

US EPA ARCHIVE DOCUMENT

Commonwealth of Virginia  
and the  
United States Environmental Protection Agency  
Region III

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Final Authorization of the Commonwealth  
Hazardous Waste Management Program

Capability Assessment

Commonwealth of Virginia  
Final Authorization Capability Assessment

Introduction

Responsibility for the management of the hazardous waste program under the authority of Subtitle C of the Resource Conservation and Recovery Act (RCRA) and Code of Virginia, Title 32.1 lies with the Bureau of Hazardous Waste Management (BHWM) within the Virginia Department of Health (VADOH). On November 3, 1981, EPA granted Virginia Phase I interim program authorization for implementing regulations pertaining to the identification and listing of hazardous waste; hazardous waste generators and transporters; and the interim status standards applicable to existing hazardous waste management facilities. On August 17, 1983, EPA granted Virginia Phase II, Component A and B, interim program authorization for permitting activities governing hazardous waste storage/treatment facilities and incinerators. Program authorization for permitting land disposal facilities Component C, was delayed until final authorization. During the interim authorized period, EPA Region III's primary role in the management of the national hazardous waste program became one of oversight.

In the past, the Region's oversight efforts focused on the quantitative and qualitative aspects of the activities conducted by BHWM. Prior to the final authorization of the State's program, EPA Region III is required to conduct an assessment of the State's performance under interim authorization to determine their capability to continue the implementation of the hazardous waste management program under final authorization in lieu of the Federal program.

The following capability assessment reflects the Region's examination of Virginia's performance to date under their current authorization. The Region's review focused on the FY83 and FY84 RCRA annual work program activities. Specifically, the quarterly, mid-year and end of year program evaluation, and State reporting activities were analyzed in this assessment. In addition, on April 12, 1984, Virginia held a capability assessment meeting for EPA Region III Program Managers, in which the State provided a complete evaluation of their performance under interim authorization.

The results of these activities present Virginia's ability to implement a quality hazardous waste management program in lieu of the Federal program. The Region concentrated their review on past performance in order to identify potential problems which may impede the implementation of the final authorized program. Further, Region III determined the corrective actions necessary to improve performance so that Virginia can achieve and maintain final authorization.

In addition, the Region expanded the capability chart to facilitate a thorough interpretation of the Commonwealth's capability assessment. For each item on the charts, the program was examined and performance rated as either satisfactory, needs improvement, or unsatisfactory. A "satisfactory" rating indicates the ability to adequately fulfill the performance requirement, a "needs improvement" rating indicates the ability to fulfill the performance requirement by enhancing program elements based on EPA recommendations, and an "unsatisfactory" rating indicates the inability to meet the performance requirement.

State Capability Review  
I. Management/Reporting Assessment

Discussion

- Management of information and personnel within the Bureau of Hazardous Waste Management (BHWM) has been conducted in a manner which ensured the successful implementation of the State's interim authorized program. This accomplishment is reflected in the Virginia performance evaluations. Virginia's willingness to work in concert with Region III is commendable. For example, Virginia's cooperativeness in correcting identified program deficiencies in the past has been excellent.

Personnel resources are allocated in accordance with the RCRA Implementation Plan and the appropriate skill mix is available to implement a fully authorized program. BHWM staff members and other State personnel outside the Bureau seem to be adequately trained in the latest hazardous waste management practices. However, the State seems to be lacking some expertise in the review of closure and post-closure plans and financial responsibility documents. This lack of expertise was identified in the FY83 end-of-year evaluation as an action item requiring Regional assistance. During the first half of FY84, BHWM underwent reorganization and obtained additional personnel to help alleviate the situation. Accordingly, the Region is providing assistance in the review of these documents and in developing the State's expertise in these areas by providing technical assistance during the remainder of FY84. If necessary, the Region will commit to the extension of this training into the first quarter of FY85.

I. Management/Reporting Assessment

	<u>Satisfactory</u>	<u>Needs Improvement</u>	<u>Unsatisfactory</u>
A. <u>Management</u>			
o Resources allocated in accordance with grant.	X		
o Staff adequately trained; appropriate skill mix.	X		
o Institutional constraints do not hamper program effectiveness (organization, salaries, etc.).	X		
o State effectively utilizes information/data system in support of their program; system provides timely and accurate permit and enforcement information.	X		
B. <u>Reporting</u>			
o State informs EPA of program changes.	X		
o State meets MOA commitments for reporting, program coordination, etc.	X		

