibility requirements;
  - -assuring compliance with outstanding orders and finalizing orders;
  - -corrective action orders;
  - -criminal prosecution of illegal disposal;
  - -federal facility compliance;

- Increasing emphasis on:
  - -enforcement of priority land disposal ban requirements;
  - -assuring compliance with permits and orders, particularly corrective action requirements.

- Decreasing emphasis on:
  - -enforcement support of permit decisions on land disposal facilities as permits are issued prior to the 1988 deadline;
  - -Loss of Interim Status.

Inspections

Inspection priorities are governed by: 1) statutory requirements; 2) the Agency's strong emphasis on groundwater protection; 3) the significance of compliance with permit and closure plan requirements, particularly schedules of compliance; 4) the importance of implementing corrective action and 5) the importance of enforcing the major HSWA requirements, particularly the land bans and minimum technology requirements.

Inspections in FY 1988 are discussed in two categories: (A) mandatory inspections which fulfill statutory requirements and Agency policy and (B) other inspections recommended to support program goals. Significant aspects of inspections in all categories are discussed under subpart C, Inspections Requirements.

Case Development Inspections are to be conducted where necessary to file high priority enforcement actions and to support such existing cases.

A. Mandatory Inspections

1. Handlers presenting immediate threat to health or the environment

Inspections should be conducted to provide necessary documentation for enforcement actions where EPA or the State has information that handlers may present an immediate threat to human health or the environment.

2. Government facilities

Under RCRA §3007(c) and (d), EPA is required to conduct annual Compliance Evaluation Inspections (CEI) at all facilities owned or operated by Federal, State and local governments. EPA may undertake these jointly with the States or as oversight inspections or utilize contractors; however they must be reported as EPA inspections. State inspections cannot substitute for EPA inspections at these facilities.

3. Commercial TSDFs receiving CERCLA waste

In accordance with §121(d)(3) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) the following requirements must be met:

a) Treatment, Storage and Disposal Facilities (TSDF) which are candidates for receipt of CERCLA waste must be inspected by the State or EPA within six months prior to receiving CERCLA waste. Facilities must be in compliance with all applicable State and Federal requirements.

b) Additionally, land disposal facilities receiving CERCLA waste must receive an annual CME and be inspected to assure that the unit receiving the waste is not releasing hazardous waste or constituents into groundwater, surface water, or soil. Releases at other units must be under, and in compliance with, schedules in a federally approved corrective action order or permit addressing all releases.

CERCLA funds may be utilized for these inspections.

4. Land disposal facilities

a) CEI's: Each operating, closed and closing land disposal facility, except certified closures by removal and UIC-only facilities (which are inspected by the UIC program), must receive an annual CEI inspection conducted by the Region or the State. To determine conformance with §3005(i), clean-closed LDFs may eventually have to be revisited (see Section 3). In addition to the general inspection requirements in subpart C, compliance with ground water monitoring requirements must be evaluated as part of the CEI.

Inspections of operating land disposal facilities should focus on documenting compliance with "liquids in landfills" restrictions, corrective action, financial responsibility, minimum technology requirements and progress toward meeting surface impoundment retrofit provisions. Where land disposal units are closed or closing, inspections must evaluate compliance with closure plans and assure the adequacy of ground water monitoring systems. Particularly at closing facilities, inspectors should be alert to illegal activities, such as continuing receipt of hazardous waste.

b) CME's: In FY 1988, one third of the land disposal universe will receive either a Comprehensive (Ground-Water) Monitoring Evaluation(CME) or an Operation and Maintenance Inspection (O&M). The O&M inspection is designed to evaluate the compliance status of a facility's ground-water monitoring system where a reliable comprehensive evaluation of the system and area hydrogeology has previously been performed; it is less intensive than a CME.

The priorities for conducting CMEs in FY 1988 are as follows:

1) Facilities with unreviewed assessment monitoring systems;
2) Permitted facilities with complex compliance or corrective action requirements at regulated units;
3) Facilities where there is doubt as to the adequacy of the ground-water monitoring system (e.g., a closing facility required to re-do site characterization, poor quality prior CME, etc.).

5. Treatment and Storage Facilities (TSFs)

a) In addition to government facilities, and regardless of whether inspected in FY 1987, in FY 1988 CEIs are to be conducted at all permitted incinerators; all treatment and storage facilities (TSF) with significant corrective action measures required under permits or orders in FY 1988; and all commercial treatment facilities treating F001-F005 or California list wastes subject to effective land ban requirements.

b) Inspections must be conducted at a minimum of 50% of the remaining TSFs in accordance with RCRA §3007(e). Standards in effect during FY 1988 for handlers of hazardous waste fuels must be considered where applicable.

As a goal, to be addressed in work plans, Regions and States should also strive to inspect TSFs that ceased receiving waste within the past twelve months, other newly permitted facilities, and on-site facilities that treat large amounts of land-banned wastes.

6. Generators

As the program expands generators must receive greater attention; this is especially important to the enforcement of the land disposal restrictions. Regions and States must inspect at least four percent of the large quantity generator universe and should attempt to inspect a greater percentage of the large quantity generator universe than was inspected during FY 1987. Inspections will focus on generators of F001-F005 solvents and California list wastes in order to establish an enforcement presence in support of the land ban. Each Region must send an inspection targetting strategy to Headquarters by August 31, 1987 (Land Ban Enforcement Strategy Feb. 1987). State inspection and compliance activities for small quantity generators should reflect the EPA "Implementation Strategy for Generators of 100-1,000 kg/month" (April 1986).

B. Other inspections

While not dictated by statute or specific policy other inspections are nonetheless very important to the Program. The Regions and States have discretion in determining which other inspections to conduct, consistent with environmental and programmatic priorities. The following are among those that are encouraged: (1) inspections to support the criminal enforcement program; (2) inspections of non-notifiers; (3) inspections of waste oil and hazardous waste fuel burners and blenders, particularly processors, for compliance with applicable standards; (4) additional generator and transporter inspections, particularly related to land bans.

C. Inspection Requirements

Quality inspections are essential to an enforcement program. Proper documentation-including use of the appropriate checklists, effective oversight and review of reports-are necessary.

Evaluation of compliance with the base program, including closure/postclosure and financial responsibility requirements must continue. In addition, inspections must focus on compliance with permits and orders, compliance with corrective action conditions is of particular concern. Effective tracking and oversight of owner/operator corrective action activity at hazardous and solid waste management units under orders and permits includes evaluation of corrective actions, RFI/CMSs and interim measures to assure proper scope and adherence to schedules of compliance.

In FY 1988, compliance with the land ban, as applicable, should be reviewed during all inspections. Land ban requirements for waste identification and analysis, treatment and disposal, operating records, limitations on storage accumulation and increased financial assurances for stored waste all warrant particular attention. The possibility of illegal disposal should also be considered.

Enforcement

A series of policies were issued in FY 1984 and FY 1985 establishing the framework for a consistent, equitable, and responsive enforcement program. The program approach to timely and appropriate enforcement is set forth in the Enforcement Response Policy (ERP). Penalties must be assessed against violators in accordance with the ERP and the RCRA Penalty Policy or appropriate State policies. Penalties should be large enough to act as a deterrent and exceed economic benefit achieved by a facility for non-compliance. States that do not have administrative penalty authority will need to address high priority violators by taking prompt judicial action. While authorized States are expected to take the enforcement actions, if unable to do so, they may request that EPA take enforcement action. Where a State enforcement action is not timely and appropriate, EPA should take an action, especially for high priority violators.

At the end of FY 1987, many facilities will be subject to enforcement actions. Where complaints have been issued, Regions and States must move toward final orders, and ensure that compliance is achieved. Follow-up is important. Facilities in substantial non-compliance with orders are presumed to be subject to judicial actions and permit denial (where applicable).

