

US EPA ARCHIVE DOCUMENT

APPENDIX C

MEMORANDUM OF UNDERSTANDING BETWEEN
WEST VIRGINIA DEPARTMENT OF NATURAL RESOURCES
AND
THE WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

Relating to the joint development and implementation of the Hazardous Waste Management Act to protect the environment and the public health from the adverse effects of improper hazardous waste management.

I. Preamble

The Department of Natural Resources as the designated lead agency for the State Hazardous Waste Management Program (hereafter "DNR"), and the West Virginia Air Pollution Control Commission (hereafter "APCC") hereby enter into this Memorandum of Understanding (hereafter "MOU"). This MOU is to serve as an instrument for the development and implementation of an effective program in the State which also should minimize duplication of effort between the two agencies.

II. Authority and Responsibility

The Director of DNR has the authority to enter into this MOU pursuant to West Virginia Code, Chapter 20, Article 5E, Sections 4 and 5 for the purpose of receiving grant funds and coordinating with other agencies and interested parties. The APCC has the authority under West Virginia Code, and Chapter 16, Article 20, Section 5(2) and (8).

It is understood that the Director of DNR representing the lead agency shall:

1. Submit for approval to EPA all APCC workplans to be funded by the pass through of federal grant funds to APCC.

2. Submit to EPA all reports required by this MOU and in relation to the expenditure of grant funds.
3. Submit for approval to EPA all contractual agreements entered into by the APCC when federal grant funds are utilized in part or in full for such agreements.

III. Substantive and Procedural Arrangement

A. Department of Natural Resources

1. The Director of DNR shall apply for and receive grant funds based on approval of the work plan by the United States Environmental Protection Agency.
2. The Director of DNR shall provide pass through grant funds to the APCC for program development and implementation activities eligible under such grant, upon submission and EPA approval of APCC work plans and estimated budgets.
3. The Chief of the Division of Water Resources, DNR, and the Director of APCC shall establish in-house training of state personnel.
4. The Chief will conduct compliance inspections of all hazardous waste management facilities. Since inspections by the APCC Director of incinerators and thermal treatment units will be conducted to determine compliance with APCC Regulation XXV, inspections by the Chief of incinerators and thermal treatment units shall be limited to inspections of facility personnel training; security; preparedness and prevention; contingency planning and emergency procedures; manifest system, recordkeeping and reporting; closure and post closure; and financial requirements.

5. Inspection reports and all other information collected during the Chief's compliance inspections, when and if any such inspections relate in part to incineration or thermal treatment units, shall be forwarded to the APCC Director within thirty (30) days of such inspection or earlier if the final reports are completed. The Chief shall provide the Director of APCC with an advanced schedule of any such inspections of incinerators or thermal treatment units and ancillary facilities (storage tanks, etc.) so that joint inspections may be arranged if desirable and to avoid duplication of effort.
6. The Chief shall give written notification to the Director of APCC of all permit applications filed within five (5) days of receipt of such permit applications.
7. The Chief shall give prompt written notification to the Director of APCC upon the observation or learning of a suspected violation of any permit issued by the APCC or any rule or regulation administered or enforced by the APCC.
8. Recognizing that the APCC Director will receive permit applications in accordance with APCC Regulation XXV, the Chief shall concurrently receive and review such permit applications with specific concern for facility personnel training; security; preparedness and prevention; contingency planning and emergency procedures; manifest system, recordkeeping and reporting; closure and post closure; and financial requirements.
9. Recognizing that DNR will request permit applications from all existing treatment, storage, and disposal facilities for which DNR may issue permits and recognizing that the APCC's Director's review

under Regulation XXV is desirable before such permits may be issued by DNR, then the Chief and the APCC Director shall cooperate in developing an orderly schedule of requesting such permit applications and such review. After such review and after submission to the APCC Director by the Chief of the permit application, the APCC Director shall notify the Chief of his findings and determinations or deficiencies as they relate to the issuance of such DNR permit.

10. The Chief and the APCC Director shall cooperate in responding to and investigating citizen complaints.

B. Air Pollution Control Commission

1. The Director of APCC shall provide the necessary state matching funds for all federal pass through grant funds provided by EPA.
2. The Director of APCC shall maintain adequate financial records for all Hazardous Waste Management Program expenditures until the Program audit is made and shall be responsible for substantiating same.
3. The Director of APCC shall submit to the Director of DNR the necessary information (including updates, progress reports, narrative workplans, budget estimates, annual program reports, and midcourse evaluation reports) as required by the U.S. Environmental Protection Agency (EPA) to meet Program requirements. This information shall be submitted to the DNR by APCC five (5) days prior to the submission dates outlined in Attachment A so that the DNR may report to the U.S. Environmental Protection Agency and thereby insure the quarterly release of grant funds.

4. The Director of APCC shall receive and review permit applications in accordance with Regulation XXV.
5. The Director of APCC shall perform compliance inspections and review all monitoring forms and reports submitted or maintained by owners or operators subject to the requirements of APCC Regulation XXV to ensure compliance with rules and regulations of the Commission.
6. The Director of APCC shall give prompt written notification to the Chief upon the observation or learning of a suspected violation of any permit issued by the Chief or any rule or regulation administered or enforced by the Chief.
7. The Director of APCC shall give written notification to the Chief of all permit applications filed within five (5) days of receipt of such permit applications.

