

## Attachment II

EPA National Capacity Assessment Report:  
Capacity Planning Pursuant to CERCLA Section  
104(c)(9), March 25, 2015

**NATIONAL CAPACITY ASSESSMENT REPORT:  
Capacity Planning Pursuant to  
CERCLA Section 104(c)(9)**

**March 25, 2015**

**U.S. Environmental Protection Agency**

## Introduction

### **CERCLA Section 104(c)(9)**

*(9) Siting. Effective 3 years after the enactment of the Superfund Amendments and Reauthorization Act of 1986, the President shall not provide any remedial actions pursuant to this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the President providing assurances deemed adequate by the President that the State will assure the availability of hazardous waste treatment or disposal facilities which –*

*(A) have adequate capacity for the destruction, treatment, or secure disposition of all hazardous wastes that are reasonably expected to be generated within the State during the 20-year period following the date of such contract or cooperative agreement and to be disposed of, treated, or destroyed,*

*(B) are within the State or outside the State in accordance with an interstate agreement or regional agreement or authority,*

*(C) are acceptable to the President, and*

*(D) are in compliance with the requirements of Subtitle C of the Solid Waste Disposal Act*

Section 104(c)(9) of the Comprehensive Environmental Response Compensation, and Liability Act (CERCLA) requires that the U.S. Environmental Protection Agency (EPA) not provide any remedial action funding to a state unless the state first enters into a state Superfund Contract (SSC) or Cooperative Agreement (CA) that assures the availability of adequate capacity to manage hazardous wastes generated in the state for 20 years following the date of the response agreement. The statute specifies that adequate capacity must be within a State or outside a State in accordance with an interstate agreement or regional agreement or authority.

A national planning process was developed to help support states in fulfilling this statutory mandate. The first phase of the national planning approach is to assess the availability of capacity nationwide. In evaluating capacity nationwide, the Agency assumes private agreements for the interstate treatment or disposal of hazardous waste have been or will be executed if adequate capacity otherwise exists.

This Report describes the effort to assess the national capacity by following the analytical guidelines detailed in the *Guidance for Capacity Assurance Planning* document dated May 1993 (hereafter referred to as the 1993 Guidance; available at <http://infohouse.p2ric.org/ref/23/22567.pdf>; refer to Appendix F) and using 2011 Hazardous Waste Report data (also known as Biennial Report data or BR data; available at <http://www.epa.gov/osw/inforesources/data/biennialreport/>). The purposes of this Report are to provide: (1) the Agency's assessment that adequate national capacity exists, (2) the Agency's methodology used to conduct this assessment, (3) resolutions to a number of methodological issues raised in conducting this assessment, and (4) the data used to conduct this assessment.