Priorities for enforcement actions are as follows:

1. Handlers with releases and threatened releases which may present an immediate threat to health or environment

A number of enforcement tools are available to the Regions and States (e.g., RCRA §§3013, 3008(a), 3008(h), 7003, or State equivalent), depending on the circumstances. Where specific criteria for use of the authority are met, use of these authorities is encouraged. Consideration should also be given to the use of CERCLA §104 or §106 response authorities or TSCA §7 authority, or any other appropriate EPA or State authority.

2. Commercial facilities receiving CERCLA Wastes

Where necessary, in accordance with CERCLA Off-Site Policy, priority attention should be given to compliance and corrective actions needed to assist in maintaining CERCLA-eligible treatment and disposal capacity.

3. Ground-water monitoring, closure/post closure and financial responsibility violations at land disposal facilities

Actions are to be brought against operating permitted and interim status, as well as closing, land disposal facilities that have Class I violations of ground water monitoring, closure/post-closure and/or financial responsibility requirements. In FY 1988, Regions and States will continue toward the goal of 90 percent compliance with these requirements at land disposal facilities by 1989 (July 24, 1986 J. Winston Porter memo). Enforcement of conditions in permits,

approved closure plans and newly effective closure and financial responsibility regulations are important. Violations of liability requirements are to be addressed in accordance with applicable guidance.

4. Corrective action requirements

Regions, with appropriate assistance from States, must act aggressively to achieve corrective action at TSD facilities. In FY 1988, the emphasis is on the following:

(1) Substantial violations of corrective action requirements in a permit or order;
(2) Use of enforcement authorities where necessary to obtain corrective action at environmentally significant facilities, consistent with available resources; and
(3) Compelling interim measures when warranted.

5. Land ban

Where TSDFs or generators are found to have substantial violations of the land disposal restrictions, enforcement is a high priority. Most of the inspections will be conducted by the States under cooperative arrangement with EPA. States not authorized to enforce the land disposal restrictions may issue letters notifying owners/operators of violations. If formal action is the appropriate response, EPA must enforce by issuing an order or by preparing a referral.

The most substantial violations are:

- For generators (including generating TSDs): shipping waste exceeding treatment standards to land disposal facilities without notifying about need for treatment.
- For treaters (who have inadequately treated wastes): directing waste exceeding treatment requirements to land disposal;
- For disposers: illegally disposing of wastes exceeding treatment standards;

Another serious violation is the falsification of records by any handler

6. Federal facilities

Authorized States will have the lead in enforcement for Federal handlers. However, the Region must take action if a State declines or is unable to take formal action on a high priority violator. The Region should consider issuing a press statement concerning enforcement actions for Federal facility violations in accordance with the applicable guidance.

7. Criminal enforcement

The basic goals of an enforcement program are to encourage compliance and to punish incidences of noncompliant behavior. Because of the publicity and stigma attached to a criminal conviction, criminal enforcement is a very effective tool. Increased disposal costs, closer scrutiny of waste oil handlers, and illegal disposal of land banned wastes are expected to increase the need for criminal enforcement. Criminal case development and prosecutions are encouraged.

8. Other important enforcement activities

Other significant violations at handlers should be addressed as resources allow.

° The permit program should be supported by taking actions against handlers submitting late or incomplete part B applications. Discretion should be used in choosing between permit denial and enforcement.

° Regions and States should establish a strong enforcement presence, taking administrative and judicial actions as appropriate, in support of newly effective HSWA requirements.

° The waste oil (hazardous waste in fuel) regulations should be enforced, especially at waste oil processing facilities.

° Enforcement support should be provided to biennial reporting data collection efforts.

Relevant Guidance Documents

°Ground Water Monitoring Technical Enforcement Guidance Document (TEGD) September 1986

°Hazardous Waste Ground Water Task Force Protocol for Ground Water Evaluations September 1986

°Comprehensive Ground Water Monitoring Evaluation (CME) Guidance Document December 1986

°Land Ban Enforcement Strategy/Inspection Checklist 1987*

°Waste Oil Guidance December 1986

°Waste Oil Interim Enforcement Guidance November 1986

°RCRA Corrective Action Plan - November 1986

°Enforcement of Financial Responsibility at Operating TSDF's Oct. 1986

°Enforcement of Financial Responsibility for RCRA TSDFs that are closing Spring 1987*

°RCRA §3008(h) Model Order 1987*

°RCRA §3008(h) Guidance December 1985

°RCRA §3013 Guidance September 1984

°RCRA §7003 Guidance September 1984

°Enforcement Response Policy - 1984, Revised Spring 1987*

*Scheduled date.

Section 5

Corrective Action

Program Objective

The HSWA corrective action authorities greatly expanded EPA's ability to ensure that owners and operators correct releases at RCRA facilities in order to protect human health and the environment. The goal of corrective action is to ensure remediation of hazardous releases associated with storage, treatment and disposal facilities.

Relation to 1987 RIP

- Adds discussion on RCRA/CERCLA corrective action issues;
- The FY 1988 RIP establishes priorities for applying limited resources to address corrective action in support of the permit deadlines;
- The corrective action process is further clarified.

Corrective Action

The fundamental objectives of the RCRA corrective action program are essentially similar to those of CERCLA. Generally, where RCRA guidance is not available, CERCLA standards and procedures should be considered and tailored, as necessary, to meet RCRA needs during corrective action at RCRA facilities. This is especially important where the financial viability of the owner/operator is in doubt and the facility may ultimately become a CERCLA site.

By FY 1989, there should be final regulations in place for the corrective action program. These corrective action regulations will establish standards for selection of remedies under RCRA and CERCLA. Until the regulations are in place, the corrective action program should be implemented in accordance with applicable guidance. One of the Agency's primary objectives in developing the RCRA corrective action program will be to maintain consistency with CERCLA, while meeting the specific needs and objectives of RCRA.

EPA Regional use of CERCLA resources may be appropriate for cases where a RCRA facility needs corrective action prior to being eligible to receive CERCLA wastes, where the RCRA facility is listed on the CERCLA National Priority List (NPL), or for CERCLA removal actions at RCRA facilities where warranted.

In October 1986, a draft National RCRA Corrective Action Strategy was published. It discusses the basic authorities for requiring corrective actions under permits and enforcement orders, and the process that will be used to investigate environmental problems at RCRA facilities and in determining when corrective actions are necessary. It also outlines management choices that must be made, and discusses the role of States in corrective action implementation.

Corrective action activities may be conducted during interim status, permitting, and closure stages. All hazardous release problems associated with the facility should be investigated at one time, whenever possible. Numerous Federal authorities may be employed to compel corrective action activities, including RCRA §§3004(u) and(v), and 3008(h), 3013, 7003 and 3008(a) (permit enforcement), and CERCLA authorities consistent with Agency guidance. Use of equivalent State authorities is also encouraged where applicable.

Section 3004(u) of RCRA states that corrective action for releases from SWMUs at TSDFs must be incorporated into the final facility permit through a schedule of compliance where corrective action cannot be completed prior to permit issuance. In practice §3004(u) is used to incorporate corrective action into the permit when the permit issuance is to be accomplished in the near future. In some situations §§3008(h), 7003 or CERCLA §106 may be more appropriate to compel corrective action. For instance, 3008(h) may be used where a release at an interim status facility is associated with hazardous waste management activities outside a hazardous waste unit or SWMU. When a permit is subsequently issued at the facility the response activities may be continued under the permit, using §3005(c)(3) authority. RCRA §7003 and CERCLA §106 may be used whenever a hazardous or solid waste or hazardous substance (such as a product release) presents an imminent hazard and substantial endangerment. Section 3008(h) should also be used where the permit issuance is not going to occur soon.