IV. Effective Date

This MOU and any subsequent modifications shall take effect immediately upon its execution and shall remain in effect for a period of one (1) year from its date of execution. At the end of this period, the participating parties identified herein shall review this MOU for any modifications or revisions, and execute a revised MOU, if necessary, or extend the effectiveness of the existing MOU for an identified period.

V. Modifications

This MOU may be modified or amended at any time by mutual agreement signed by the participating parties identified herein.

Department of Natural Resources

By: 
Its Director

West Virginia Air Pollution Control
Commission

By: 
Its Chairman

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Timetable for RCRA Reporting

Report Type	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT
Monthly Inspection Statistics (by Telephone - Form A)	NOV 1	DEC 1	JAN 1	FEB 1	MAR 1	APR 1	MAY 1	JUNE 1	JULY 1	AUG 1	SEPT 1	OCT 1
Copies of All Facility* Inspections & Enforcement	NOV 30	DEC 31	JAN 31	FEB 28	MAR 31	APR 30	MAY 31	JUNE 30	JULY 31	AUG 31	SEPT 30	OCT 31
Quarterly Reports - Statistical Non-Compliance & Groundwater (Form B & C) Progress Report	JAN 31			APR 30			JULY 31			OCT 31		
Semi-Annual** Progress Report	JAN 31			JULY 31						JAN 31		

* Includes copies of groundwater monitoring inspections/assessments performed that reporting period.

** The Semi-Annual Progress Report for the period July, 1982 thru December, 1983 is to be submitted January 31, 1984.

WVDNR/WVAPCC FINANCIAL AGREEMENT
Federal Fiscal Year 1985

THIS AGREEMENT, Made this 26th day of September, 1984, by and between the DIVISION OF WATER RESOURCES OF THE DEPARTMENT OF NATURAL RESOURCES, party of the first part, and the WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION (WVAPCC), party of the second part:

WHEREAS, the party of the first part and the party of the second part have entered into a Memorandum of Understanding relating to the joint development and implementation of the Hazardous Waste Management Program to protect the environment and the public health from the adverse effects of improper hazardous waste management.

WHEREAS, the Memorandum of Understanding sets forth certain authorities and responsibilities, substantive and procedural arrangements between the party of the first part and the party of the second part, and requirements of the party of the second part including but not limited, to making inspections, conducting permit application review and issuance, and enforcement of said Hazardous Waste Management Program pursuant to WVAPCC Regulation XXV.

NOW THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the mutual promises and covenants hereinafter set forth, the parties hereto agree as follows:

1. The party of the second part will perform such inspection, permit application review and issuance, and enforcement of regulations as required by WVAPCC Regulation XXV and the Code of West Virginia.

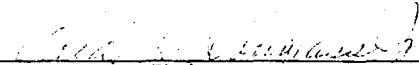
2. The said party of the first part will pass through Federal RCRA grant funds contingent upon receipt of funds from EPA, at the beginning of each quarter to said party of the second part. These grant funds are to be used during that quarter to implement the hazardous waste management program as it relates to air emissions as described in the itemization hereinafter described as "Exhibit A". The total of the pass through grant funds shall not exceed \$65,464 during the Federal fiscal year 1985.

3. The party of the second part agrees to maintain adequate financial records for all hazardous waste management program expenditures until the program audit is made and the party of the second part shall be responsible for substantiating same.

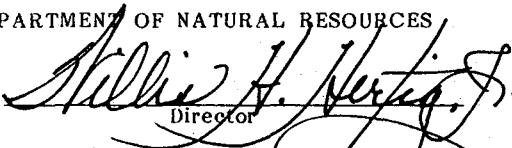
4. The party of the second part further agrees to make available such records for inspection to the Environmental Protection Agency and the Department of Natural Resources.

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed
by their proper officials thereunto duly authorized.

AIR POLLUTION CONTROL COMMISSION

BY 
Chairman


DEPARTMENT OF NATURAL RESOURCES

BY 
Director

DIVISION OF WATER RESOURCES

BY 
Chief

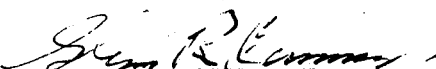
APPROVED:

BY 
Deputy Commissioner, Department of
Finance and Administration

APPROVED:


Attorney General

APPROVED:


Director of Purchases Department
of Finance and Administration

WEST VIRGINIA
AIR POLLUTION CONTROL COMMISSION

EXHIBIT A
HAZARDOUS WASTE MANAGEMENT PROGRAM
WORK PLAN
October 1, 1984 through September 30, 1985

The West Virginia Air Pollution Control Commission (APCC) has established a Hazardous Waste Division to implement rules and regulations promulgated pursuant to the State Hazardous Waste Management Act (HWMA). The Hazardous Waste Division, which reports to the Director of the APCC, is composed of a Division Chief and two staff engineers. Supporting staff include legal council, clerical, administrative, and laboratory.

