



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

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MEMORANDUM

SUBJECT: Transmittal of Best Practices to Enhance Coordination in the RCRA Program

FROM: Cynthia Giles, Assistant Administrator
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TO: RCRA Directors, Regions 1-10
Regional Counsel, Regions 1-10

Coordination among the permitting, corrective action, enforcement and compliance assurance, and legal components of the Resource Conservation and Recovery Act (RCRA) program is important at both EPA Headquarters and in the regions. Attached to this memorandum is a list of recommended practices to improve regional coordination in the RCRA program. EPA Headquarters is committed to enhancing coordination, and we encourage regions to support this effort.

The Need for Increased Coordination

EPA most effectively and efficiently protects human health and the environment when personnel work together to meet program challenges as one EPA. Although the roles and responsibilities of RCRA personnel are distinct, understanding and appreciating the roles and responsibilities of all RCRA personnel helps to ensure that RCRA hazardous waste and constituents are effectively addressed. A successful communication and coordination system supports the RCRA program goals, improves professional relationships and maximizes resources for the RCRA program. In addition, it is important that activities related to Agency priorities, such as enhancing community engagement, considering environmental justice impacts, increasing sustainable materials management and life cycle analysis, and identifying opportunities for waste minimization, are coordinated in the RCRA program.

In October 2010, our offices, working closely with the Association of State and Territorial Solid Waste Management Officials (ASTSWMO), hosted a one-day workshop to discuss coordination in the RCRA program. A diverse group of experienced managers and staff from EPA (Headquarters and regions) and the states identified problems that arise from a lack of coordination, and shared practices used in their regions and states that foster coordination. These shared practices formed the basis of the attached document.

Close coordination and use of the identified best practices should be pursued if applicable but may not be required at every facility. The identified best practices are not intended to be an exhaustive list and may be updated in the future. Although your office may already perform many of the activities described in the attached document, these best practices may help your office evaluate existing practices and consider revising those practices or adopting others.

Because our state partners are responsible for most RCRA activities in their states, coordination between EPA and the states is another essential feature of the RCRA program. Regions may want to take this opportunity to work with their states and revisit processes for ensuring regional/state coordination. Additionally, regions may wish to encourage states to take advantage of flexibilities in the RCRA Compliance Monitoring Strategy (CMS), available at <http://www.epa.gov/compliance/resources/policies/monitoring/rcra/rcracms.pdf>, to ensure a focus on the most serious hazardous waste issues. Although implementation of the attached best practices is not required, states may find them useful in improving internal coordination in their state's authorized RCRA program(s).

We recognize that resources are limited but believe these best practices can generally be implemented with existing resources. To the extent that incorporating these recommendations into your operating procedures takes some initial investment of resources, we believe that such an investment will help improve RCRA program efficiencies in the long term.

For Further Information

Thank you for your efforts to enhance coordination in the RCRA program. If you have any questions, please contact Rebekah Reynolds in OSRE at (202) 564-4306, Pete Raack in OCE at (202) 564-4075, Tom Ripp in OC at (202) 564-7003, Melanie Garvey in FFEO at (202) 564-2579 or Jeff Gaines in ORCR at (703) 308-8655. This memorandum and its attachment are available at <http://www.epa.gov/compliance/resources/policies/cleanup/rcra/coord-rcraprogram-11.pdf>.

Attachment: Best Practices to Enhance Coordination in the RCRA Program

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Best Practices to Enhance Coordination in the RCRA Program

These best practices are intended to assist personnel working in the permitting, corrective action, enforcement and compliance assurance, and legal components of the Resource Conservation and Recovery Act (RCRA) program to enhance coordination. The practices identified below may not be applicable in all situations and implementation may be limited by available resources or other factors. The practices are not intended to be exhaustive and may be updated and expanded, as appropriate. Since EPA has distinct roles and responsibilities in carrying out adjudicative (permitting) and prosecutorial (enforcement) functions, regions should consult with their Office of Regional Counsel when questions arise as to the appropriate level of commingling of functions.