When issuing an order or permit that includes corrective action, public involvement must be included in plans. Public involvement is an important and necessary part of the RCRA corrective action process. Specific decisions regarding the extent, timing, and nature of public involvement activities for any given site will be determined by the Region in close consultation with the appropriate State agency. This process should begin as early as possible in order to inform the public of site activity including results of studies, and provide an opportunity for public involvement in remedy selection.

EPA will focus on corrective actions at operating land disposal facilities and incinerators in the permit pipeline and other facilities which pose the greatest overall threat to human health and the environment. Regions, in conjunction with the States, will use the FMP process and grant negotiations process to identify a workable number of facilities in the Region for priority attention in initiating and implementing the corrective action process. After considering the overriding priority, i.e. significant releases impacting on health and the environment, the priorities in descending order are: off-site commercial disposers/treaters; others in the permitting pipeline, especially land disposal, incineration, and alternative treatment facilities; and closing land disposal facilities. Following is a brief description of the major steps in the corrective action process.

RCRA Facility Assessment (RFA)

RFAs must be done prior to permit issuance. RFAs should have been completed for all operating land disposal facilities and 30% of closing facilities by September 1987. Another 30% of the closing LDF universe should receive an RFA during FY 88. An RFA should provide evidence of potential and actual releases and serve as a basis for decisions regarding further corrective action. General guidelines on conducting RFA's and how they should be coordinated with other enforcement or permitting activities are provided in the RCRA Facility Assessment Guidance (Oct. 1986).

Interim Measures

Interim measures include a wide range of actions which may be taken to prevent releases or additional contamination and to reduce, abate, or remove the exposure threat presented by a release. Interim measures should be taken to accomplish these objectives while the more complex process of release characterization, corrective measures evaluation, and design and implementation of corrective measures are underway. At closing facilities with existing or potential hazards, where owners or operators have financial problems or are likely to have such problems in the future, interim measures can be used to obtain some measure of response action.

RCRA Facility Investigation (RFI) and Corrective Measures Study (CMS)

Releases and threatened releases that are identified during the RFA as requiring further investigation will be fully characterized during the RCRA Facility Investigation (RFI). The RFI is performed by the facility owner/operator pursuant to an enforcement order or a permit schedule of compliance and must be closely monitored by the Region or State. The purpose of the RFI is to determine the nature and extent of releases of hazardous waste or constituents from regulated units, solid waste management units and other source areas at the facility, and to gather all necessary data to support the CMS. Based on the results of the RFI, the owner/operator will then perform and submit the CMS for Agency review. The CMS data is used to develop and evaluate the corrective action alternative(s) and recommended corrective measures. (See RFI Guidance and Corrective Action Plan (CAP) Guidance.)

Corrective Measures Implementation

After EPA or the State approves the corrective measures selection, the owner/operator will design and construct the selected measure(s). After construction, the owner/operator will undertake appropriate measures needed to operate, maintain, and monitor the activity. These activities will be required by permit condition or order. Whether performed under order or as a permit condition, close oversight of o/o activities is critical during this phase of corrective action. Where necessary, CERCLA authorities should be used where the owner/operator is not financially viable.

Corrective Action at Federal facilities

See Federal Facilities Section 6 - "SARA § 120/RCRA Corrective Action"

Relevant Guidance Documents

- National Corrective Action Strategy, October 1986
- RCRA Corrective Action Plan (CAP) Guidance Document, November 1986
- RCRA §3008(h) Corrective Action Interim Measures Guidance, November 1986
- §3008(h) Model Order final expected Spring 1987
- Final Administrative Hearing Procedures for RCRA §3008(h) Orders, February 19, 1987
- Vulnerable Hydrogeology, July 1986
- Guidance on Public involvement in Permitting, January 1986
- RFA Guidance, October 1986
- Draft §3004(u) Guidance, February 1985
- §3008(h) Guidance, December 1985
- RFI Guidance, September 1987*
- Procedural and Technical Regulations for §3004(u) Corrective Action Proposal, November 1987*; Final December 1988*
- Schedules of Compliance for Corrective Action at Regulated Units. Proposed, December 1986; Final May 1987*

* Scheduled date.

Section 6

FEDERAL FACILITIES/ISSUES

Program Objective

The objective of EPA's RCRA work with Federal facilities is to ensure that they afford the same degree of environmental protection as is required of other hazardous waste handlers. In FY 1988, we will concentrate on applying corrective action rules and policies to Federal facilities, on meeting the FY 1988 deadline for permitting DOD chemical demilitarization facilities, and on integrating DOE-NRC mixed waste facilities into the RCRA program.

Relation to FY 1987 RIP

- Adds discussion on Section 120 of SARA (1986 CERCLA amendments);
- Adds discussion on NRC mixed-waste permitting.

Corrective Action in RCRA Permits

The Federal Register notice published March 5, 1986, (51 FR 7722) resolved three issues:

- RCRA §3004(u) is applicable to Federal agencies;
- A "facility" is the entire site under control of the owner/operator; and,
- The owner of Federal lands is the individual Federal department or agency, rather than the U.S. Government.

Also, on March 5, 1986, EPA announced (51 FR 7723-7724) the Agency's intent to develop regulations to address additional issues raised by Federal agencies. Until a final rule is promulgated, Regions and States should continue to process and issue permits to Federal facilities. Schedules of compliance for corrective action will be negotiated on a case-by-case basis.

Where agreement regarding permit conditions cannot be reached on the extent of cleanup or on the schedule for cleanup activities, or where there are ownership questions that cannot be resolved, those questions should be referred to the Director, Permits and State Programs Division, OSW, for resolution.

Section 120 of SARA/RCRA Corrective Action

Section 120 of SARA requires EPA to establish a comprehensive Federal facility docket containing information under RCRA §3016 (including information submitted under §§3010 and 3005 of RCRA and §103 of CERCLA). Once this docket is established by Headquarters, each facility must be evaluated for possible NPL listing. In listing sites, EPA will apply the same criteria as are applied to private facilities. For each site that is listed on the NPL, statutory deadlines relating to RI/FS and RD/RA are triggered. EPA must enter into an interagency agreement (IAG) with the appropriate Federal agency for remedial design and remedial construction at the listed sites. States should be signatories to the IAG and the public has the opportunity to comment on draft IAGs.

Where RCRA and CERCLA apply, EPA may rely on either authority. (See Section 5, Corrective Action.) If the permit is being noticed, and/or corrective action is proceeding under RCRA, either activity should proceed notwithstanding §120. On the other hand, if a CERCLA cleanup incorporating corrective action elements is in progress or is ready to proceed before issuance of a permit, §120 IAGs should be developed. The IAG must be incorporated by reference in the final permit.

DOD Chemical Demilitarization Facilities

Permits for DOD chemical demilitarization (nerve agent) facilities are to be issued in FY 1988 to meet DOD's statutory deadlines for disposal of obsolete nerve agents. Regions and OSW will provide support to the States for timely processing of these permits upon receipt of quality permit applications.

DOD Installation Restoration Program (IRP)

DOD has developed the IRP to identify and clean up hazardous waste sites. Under the IRP, DOD prepares studies and generates data that can assist EPA in drafting RCRA permits. The Regions should incorporate the IRP process into the permit development process by reviewing the results of each phase of the IRP process. When necessary, the scope of the IRP should be expanded to include all solid waste management units at a facility. For further information, see memorandum dated December 8, 1986, from Marcia E. Williams to Regional Division Directors ("The Department of Defense Installation Restoration Program").