The Commission has adopted WVPCC Regulation XXV which specifies air pollution performance standards and permit requirements for hazardous waste incineration facilities. Implementation of Regulation XXV will ensure that the State's Hazardous Waste Management Program is equivalent to Federal RCRA incineration requirements. The Commission has regulatory authority over all hazardous waste treatment, storage, and disposal facilities in matters which relate to air emissions and air quality.

Program Development

The Hazardous Waste Division is currently fully staffed. Division resources are believed to be adequate to implement Regulation XXV requirements.

It is expected that the State will submit a formal application to EPA for final delegation of the Hazardous Waste Management Program near the end of Federal fiscal year 1984. Coordination of activities with other State agencies, public participation, and response to public and EPA comments on the final application are expected to require 0.05 man-years during the first fiscal quarter.

Staff resources may be used to assist the WVDNR in preparing a state compliance monitoring and enforcement strategy. Five-hundredths (0.05) man-years are allotted for this project.

For the final three quarters of Federal fiscal year, coordination of activities with other state agencies are estimated to require 0.01 man-years. It should be pointed out that any new EPA air pollution performance standards or amendment of incinerator air pollution performance standards will require State regulatory change. If WVAPCC Regulation XXV must be amended, staff resources for the second through fourth quarters will be readjusted.

Permitting

There are six existing hazardous waste incinerators within the state. One facility is scheduled to be permitted by the end of Federal fiscal year 1984. It is expected that the five remaining units will be issued permits during 1985 Federal fiscal year. These permits are expected to be issued during the third and fourth quarters of the fiscal year.

We are also advised that one chemical plant may submit an application for a new hazardous waste incinerator. Depending upon the filing date, this application will also be processed during the 1985 Federal fiscal year.

Engineering review, public participation, and permitting will require 1.49 man-years.

Compliance Monitoring/Enforcement

All incineration facilities will be inspected at least once during the 1985 Federal fiscal year. Either an interim status or permit inspection will be conducted dependent upon the permit status of the respective facility. The inspections will determine compliance with WVAPCC Regulation XXV requirements. Each incineration facility is classified as a major facility.

One incinerator interim status inspection will be conducted during the first quarter. Two interim status incinerators and one permitted incinerator will be inspected during the third quarter. Three interim status/permitted incinerator inspections will be conducted during the fourth quarter. Noncomplying sources will be periodically reinspected until the source returns to compliance.

The Hazardous Waste Division will also investigate complaints and reported/suspected violations of Regulation XXV. Total man-power requirements for compliance/monitoring are estimated to be 0.60 man-years.

Program Administration/Training/Reporting to EPA

The EPA/State Memorandum of Agreement and WVDNR/WVAPCC Memorandum of Understanding require monthly, quarterly, and semi-annual reporting of permitting and enforcement/compliance activities. These duties are estimated to require 0.30 man-years.

Division staff will participate in ongoing training to keep advised of new hazardous waste incineration technology, source emission testing, and analytical procedures. Three-tenths man-years are allotted. Included in this category are equipment costs, vehicle maintenance, and travel.

WEST VIRGINIA
AIR POLLUTION CONTROL COMMISSION

SUMMARY OF ESTIMATED EXPENDITURES
HAZARDOUS WASTE MANAGEMENT PROGRAM
October 1, 1984 - September 30, 1985

EPA SHARE

Personal Services	\$50,234
Fringe Benefits	11,230
Office Supplies	500
Travel	2,000
Vehicle Expenses	<u>1,500</u>
	\$65,464

STATE'S SHARE

Personal Services	<u>\$21,842</u>
Total Cost -----	\$87,306

WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION
HAZARDOUS WASTE MANAGEMENT PROGRAM
Milestone Chart Federal Fiscal Year 1985

Task/Activity		1st QUARTER	2nd QUARTER	3rd QUARTER	4th QUARTER	STATE DOLLARS	EPA DOLLARS	TOTAL DOLLARS
Program Development	F\$	2,140	2,140	2,140	2,140	3,004	8,560	11,564
	S\$	2,730	137	68	69			
Permitting	F\$	9,522	9,523	9,522	9,523	1,365	38,090	39,455
	S\$	341	341	342	341			
Compliance Monitoring/ Enforcement	F\$	2,116	530	5,290	5,290	2,730	13,226	15,956
	S\$	684	682	682	682			
TSD's Major (6)*	No.	1		2	3			
	No.							
Non-Major ()	No.			1				
	No.							
Permitted TSD's (1)	No.							
	No.							
Program Administration/ Training	F\$	1,397	1,397	1,397	1,397	6,553	5,588	12,141
	S\$	1,639	1,638	1,638	1,638			
Reporting to EPA	F\$					8,190		8,190
	S\$	2,049	2,047	2,047	2,047			
Other (Identify)	F\$							
	S\$							
TOTAL Dollars	F\$	15,175	13,590	18,349	18,350	21,842	65,464	87,306
	S\$	7,443	4,845	4,777	4,777			

* Estimated number of inspections to be conducted.