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Agency

Office of
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Response



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13. Abstract: Discusses waste capacity assurance, which is one of the five assurances required of a State by CERCLA before the hazardous waste Trust Fund (Superfund) can be used for a remedial action. This short sheet describes the statutory goals associated with the waste capacity assurance, the Capacity Assurance Plan (CAP), and additional sources of information.			
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EPA CERCLA Waste Capacity Assurance

Office of Emergency and Remedial Response
Hazardous Site Control Division (OS-220)

Quick Reference Fact Sheet

INTRODUCTION

CERCLA STATE ASSURANCES:

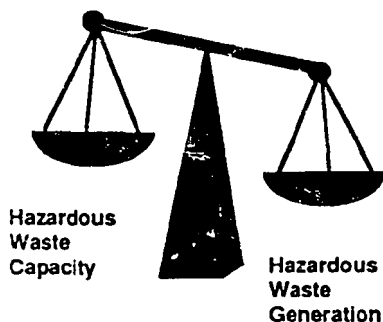
- **20-Year Waste Capacity**
- **Off-Site Treatment or Disposal**
- **Cost Sharing**
- **Operation and Maintenance**
- **Real Property Acquisition**

Waste capacity is one of the five assurances required of a State by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The other assurances are for off-site storage, treatment or disposal; cost sharing; operation and maintenance; and real property acquisition. Before the hazardous waste Trust Fund can be used for remedial action, a State must assure EPA that it is able to treat or dispose of all hazardous waste that will be generated in the State during the next 20 years. Specifically, the State must assure availability of hazardous waste treatment or disposal facilities which:

- Have adequate capacity for disposal or treatment of all hazardous wastes generated in the State during the next 20 years
- Are within the State, or outside the State in accordance with an interstate or Regional agreement
- Are acceptable to EPA and comply with requirements of Subtitle C of the Solid Waste Disposal Act.

The State must demonstrate to EPA that it has a plan to implement its waste capacity assurance. With EPA approval of the State's plan, cleanup can proceed if the State provides all the necessary assurances in a legally binding document (i.e., a Cooperative Agreement or Superfund State Contract). Indian Tribes, though treated essentially as States in the Superfund program, are not required to provide the waste capacity assurance. This short sheet describes the statutory goals associated with the waste capacity assurance, the Capacity Assurance Plan (CAP), and additional sources of information.

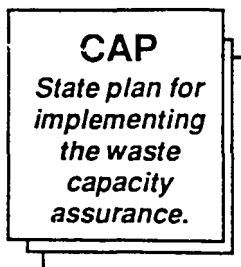
STATUTORY GOALS



The purpose of the waste capacity assurance is to limit and manage the amount of hazardous waste generated in the United States each year by encouraging waste minimization and recycling, interstate agreements, and efficient and realistic hazardous waste management systems. Through implementing the waste capacity assurance, EPA hopes to encourage longer term planning and ultimately source reduction, an economically and environmentally sound method for improving hazardous waste management. In this way, the waste capacity assurance can help balance hazardous waste generation and the capacity available to handle it.

THE CAPACITY ASSURANCE PLAN

To demonstrate that it can implement its assurance, the State submits a Capacity Assurance Plan (CAP). EPA reviews the CAP on the basis of the State's projected hazardous waste generation, imports, and exports; hazardous waste minimization and recycling plans; and current and projected hazardous waste management systems. EPA will approve the CAP if it:

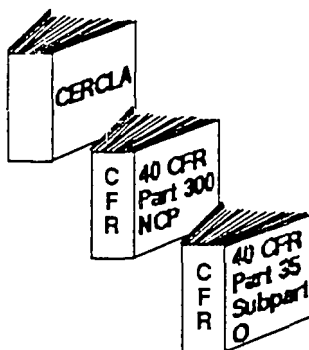


- Provides reasonable assurance that a State has adequate capacity to manage its hazardous waste for the next 20 years
- Demonstrates that the State has the commitment and capability to carry out the plan (such as through commitment to specific milestones)
- Provides documentation of interstate or Regional agreements for imports and exports.

EPA gives priority to reviewing and supplementing CAPs from States where Superfund remedial actions are likely to occur. EPA can deem a CAP adequate as submitted, adequate if supplemental conditions are incorporated, or inadequate, and may suggest improvements even for CAPs deemed adequate as submitted.

ADDITIONAL INFORMATION

Requirements for the waste capacity assurance are described in detail in CERCLA and EPA regulations and directives:



- CERCLA 104(c)(9)
- The National Oil and Hazardous Substances Contingency Plan (NCP), 40 CFR 300.510(e)
- Cooperative Agreements and Superfund State Contracts for Superfund Response Actions, 40 CFR 35.6105(b)(3)
- OSWER Directive 9010.00a, which describes EPA's policies and procedures for reviewing a Capacity Assurance Plan
- OSWER directives in the 9375.5 series, which pertain to State involvement in the Superfund program.



For specific information on the CAP review process, contact the Office of Solid Waste and Emergency Response at 202-245-3529. For additional information on the Superfund program, contact the RCRA/Superfund Hotline at 202-382-3000 or 1-800-424-9346. For a complete list of Superfund directives and publications, contact the Superfund Docket and Information Center (SDIC) at 202-382-6940.