DOE-NRC Mixed Waste

Mixed waste handlers should be integrated into the RCRA hazardous waste program as expeditiously as possible. Under the Federal program, all RCRA requirements, including statutory deadlines for issuing permits, are applicable to mixed waste

handlers. EPA currently is working with DOE to accurately identify the affected universe. EPA and NRC jointly developed and issued (1/87) a document entitled, "Guidance on the Definition and Identification of Commercial Mixed Low-Level Radioactive and Hazardous Waste and Answers to Anticipated Questions" to assist commercial low-level radioactive waste generators in assessing whether they generate a mixed low-level waste. In addition, the following guidances for mixed low-level waste are being developed to support compliance with RCRA:

- Joint NRC-EPA Siting Guidance for Disposal of Mixed Low-Level Radioactive and Hazardous Waste, estimated March 1987;
- Comparison of EPA-NRC Regulations, estimated June 1987;
- EPA-NRC Joint Permitting Guidance, estimated September 1987.

Until a State with final authorization is authorized for radioactive mixed wastes, handlers of such waste are not subject to pre-HSWA regulation. Therefore, those authorized States that have DOE facilities or NRC licensees are urged to apply for mixed waste authorization as soon as possible. See J. Winston Porter's memorandum entitled "State Authorization to Regulate Hazardous Components of Radioactive Mixed Wastes" (dated October 20, 1986).

A-106 Process

Every year Federal agencies develop draft A-106 reports which show the requested funding levels for the agencies' proposed pollution abatement projects. EPA Headquarters distributes these draft reports to the Regional Offices in January for comment. EPA Headquarters uses these comments in preparing a report to OMB, a draft of which is distributed to the Regional Offices in July for comment. OMB uses EPA's comments when recommending funding levels for pollution abatement projects. The Regions' comments should be based on information available from permit and inspection files, inspection reports, RFA's, etc. We are aware that the A-106 reports may not always include sufficiently detailed information for evaluating the priority of a project proposed for five years in the future. However, we are working with the Office of Federal Activities to improve the amount and quality of the data in the A-106 reports.

Compliance Monitoring and Enforcement

Conventional compliance, as distinguished from corrective action, is largely unchanged by SARA and remains a RCRA program responsibility and priority. The enforcement priorities in Section 4 apply to Federal facilities. Authorized States have the lead in enforcement for Federal handlers. However, the Region must take enforcement action where the State fails to do so for a High Priority Violator. The Region, where possible, should institute a formal action with penalties against government-owned/contractor-operated facilities. If an action is not filed

against a government-owned/contractor-operated facility, enforcement must be commenced against the Federal agency. The Region should consider issuing a press statement concerning enforcement actions for Federal facility violations.

Certain information contained in inspection reports may not be subject to release due to national security requirements. These reports should be reviewed prior to release by the appropriate security officials of the Federal agency involved. This review should not delay enforcement action.

Note: EPA's enforcement procedures at Federal RCRA facilities is still under development and should be available for FY 1988.

Section 7

CROSS-MEDIA AND PROGRAM ISSUES/PRIORITIES COORDINATION

Objective

The RCRA program acknowledges that environmental programs cannot continue to shift risks from one environmental media to another. We must ensure that RCRA activities use all available tools to focus on overall reduction of environmental risks. RCRA activities particularly have an impact on, and need to be coordinated with, EPA's air, water, and CERCLA programs.

Air Emissions at TSDF'S

Under the RCRA program, regulations addressing air emissions from hazardous waste facilities with vents on equipment used to recover materials (i.e., distillation columns and air strippers) are expected to be promulgated in final form in December 1987. Regulations which address air emissions from other sources at these facilities are to be promulgated in final form by November 1988. Section 3004(u) of HSWA requires corrective action for releases from solid waste management units to air, surface water, land and ground water. OSWER is currently developing a regulatory program for corrective action under §3004(u). OSW is developing a §3001 air toxicity characteristic and plans to expand the land ban rule to address air releases.

Water Discharges at TSDF'S

Increasing emphasis should be placed on coordinating RCRA permitting, corrective action, and enforcement activities with water program activities, especially for POTW's treating hazardous wastes. To the extent possible, RCRA ground water and corrective action activities should be consistent with both Federal and State water program requirements and aquifer classification systems. In addition, where releases from a hazardous waste facility threaten a public water supply, Safe Drinking Water Act authorities may be applicable and should be considered.

CERCLA/RCRA Integration

With the enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA) and the Superfund Amendments and Reauthorization Act of 1986 (SARA), the objectives and authorities of the RCRA and CERCLA programs are becoming more integrated. A greater emphasis will be placed on coordinating the two programs to ensure effective, non-duplicative implementation. Specific coordination activities are addressed in the closure, permitting, corrective action and Federal facilities sections of this document.

PCBs

Procedural and technical regulations covering PCBs are being developed under the RCRA program. These regulations are scheduled to be proposed mid-1988 and finalized mid-1989. The addition of PCBs to the RCRA regulatory scheme is expected to have a significant impact on the FY 1989 and FY 1990 budgets. Regions and States should consider this additional workload when developing budget proposals for those years.

Section 8

STATE AUTHORIZATION AND OVERSIGHT

Program Objectives

The goals of State authorization and oversight are twofold: (1) to strengthen the Federal/State partnership, and, (2) to ensure the implementation of quality RCRA programs.

Relationship to FY 1987 RIP

- New emphasis on codifying changes to approved State programs;
- New emphasis on capability assessments for HSWA authorization;
- Increased emphasis on maintaining State program consistency with the Federal standards, including HSWA.

Proposed Revisions

Under §271.21(a), a State must keep EPA fully informed of any proposed modification to its basic statutory or regulatory authority, or its forms, procedures, or priorities. Whenever the proposed revisions raise questions about the equivalency and consistency of the State program, the Region must work with the State and Headquarters to address the identified deficiencies.

Developing State Authorities

Authorized States should develop the legal authorities necessary to revise their programs consistent with the deadlines in the final State authorization Codification Rule (51 FR 33712, September 22, 1986). These deadlines are:

Cluster	Cluster Period	State Modification Deadline
Non-HSWA rules and §3006(f)	7/1/84 - 6/30/85	7/1/86
Non-HSWA rules	7/1/85 - 6/30/86	7/1/87
HSWA Cluster I	11/8/84 - 6/30/87	7/1/89
HSWA Cluster II	7/1/87 - 6/30/90	7/1/91
All HSWA and non-HSWA rules	7/1/90 - 6/30/91	7/1/92

States are not precluded from applying for authorization before cluster deadlines. Extensions are available if a State demonstrates

that it has made a good faith effort and that its legislative or rulemaking procedures render the State unable to meet the deadlines.

Each grant work program should include the State's schedule for submitting program revision applications. It will be the Region's responsibility during the year to: track the States' progress in meeting the deadlines, grant extensions to the deadlines if appropriate, and negotiate compliance schedules for those States who are unable to meet the deadlines. After grant negotiations are completed, the Regions should submit to the Chief, State Programs Branch, OSW, each State's schedule for modifying its program to maintain equivalency. This schedule will aid the Regions and Headquarters in planning resource needs for timely application review and approval.

To expedite the review and approval process for HSWA applications, the Region is encouraged to conduct a pre-application review of State statutory authorities for HSWA. For a further discussion of this process, see the memo from Bruce Weddle to the Regional Division Directors dated March 8, 1985.

Codifying Approved State Programs

Codifying changes in approved State programs in Part 272 is a continuing effort for FY 1988. Codification clarifies for the public and regulated community those State hazardous waste program requirements EPA has approved and will enforce in lieu of the Federal requirements.

As a Headquarters effort, all State programs authorized for the pre-HSWA program are scheduled to be codified by summer 1987. The Regions must codify revisions to State programs at the same time such revisions are approved. The Part 272 process is discussed in detail in Chapter 1.6 (pp. 1-4) of the State Consolidated RCRA Authorization Manual.