BEST PRACTICE	DESCRIPTION
Improve the understanding and appreciation of the RCRA program	Establish a common understanding and appreciation among RCRA personnel regarding the role of each component of the RCRA program and the process for coordination among each. This understanding could be memorialized through standard operating procedures or memoranda of understanding. With respect to financial assurance, a memorandum could clarify responsibility for financial assurance reviews and status checks.
Foster cross-training opportunities	Foster cross training opportunities in the RCRA program because permitting and enforcement personnel can benefit from each other's training. State partners could also be invited to participate in the development of, and/or to attend, such trainings.*
Conduct regular meetings among RCRA personnel	Conduct regular meetings among RCRA personnel to review upcoming federal permit actions and federal enforcement activities at facilities. Regular coordination on permit issuance schedules, renewals, modifications, or terminations and sharing of information about upcoming EPA inspections and enforcement actions will save personnel time and resources.
Consult permit writers and/or project managers during various stages of the compliance monitoring and enforcement process	For facilities subject to permitting or corrective action, consult permit writers and/or project managers during the various stages of the compliance monitoring and enforcement process. These various stages include: targeting facilities for inspection, conducting pre-inspection meetings, accompanying inspectors on inspections, and reviewing inspection reports.

* The Office of Enforcement and Compliance Assurance, Office of Compliance, with assistance from states, regions and other EPA Headquarters offices, is currently leading an effort to update and improve the existing training materials and the 3500.1 inspector training requirements for RCRA Subtitle C.

BEST PRACTICE	DESCRIPTION
<p>Consult with enforcement and compliance legal staff</p>	<p>Consult enforcement and compliance monitoring and legal staff at the various milestones in the permitting or corrective action process, such as when permits are drafted, renewed or modified. Establish a feedback loop to receive information from inspections and enforcement actions which can be used to improve permits up for re-issuance.</p> <p>Consultation should focus on, among other things, making permits clear, unambiguous, and enforceable by ensuring that:</p> <ul style="list-style-type: none"> ○ Regulations are not paraphrased but repeated verbatim or incorporated by reference into the permit; ○ The words “shall” and “must” are used, wherever appropriate; ○ The definitions section provides clarification of terms, where needed; ○ Clear deadlines for each required action or document submission are established; and, ○ EPA’s right to enforce terms it recommends during the comment period for a state-issued draft permit pursuant to 40 C.F.R. § 271.19(e)(2) (EPA Review of State Permits) is preserved. <p>Consultation with enforcement and compliance monitoring and legal staff can be particularly helpful when responding to late or incomplete permit applications or corrective action submissions.</p>
<p>Establish or expand a repository</p>	<p>Establish or expand an electronically available repository of model permits and other information for use by RCRA personnel.</p>
<p>Create a central file location for all facility information</p>	<p>Working across programs, create a central file location for all facility information, including up-to-date permits and permit modifications and all permit attachments, as well as material related to enforcement actions, such as information requests and responses and enforcement instruments. Electronic database systems and tools are preferable. When possible, make information accessible to the states and the public, possibly through the expansion of the Enforcement & Compliance History Online (ECHO) database, taking into consideration the need to maintain enforcement confidentiality and attorney/client privilege.</p>
<p>Targeting for compliance assurance and enforcement activities</p>	<p>Use all available facility information to target facilities to monitor for compliance. Target using data sources such as universe and biennial reports, e-manifests, and compliance and enforcement history. This review of information from multiple sources can also be used to design monitoring plans that take advantage of flexibilities in the RCRA Compliance Monitoring Strategy to ensure focus on the most important generators, waste streams, and violations.</p>
<p>Coordinate with states</p>	<p>When reviewing proposed state regulations for purposes of program authorization, authorization staff should advise regional enforcement and compliance staff whether it is broader in scope or more stringent for purposes of enforcement. Also coordinate with states regarding development and use of model permit conditions.</p>