## II. Compliance/Enforcement

DISCUSSION

- o Virginia's current compliance/enforcement strategy was satisfactory for the Interim Authorization period. - However, the Commonwealth recognizes that a strategy consistent with EPA policy of June 1984 will need to be developed. They agree to commit to its development by December 1984 as specified in the FY85 grant annual work program.
- o While a full assessment of critical program areas were not completed until very recently, Virginia's efforts in groundwater monitoring, closure, and inspection of majors and record reviews indicate satisfactory implementation of the hazardous waste management program during the Interim Authorized period. EPA Region III will continue to monitor these program activities as specified in the annual grant work program to ensure the continued successful implementation of the authorized program.
- o Virginia should initiate State enforcement meetings more quickly with facility owners and operators where violations are detected. Serious violations which cannot be remedied quickly should be prepared for civil action in a timely manner which will be consistent with the revised compliance/enforcement strategy. As indicated in past program evaluations, notices of violation are the heaviest and most consistently used enforcement tool. Our recommendation to the State was to conduct an enforcement program which would ensure the rapid and appropriate followup of NOV's. The State responded accordingly and is showing significant improvement in this area. The Region and the State have agreed to ensure continued improvement in this area through the Memorandum of Agreement and annual work program.
- o Virginia's numerical inspection targets as outlined in the FY83 annual work program were achieved. However, inspection of the mix of facilities required by EPA was not met, i.e., major TSD facilities and groundwater monitoring facilities. During the FY84 mid-year evaluation, Virginia showed significant improvement in their effort to meet the numerical and mix of inspection commitments. The Region and the State have agreed to monitor these activities as specified in the final MOA and the annual grant work program.

- o The staff training is adequate in all areas except the review of closure/post-closure plans and financial mechanism documents. Virginia recognizes this problem and has requested training assistance. As indicated in the management discussion, technical assistance and training are currently being provided.
- o Virginia has shown that violations which EPA considers Class I are sometimes designated as Class III. Virginia was informed by the Region that the proper classification of violation determines the type of enforcement action which should be undertaken. The State agrees that the proper classification of violations would lend itself to proper enforcement actions. The State agrees to implement a program of enforcement which is consistent with the EPA compliance and enforcement strategy, June 1984. Since the Region's mid-year evaluation the State has shown improvement in its classification of violations.
- o The timeliness of initial enforcement actions has been consistent. As noted earlier, Virginia may not always take what EPA considers the most appropriate action for the violation.
- o Virginia has worked on cases which were not reported to EPA. These instances include undocumented enforcement meetings, telephone conversations, and correspondence which are not placed in the facility's file. Virginia has made improvements in this area as per EPA's recommendations, ensuring a level of documentation necessary for an adequate enforcement program.



## II. Compliance &amp; Enforcement

	<u>Satisfactory</u>	<u>Needs Improvement</u>	<u>Unsatisfactory</u>
A. State has multi-year compliance monitoring and enforcement strategy or commits to developing one.	X		
B. State has met grant commitments for:			
o inspection of major handlers,	X		
o inspection of non-major handlers,	X		
o evaluation and verification of closure/post-closure plans and withdrawal requests,		X	
o record reviews.	X		
C. Inspections and record reviews are comprehensive and properly documented.			
o Inspection checklists completed accurately.	X		
o Violations well documented.		X	
o Sampling quality assurance/quality control procedures followed.	X		
D. State properly classifies violations.		X	

	<u>Satisfactory</u>	<u>Needs Improvement</u>	<u>Unsatisfactory</u>
E. Enforcement Process			
o Compliance/enforcement efforts concentrate on critical programmatic areas.	X		
o All enforcement tools used to full advantage.	X		
o Timely enforcement actions taken in response to detected violations.		X	
o State follows-up informal and formal enforcement actions to ensure violators are returned to compliance.	X		
o Enforcement actions well documented.		X	

## III. Permit Program

DISCUSSION

- o As indicated by past performance, the State is capable of operating a quality permitting program after final authorization. While the State's current permit strategy is consistent with EPA policy, they have agreed to develop the multi-year permit plan as required by the FY85 RCRA Implementation Plan. Additional personnel for the review and final determination of closure/post-closure plans, and the review of financial responsibility documents will be required, however, to ensure their continued success. The Bureau recognizes the lack of expertise in these areas and is currently pursuing activities to rectify the problem. In FY84 the State increased its personnel resources to respond to the problem and sought training and contractual assistance from the Region. (See Management discussion.)

Virginia's permit conditions are consistent with EPA's as based on the permits reviewed. The Region will continue to review the State's permitting program to ensure consistency with the approved State requirements.

Virginia currently employs one geologist to conduct all reviews on land disposal facilities, including compliance, groundwater monitoring, and permitting. The Bureau recognizes the need for additional expertise in this area and is currently recruiting individuals to fill this role.

III. PERMIT PROGRAM

	<u>Satisfactory</u>	<u>Needs Improvement</u>	<u>Unsatisfactory</u>
<b>A. <u>Permit Strategy</u></b>			
o Permit strategy in accordance with Agency guidance			
-time frames for calling-in permits (land disposal and incineration - FY85 storage - FY87)	X		
-time frames for final determinations (land disposal - FY83-88; incinerator - FY82-88; storage and treatment - FY82-89)	X		
-address priorities for processing individual facilities	X		
<b>B. <u>Permit Processing</u></b>			
o Requests made in accordance with grant commitments or strategy	X		
o Applications processed in timely manner in accordance with strategy or grant commitments	X		
o State responds properly to late or deficient Part B's	X		
o Closure/post-closure plans reviewed and final determinations made in accordance with regulatory requirements			X

	<u>Satisfactory</u>	<u>Needs Improvement</u>	<u>Unsatisfactory</u>
o Permits processed in accordance with EPA-approved State administrative procedures	X		
o Permit conditions are consistent with EPA-approved State requirements	X		
o Permit conditions are enforceable and properly documented	X		