Assessing State Capabilities/State Program Oversight

EPA must assess the States' performance and progress in implementing quality RCRA programs and their ability to implement additional program elements prior to making authorization decisions for HSWA requirements. This assessment is based on the State's ability to meet grant commitments, as well as the RCRA Quality Criteria, and should reflect an evaluation of the State's entire authorized program. The Regions should evaluate the State's qualitative and quantitative performance in operating the base program. A quality State program must operate without substantial dependence on the Region. In deciding whether dependence is "substantial" Regions should consider the extent to which lack of State administrative penalty authority has necessitated Federal enforcement actions.

The Regions should discourage States having problems with implementing the base program from prematurely applying for HSWA authorization until the Region and State have agreed upon an action plan to correct program deficiencies. States must still comply with the applicable cluster deadlines or be placed on a schedule of compliance. A further discussion of HSWA Capability Assessments is to be set forth in a memorandum from J. Winston Porter to the Regional Administrators (Spring 1987).

Ongoing, comprehensive evaluations of State RCRA program performance are an integral component of the Regions' oversight responsibilities. The Regions are strongly encouraged to use several documents in reviewing State program performance and progress against grant work programs and Memoranda of Agreement commitments:

- RCRA quality criteria (revised July 1986)
- Protocols for evaluating permit quality and closure/post-closure plans (August 1986)
- Updated RCRA Evaluation Guide (March 1987)

The Region should determine the frequency and method of review based on the State's past performance and the seriousness of identified program deficiencies. <u>However, States should receive at least one comprehensive, on-site review during each fiscal year</u>. In States having performance problems, more frequest reviews should be conducted.

Oversight inspections are important tools for ensuring the quality of State inspections and can include joint inspections and/or independent EPA inspections. In addition, regular reviews of inspection reports should be conducted as part of the grant oversight process.

A copy of each final review report should be sent to the Chief, State Programs Branch, OSW.

<u>Training</u>

Training activities are eligible for funding under the RCRA §3011 grants. States are strongly encouraged to use their grant funds to provide management and staff training in permitting, enforcement, and corrective action activities. It is recommended that up to 5 percent of each State grant be earmarked for training activities. The RCRA Implementation Contract and TES III and IV also may be used to provide training, either with Regional contract resources or with reprogrammed State

grant funds. If a State plans to use grant funds for training, the grant work program must provide a training plan specifying the subject area, source, recipients (a general number, not name-specific), and cost.

Under the ASTSWMO grant, OSW and OWPE will provide training in FY 1988 on entry-level skills (e.g., inspections, permitting, ground-water monitoring) and new RCRA requirements for State staff. Another State training effort, funded through a special Congressional appropriation, will provide grant monies to selected States for the development and implementation of State RCRA training programs. This latter effort is being funded through the National Environmental Training Association.

Section 9

STATE GRANTS AND WORK PROGRAMS

Program Objective

This section specifies the formula for determining FY 1988 grant allocations and addresses how the money will be disbursed by Regional Administrators and how it may be used to implement State RCRA programs.

Relation to FY 1987 RIP

- Continues Regional allotments;
- Grant formula remains unchanged;
- Authorization bonuses eliminated.

Grant Formula

For FY 1988, the grant formula remains unchanged and continues to reflect the program emphasis on land disposal and incineration facilities. However, the number of treatment, storage, and disposal facilities has been updated, using HWDMS data as of March 3, 1987. Population figures have been updated using the latest census data.

Grant Allotments

As before, allotments were prepared on a Regional, rather than a State-by-State, basis. The allotments also have been adjusted to ensure that no Region can receive less than 3 percent of the total amount available. Regional grant allotments are provided in Attachment A.

This Regional allotment disbursement procedure is meant to provide maximum flexibility to the Regional Administrators to fund activities which reflect national goals and initiatives, individual State workloads, and special State initiatives. While Regional Administrators have the discretion to set grant amounts, it is suggested that a State grant not be decreased by more than 12% from the FY 1987 State grant amount. We also recommend that the Region negotiate proposed grant activities with each State before State-specific allotments are determined to ensure adequate and fair funding levels. State grants will continue to require a 25 percent match. There will be no authorization grant bonuses in FY 1988.

Grant Work Programs

FY 1988 grants must be performance based. (For a detailed discussion on performance-based grants, see EPA's "Policy on Performance-Based Assistance", May 31, 1985.) This approach

provides for a consistent nation-wide method for managing and evaluating State RCRA programs. All grant work programs must:

- contain quarterly commitments;
- provide for adjustment in activities, commitments and funding (a "reopener" clause) if certain situations (e.g., reversion of program, significant decrease in State funds) arise.

The work program also should address, when appropriate:

- instances where a State did not meet its FY 1987 commitments or was administering its program in a deficient manner and where the remedies that will be undertaken to improve performance/correct deficiencies extend into FY 1988;
- special grant conditions (e.g., disbursement of funds other than annually).

If a State relies heavily on the State Attorney General or other law officers in order to take enforcement actions, funding should be provided. The Attorney General should participate in the grant process through the lead Agency, but would not be made a party to the grant. However, in order to receive funding, both parties should be signatory to a Memorandum of Understanding or other subsidiary agreement to the grant. As a signatory to this agreement, the Attorney General is expected to meet the "timely and appropriate" criteria for filing referred RCRA cases within the 60-day period. EPA will take into consideration unusual circumstances that may affect the Attorney General's ability to file within 60 days. As required by EPA grant regulations, the lead State agency will be held accountable through the grant oversight process, even though funds were passed through to the Attorney General's office.

The Regional Administrator may reprogram funds not awarded to any State into the RCRA Implementation Contract, the Technical Enforcement Support (TES) contract, or other programs which support activities consistent with national priorities (e.g., public participation and the Senior Environmental Employment (SEE) program). Note, however, that State monies can only be used to support the implementation of State hazardous waste programs. Section 3011 grant funds cannot be used to implement CERCLA or UST program activities.

Copies of each State's grant work program must be sent to the Chief, State Programs Branch, OSW, upon execution of the grant award document by the Region.

Section 10

INFORMATION MANAGEMENT

Reporting Objectives

The two objectives of RCRA reporting requirements are to obtain information: 1) necessary to effectively manage the RCRA program at the State, Regional, and national levels; and, 2) that demonstrates the viability and effectiveness of the RCRA program in protecting human health and the environment.

Relation to FY 1987 RIP

- Adds discussions of the 1987 Biennial Report and of RCRIS;
- Establishes separate tracking of permitting actions at land disposal facilities without incineration units and at land disposal facilities with incineration units;
- Establishes a more realistic date for Regions to enter State data into HWDMS;
- Deletes the provisions regarding justification of permit schedules and RFA schedules.

Reporting Requirements

The required State reporting forms (the Status of Permit Application Report, or the "SPAR", the Compliance Monitoring and Enforcement Log, or the "CMEL", and the Facility Status Sheet, or the "FSS") are similar to the FY 1987 reporting forms, except that there is increased information on the CMEL regarding HSWA (land ban and minimum technology) and SPMS. In addition, a new Corrective Action Report ("CAR") is being developed. States that enter data directly into HWDMS should comply with their State/Regional agreement regarding submittal of hard copy reports.

States must submit information from the three reports (SPAR, CMEL, and FSS) to EPA by the 20th calendar day of the month for the previous month's data (e.g., State RCRA permitting actions taking place in April must be reported to the Regional Office by May 20). The Regions then have until the seventh working day of the following month to enter State-submitted data into HWDMS (e.g., June 10 for April actions). Data for Regional activities must be entered into HWDMS by the seventh working day of the month for the previous month's data (e.g., EPA RCRA permitting actions taking place in April must be entered into HWDMS by May 9).

