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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



OCT 25 2007

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Financial Assurance Programmatic Oversight

FROM: Matt Hale, Director
Office of Solid Waste

TO: RCRA Waste Management Division Directors
Regions 1 - 10

Purpose

The purpose of this memorandum is to highlight the importance of addressing the states' implementation of the RCRA financial assurance requirements as part of routine program oversight of the Resource Conservation and Recovery Act (RCRA) hazardous waste program and of providing support to the states as they implement this aspect of the program. I am also sharing a copy of this memorandum with the states through the Association of State and Territorial Solid Waste Management Officials (ASTSWMO).

Background

Financial assurance is an integral component of the RCRA hazardous waste program. It provides assurance to EPA and the states that resources will be available for closure, post-closure care, and corrective action at treatment, storage and disposal facilities, if the facility owner or operator proves unable to perform these activities, and serves as an incentive for responsible management of hazardous waste. In addition, financial assurance provides third party liability coverage for accidental occurrences arising from the facility's operations. This memorandum discusses how program oversight of the financial assurance requirements should be part of the RCRA hazardous waste program, as well as what technical support and resources are being made available to the Regions and states to assist them in implementing the Subtitle C financial assurance requirements.

Financial Assurance Program Oversight

While regional approaches to state program oversight vary because of differences among the regions and states, regional oversight programs generally share several important common elements: development of agreements with states setting out annual targets, annual summaries of state accomplishments, annual meetings between the region and states, mid-year meetings or calls, State Directors meetings, regular staff or management level conference calls, file or permit reviews, and, in many cases, training. Regions should ensure that the financial assurance program is part of these discussions and activities. The discussions can provide information on where the states and the regions see the program working well, where improvements need to be made, as well as how these improvements are being addressed, and where support is needed.

EPA expects that states have a good understanding of financial assurance compliance at treatment, storage and disposal facilities. States should take appropriate actions to ensure compliance if, for example, annual submissions are incomplete or late. EPA also expects that states will review the financial assurance submissions and cost estimates as appropriate, for example, when permits are issued, reviewed, or renewed, consistent with my January 30, 2007 memo.¹

Focus on Assistance

The key focus of discussions on financial assurance should be on areas where EPA can provide assistance, either at the regional or the headquarters level. In overseeing state programs and providing support to the states, EPA regions should look to where states need special expertise, and they should ensure that states are aware of and have access to tools provided by EPA. In particular, EPA is making funds available on a pilot basis to support the states' reviews of financial assurance submissions.² In addition, EPA has issued "Top Tips" for financial assurance implementers, is updating the CostPro software, and continues to host monthly conference calls on financial assurance. Finally, EPA also continues to provide training opportunities regarding financial responsibility mechanisms and cost estimating.

For Further Information

Thank you for your efforts in working with the states to ensure an effective RCRA financial assurance program. If you have specific questions or need more information regarding information provided in this memorandum, please contact Dale Ruhter at (703) 308-8192.

cc: Dania Rodriguez, ASTSWMO
Susan Bromm, OSRE
Walker Smith, OCE

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<http://yosemite.epa.gov/osw/rcra.nsf/ea6e50dc6214725285256bf00063269d/2bd455873baf7f6b852572a7006b8023!OpenDocument>

² Similarly, EPA has available funds to assist Regions for support of enforcement activities involving complicated financial assurance scenarios.