If a Region decides that required reporting does not provide timely or sufficient information, the Region may institute an expanded reporting program. When necessary, the grant work program may increase both the frequency and the amount of required reporting. Authorized States must continue to provide the Regions with information on new hazardous waste handlers and amended notifications or Part A's in accordance with the State-EPA Memorandum of Agreement.

To ensure that progress is made in attaining the 90% compliance goal, States must submit to the Regions copies of significant land disposal inspection reports (CMEs, CEIs) showing significant non-compliance, and other reports deemed necessary by the Region, as well as enforcement complaints, orders, and judgments regarding Class One violations of ground-water monitoring, closure/post-closure, and financial responsibility at land disposal facilities. This requirement will help ensure that Regional files are sufficient to determine a facility's enforcement status.

Similarly, to enable EPA to enforce HSWA requirements where States have done the inspections, States must submit reports regarding inspections where there were significant violations of corrective action requirements in permits or orders or significant violations of land ban requirements, and reports on surface impoundment retrofits.

Regions must submit copies of Regional enforcement complaints, initial orders, and final orders to the Director, RCRA Enforcement Division, OWPE.

New reporting requirements for FY 1988 for OSW include additional information about corrective action (corrective action design selected) and reporting the receipt of permit modification requests and the determinations of those requests.

To help identify problem areas in HWDMS, the Headquarters data audits and consistency reports begun in FY 1986 will continue in FY 1988.

Biennial Reports

Annual/biennial reports covering 1987 calendar year activities are due from handlers to States and Regions by March 1, 1988. States and Regions are responsible for ensuring that reported data are accurate and complete and for submitting State Biennial Program Reports to OSW by September 30, 1988. Regions and States should target enforcement actions for failure to submit timely reports.

The new 1987 Biennial Report form will be available by November 1, 1987. OSW will provide Regions with a data entry, editing, and retrieval software package that they may use in processing revised annual/biennial report forms. This software package also will be provided to any authorized States that participate in the demonstration of the revised annual/biennial reporting system during the 1987 reporting cycle. OSW will provide training to all Regional and State personnel who will be working with the software package prior to the March 1, 1988, reporting deadline.

Strategic Planning and Management System

The Strategic Planning and Management System (SPMS) provides a mechanism for planning and reporting major program accomplishments. See Attachment B for FY 1988 measures and definitions. Only data in the HWDMS system will be counted for RCRA permitting and enforcement SPMS accomplishments.

SPMS reporting will be quarterly (e.g., October-December, etc.). However, for each quarter, there will likely be a one-month lag in State reporting. For example, the first quarter will include all data entered into HWDMS by the date of the SPMS retrieval (January 11, 1989). Because most State data for December will not be entered into HWDMS until February if the timeframes on page 10.1 are followed, first quarter data will not include State actions occurring in December. SPMS data is reported cumulatively; therefore, State December data will be reported in the second quarter report, unless such data is in HWDMS by January 11. At the end of FY 1988, the Office of Management Systems and Evaluations will delay issuing the FY 1988 SPMS report so that data from the full fiscal year for the States and Regions will be included. This one-month lag must be kept in mind when negotiating SPMS commitments.

Schedule for SPMS Commitments

In order to provide a review and negotiation period between OSW, OWPE, and the Regions, draft FY 1988 SPMS commitments must be submitted by August 14, 1987. These commitments must be signed by the Regional RCRA Division Director and sent to the Director, Permits and State Programs Division, OSW, and the Director, RCRA Enforcement Division, OWPE. The only exception to these dates is for commitments related to beginning-of-year SNC's. Instructions for these commitments will be sent later.

RCRIS Conversion

Conversion of OSWER RCRA data from HWDMS to RCRIS will begin in the first quarter of FY 1988 with a pilot project testing RCRIS in one Region and its States. This pilot project will cover the handler, permitting, compliance monitoring, and data administration modules of RCRIS. It will not include the corrective action, facility management planning and environmental data, data administration, regulatory development, and program administration modules. RCRIS is projected to go on-line for all ten Regions in the third quarter of FY 1988. HWDMS will be used, at least in tandem, during FY 1988. Automated SPMS retrievals will continue to come from HWDMS until all modules relevant to SPMS are in place and RCRIS is capable of supporting this function.

Efforts involved in converting HWDMS to RCRIS will be essential activities for data management staff in the States, Regions and Headquarters. Accordingly, States and Regions should determine the resources necessary to convert from HWDMS to RCRIS, including accomplishing the following tasks:

- developing software to translate data from State computer systems into RCRIS data (this applies to States using their own system for data input);
- providing quality assurance of State data (State responsibility under RCRIS); and
- cleaning up HWDMS data that will be moved into RCRIS.

These activities should be funded in the FY 1988 State grants. The results of a resource analysis study will be distributed as soon as it is available (projected date: April 1987). Also, guidance addressing specific conversion activities will be distributed to States and Regions prior to implementation of those activities.

In order to establish the State/EPA partnership concept that is at the heart of RCRIS, a State/EPA forum will be created in FY 1988 to negotiate and coordinate ongoing changes to RCRIS.

ATTACHMENT A: FY 1988 RCRA GRANT ALLOTMENTS

Attachment A

FY 1988 Grant Allotments *
($ in thousands)

Region	Regional Ratio	FY 1988 Base Allotment
Region I	0.07052	4,654.6
Region II	0.10960	7,233.9
Region III	0.11374	7,506.9
Region IV	0.15320	10,106.6
Region V	0.20654	13,627.0
Region VI	0.13169	8,691.6
Region VII	0.04560	3,009.7
Region VIII	0.03376	2,228.6
Region IX	0.10547	6,961.1
Region X	0.02988	1,980.0
	1.00000	$66,000.0

* The allotments reflect the FY 1988 budget request to Congress. The allotments could change based on the actual appropriation or subsequent budget adjustments (e.g., Gramm-Rudman-Hollings cuts).

ATTACHMENT B: RCRA SPMS MEASURES

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

Program Area: RCRA Permitting

FY 1988

OBJECTIVE	MEASURES	SIMS CODE	FREQUENCY
Make final RCRA permit determination by the statutory deadlines.	Permitting Measures 1/ (Report on the following information for land disposal, incineration, and storage and treatment.)		
	Public notice of draft RCRA permit issued.	R/C-1(a)	Q 1,2,3,4 By Region
	Notice of intent to deny RCRA permit issued.	R/C-1(b)	Q 1,2,3,4 By Region
	Notice of availability of closure plan issued.	R/C-1(c)	Q 1,2,3,4 By Region
	RCRA permit issued. *†	R/C-1(d)	Q 1,2,3 4 By Region
	RCRA permit denied. *†	R/C-1(e)	Q 1,2,3,4 By Region
	Closure plan approved. *	R/C-1(f)	Q 1 2,3,4 By Region
	* This measure requires Regional target for land disposal and incinerator facilities. Distinguish between land disposal facilities with incinerators and land disposal facilities without incinerators.		
	† Permits issued and permits denied are combined for one target. They will, however, be reported separately toward the combined target.		
	1/ Definitions at end of program measures.		

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

Program Area: RCRA Permitting

FY 1988

OBJECTIVE	MEASURES	SIMS CODE	FREQUENCY
Make decisions on requests for waivers from regulations.	Waiver Requests 1/		
	Number of waiver requests granted year to date.	R/C-2(a)	Q 1,2,3,4 By Region
	Number of waiver requests denied year to date.	R/C-2(b)	Q 1,2,3,4 By Region
	1/ Definitions at end of program measures.		

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

Program Area: RCRA Permitting

FY 1988

OBJECTIVE	MEASURES	SPMS CODE	FREQUENCY
Assess and implement actions to correct releases of hazardous wastes and hazardous waste constituents to the environment.	Corrective Action Measures 1/ (applies to facilities seeking operating permits and closing facilities)	R/C-3	Q 1,2,3,4 By Region
	RCRA Facility Assessment (RFA) completed for entire facility; remedial investigation decision made.	R/C-3(a)	
	RCRA Facility Investigation (RFI) imposed. (Separate by entire facility or partial facility.)	R/C-3(b)(1) R/C-3(b)(2)	
	RCRA corrective action remedy selected. (Separate by entire facility or partial facility.)	R/C-3(c)(1) R/C-3(c)(2)	
	Corrective action design approved. (Separate by entire facility or partial facility.)	R/C-3(d)(1) R/C-3(d)(2)	

1/ Definitions at end of program measures.

RCRA Permitting Definitions

Public notice of draft permit issued: The date the public notice of draft permit is issued.

Notice of intent to deny RCRA permit issued: The date the public notice of intent to deny a RCRA permit issued.

Notice of availability of closure plan issued: The date the public notice is issued.

RCRA permit issued: The date the RCRA permit is issued.

RCRA permit denied: The date the RCRA permit is denied.

Closure plan approved: The date the closure plan is approved following an inspection of the facility and public notice of the plan.

Number of waiver requests granted year to date: Number of waiver requests granted by EPA or authorized State year to date. Include waivers granted for the following: ACLs, double liner waivers, and/or tank secondary containment waivers.

Number of waiver requests denied year to date: Number of waiver requests denied by EPA or authorized State year to date. Include waivers denied for the following: ACLs, double liner waivers, and/or tank secondary containment waivers.

RCRA facility assessment (RFA) completed for entire facility: When a decision is made to initiate a remedial investigation or that a remedial investigation is not necessary.

RCRA facility investigation (RFI) imposed: When a permit or permit modification is issued which incorporates a requirement for an RFI, or EPA or authorized State takes formal enforcement action to require an RFI. Where a complete RFI is required for an entire facility, report as an entire facility. Where the RFI is phased to address different parts of the facility or different environmental media, "imposed" means to legally obligate the owner/operator to initiate the first phase of the RFI; report as partial facility.

RCRA Permitting Definitions
(continued)

RCRA corrective action remedy selected: When the RCRA corrective action remedy has been selected or when a decision has been made that corrective action is not necessary. Where corrective action remedy has been selected, permit or permit modification is issued incorporating corrective action remedy selected; or, owner/operator is notified in writing by EPA or authorized State that the corrective action remedy has been selected pursuant to an existing permit condition; or, enforcement order is issued or modified incorporating corrective action remedy selected, or, owner/operator is notified in writing by EPA or authorized State that the corrective action remedy has been selected pursuant to an existing enforcement order. When a decision has been made that corrective action is not necessary, EPA or authorized State notifies the owner/operator in writing that corrective action is not necessary as a result of the RFI. Report the entire facility if the permit/order addresses the entire facility; report partial facility if the permit/order addresses less than the entire facility.

Corrective action design approved: Date EPA/State approves the corrective action design. Report entire facility if the permit/order addresses the entire facility; report partial facility if the permit/order addresses less than the entire facility.

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

Program: RCRA Enforcement

OBJECTIVE	MEASURE	SIMS CODE	FREQUENCY
Improved compliance of hazardous waste handling with RCRA requirements.	Universe of facilities		
	Specify the total number of land disposal facilities that are regulated _/	R/E-1(a)	Q 1,2,3,4, By Region
	Specify the total number of TSDFs, other than land disposal, that are regulated. (Do not include underground storage tanks, generators, transporters, notifiers carrying non-regulated status codes or state-only regulated handlers unless they are also TSDF). _/	R/E-1(b)	Q 1,2,3,4, By Region
	Inspections		
	Target and report, year-to-date, the number of land disposal facilities that have received an inspection in FY88. Combined EPA/State target). _/	R/E-2(a)	Q 1,2,3,4 By Region
	Target and report, year-to-date, the number of TSDFs, other than land disposal, that have received an inspection in FY88. (Combined EPA/State target). _/	R/E-2(b)	Q 1,2,3,4 By Region
	Target and report, year-to-date, EPA inspections of Federal, State, and local government TSDFs (including land disposal) that received an inspection in FY88. (EPA target). _/	R/E-2(c)	Q 1,2,3,4, By Region
	Report, year-to-date, the number of generators that have received an inspection in FY88. (EPA/State) _/	R/E-2(d)	Q 1,2,3,4, By Region
	_/ Definition at end of program measures.		

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

Program: RCRA Enforcement

OBJECTIVE	MEASURE	SPMS CODE	FREQUENCY
Return significant noncompliers to compliance.	Significant Noncompliance - Fixed Universe (Part 1)		
	Specify the number of land disposal facilities in significant non-compliance with ground-water monitoring, closure/post-closure and financial responsibility requirements at the beginning of the year (fixed universe - part 1).	R/E-3(a)(1)	Q 1,2,3,4 By Region
	Specify the number of land disposal facilities that received formal enforcement action prior to FY88 addressing all R/E 3(a) SNC violations.	R/E-3(a)(2)	Q 1,2,3,4 By Region
	Report the number of these facilities that have had a referral for filing of a judicial action that addresses all outstanding R/E-3(a) SNC violations (Report EPA and State separately.)	R/E-3(a)(3)	Q 1,2,3,4 By Region
	Report the number of these facilities have received an initial filed formal enforcement action that addresses all outstanding R/E-3(a) SNC violations (Report EPA and State separately).	R/E-3(a)(4)	Q 1,2,3,4 By Region
	Report the number of these facilities that are under a final formal enforcement order that addresses all outstanding R/E-3(a) SNC violations (Report EPA and State separately).	R/E-3(a)(5)	Q 1,2,3,4 By Region
	Report the number of these facilities in physical compliance for all R/E-3(a) SNC violations regardless of how accomplished. (EPA and State combined report).	R/E-3(a)(6)	Q 1,2,3,4 By Region
	Target and report, the number of these facilities that have not returned to compliance with all R/E-3(a) SNC violations and have not had a formal enforcement action filed against them to resolve all R/E-3(a) SNC violations. (Separate EPA and State targets.)*	R/E-3(a)(7)	Q 1,2,3,4 By Region
	* This measure requires declining targets from the first quarter through the fourth quarter. All facilities must be addressed prior to the end of the fiscal year through enforcement and/or have returned to physical compliance.		

Program: RCRA Enforcement

OBJECTIVE	MEASURE	SDMS CODE	FREQUENCY
Return significant noncompliers to compliance.	Significant Noncompliance - Fixed Universe (Part 2)		
	Specify the number of treatment, storage and disposal facilities in significant non-compliance with corrective action requirements in issued orders or permits at the beginning of the year (fixed universe - part 2).	R/E-3(b)(1)	Q 1,2,3,4 By Region
	Specify the number of facilities that received formal enforcement action prior to FY88 addressing all R/E-3(b) SNC violations.	R/E-3(b)(2)	Q 1,2,3,4 By Region
	Report the number of these facilities that have had a referral for filing of a judicial action that addresses all outstanding R/E-3(b) SNC violations (Report EPA and State separately).	R/E3(b)(3)a	Q 1,2,3,4 By Region
	Report the number of these facilities that have received an initial filed formal enforcement action that addresses all outstanding R/E-3(b) SNC violations (Report EPA and State separately).	R/E-3(b)(3)	Q 1,2,3,4 By Region
	Report the number of these facilities that are under a final formal enforcement order that addresses all outstanding R/E-3(b) SNC violations (Report EPA and State separately).	R/E-3(b)(4)	Q 1,2,3,4 By Region
	Report the number of these facilities in physical compliance for all R/E-3(b) SNC violations regardless of how accomplished (EPA and State combined report).	R/E-3(b)(5)	Q 1,2,3,4 By Region
	Target and report, the number of these facilities that have not returned to compliance with all R/E-3(b) SNC violations and have not had a formal enforcement action filed against them resolving all R/E-3(b) SNC violations. (Separate EPA and State targets.)*	R/E-3(b)(6)	Q 1,2,3,4 By Region
	* This measure requires declining targets from the first quarter through the fourth quarter. All facilities must be addressed prior to the end of the fiscal year through enforcement and/or have returned to physical compliance.		

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

Program: RCRA Enforcement

OBJECTIVE	MEASURE	SPMS CODE	FREQUENCY
Ensure that timely and appropriate enforcement action is taken against SNC's.	Significant Noncompliance - Snapshot _/		
	Report the number of TSD facilities in SNC at this point in time. _/	R/E-4(a)	Q 1,2,3,4 By Region
	Report the number of TSD facilities in SNC at this point in time that have not had formal enforcement action initiated against them to resolve all violations causing the facility to be in SNC. Report by time lapsed from inspection.	R/E-4(b)	Q 1,2,3,4 By Region
	o 135 days or less.	R/E-4(b)(1)	
	o 136 - 180 days.	R/E-4(b)(2)	
	o 181 days or more.	R/E-4(b)(3)	
Ensure compliance by Federal facilities.	Federal Facilities - Snapshot		
	Report the number of Federally owned or operated TSD facilities (including contractor-operated Federal facilities) that are in SNC, at this point-in-time.	R/E-5(a)	Q 1,2,3,4 By Region
	Report the number of these facilities against which there is one or more formal enforcement action(s) addressing all SNC violations.	R/E-5(b)	Q 1,2,3,4 By Region
	_/ Definition at end of program measures.		

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

Program: RCRA Enforcement

OBJECTIVE	MEASURE	SPMS CODE	FREQUENCY
Ensure that violators of the Land Disposal Restrictions are returned to compliance.	Land Disposal Restrictions Noncompliance - Snapshot		
	Report the number of treatment and disposal facilities and generators (including generating TSDs) with substantial violations of the land disposal restrictions at this point in time. _/	R/E-6(a)	Q 1,2,3,4 By Region
	Report the number of these facilities and generators that have received an initial and/or final filed formal enforcement action that addresses all outstanding R/E-6(a) violations. (Report EPA and State separately).	R/E-6(b)	Q 1,2,3,4 By Region
Ensure that RCRA violators are addressed and that environmentally significant releases are addressed.	Enforcement Actions		
	Report the number of formal administrative actions issued, year to date, not including §3008(h), §3013 and §7003 (Report separately by EPA and State).	R/E-7(a)	Q 1,2,3,4 By Region
	Report the number of formal administrative enforcement actions issued, year-to-date to TSDFs under §§3008(h), §3013 and §7003.	R/E-7(b)	Q 1,2,3,4 By Region

_/ Definition at end of program measures.

RCRA ENFORCEMENT DEFINITIONS

R/E-1(a) Land Disposal Facility Universe: Includes operating, closing and closed facilities. Does not include Class I UIC wells (only), certified clean closed facilities, and pre-HSWA State delisted and EPA delisted land disposal facilities.

R/E-1(b) Universe of TSDF's other than Land Disposal Facilities: Does not include underground storage tanks, generator transporters, notifiers carrying non-regulated status codes or State-only regulated handlers.

R/E-2(a) Inspections: All operating, closed and closing land disposal facilities (except Class I UIC wells, certified clean closed facilities and delisted facilities) must be inspected in FY 1988. Once inspected in FY 1988, a facility should not be recounted in this category. This measure is intended to evaluate whether every facility has been addressed with a full compliance inspection under RCRA §3007(c), (d) and (e). Inspections to be counted are CEIs. (Includes Federal, State and local facilities.)

R/E-2(b) Inspections: All treatment and storage facilities owned/operated by federal/state/local entities, all commercial treatment facilities known to be subject to effective (not extended) land ban requirements, all permitted incinerators, and all treatment and storage facilities with substantial corrective action activities such as studies, investigations, interim measures or remedial measures required in FY 88 under permits or orders must be inspected. In addition, at least one half of the remaining treatment and storage facilities must be inspected. Once inspected in FY 88, a facility should not be recounted in this category. This measure is intended in part to assure that every facility has been addressed with a full compliance inspection under RCRA §3007 (c), (d), and (e). Inspections to be counted are CEIs. (Includes Federal, State and local facilities.)

R/E-2(c) Federal, State and local TSDF's: These numbers are a subset of the numbers targeted and reported in (a) and (b). Thus, Federal, State and local facilities are counted both in (c) and in (a) or (b).

R/E-2(d) Inspections: This includes all inspections of non-SQG generators inspected in FY 1988. Once inspected in FY 1988 a generator should not be recounted in this category. Regions and States should maximize the number of inspections of (non-SQG) generators of F001-F005 solvents and California List wastes. (Includes Federal, State and local handlers).

RCRA ENFORCEMENT DEFINITIONS
CONTINUED

R/E-3(a) Number of land disposal facilities in significant noncompliance includes those with Class I violations of the ground-water monitoring, closure/post closure or financial responsibility requirements (interim status, closure plan or permit). Submit names to the program office. Note that violations of the liability insurance requirements are to be addressed in accordance with applicable guidance.

R/E-3(b) Number of TSDF's in significant non-compliance with corrective action requirements are those with substantial violations of corrective action conditions in permit schedules of compliance or final orders. This includes investigations, interim measures and remedial measures. An owner/operator is in substantial violation if he is not meeting those conditions in a timely manner and/or the quality of his work is substantially unacceptable. Submit names to the program office.

R/E 4,5 The definition of SNC in R/E-3 (a) and (b) applies to these categories. Submit names to the program office, where names and information not indicated in submission to program office for R/E-3.

R/E-6 Applies only to effective land disposal restrictions:

- o Generators (including generating TSDFs) with substantial violations of the land disposal restrictions are those who ship wastes exceeding treatment standards to land disposal facilities without notifying about need for treatment.
- o Treaters with substantial violations of the land disposal restrictions are those who have inadequately treated wastes and who direct waste exceeding treatment requirements to land disposal.
- o Disposers with substantial violations of the land disposal restrictions are those who have illegally disposed of wastes exceeding the treatment standards.

Enforcement actions taken by States not authorized to administer the land disposal restrictions may be reported where a State has comparable authority.

R/E-7 For the purpose of R/E 3-7, "formal enforcement action" includes: filed §3008(a) complaints (administrative or judicial), §3008(a) final orders, §3013 orders, §3008(h) orders, §7003 orders and all equivalent formal State actions. To be "equivalent", a State action must be equal to Federal §3008(a) complaint or be legally binding. This excludes notices of violations, warning letters or agreements, schedules in FMPs etc. The purpose of this measure is to count formal enforcement actions.

ATTACHMENT C: REPORT FORMS

STATUS OF RCRA REPORTING FORMS

- There are two forms which are being updated to fulfill Headquarters informational needs:

  - the Status of Permit Application Report (SPAR); and
  - the Compliance Monitoring and Enforcement Log (CMEL).

  These forms are currently in various stages of review by Headquarters and Regional staffs.

- The format for the Facility Status Sheet (FSS) will continue to be used.

- Headquarters staff are working in cooperation with the Regions to develop a Corrective Action Report (CAR). We are working to ensure that the CAR will ultimately be consistent with the common data elements in RCRIS.

- Our goal is to finalize the SPAR and CMEL in the summer of 1987 and a version of the CAR prior to the commencement of FY 1988, if possible.