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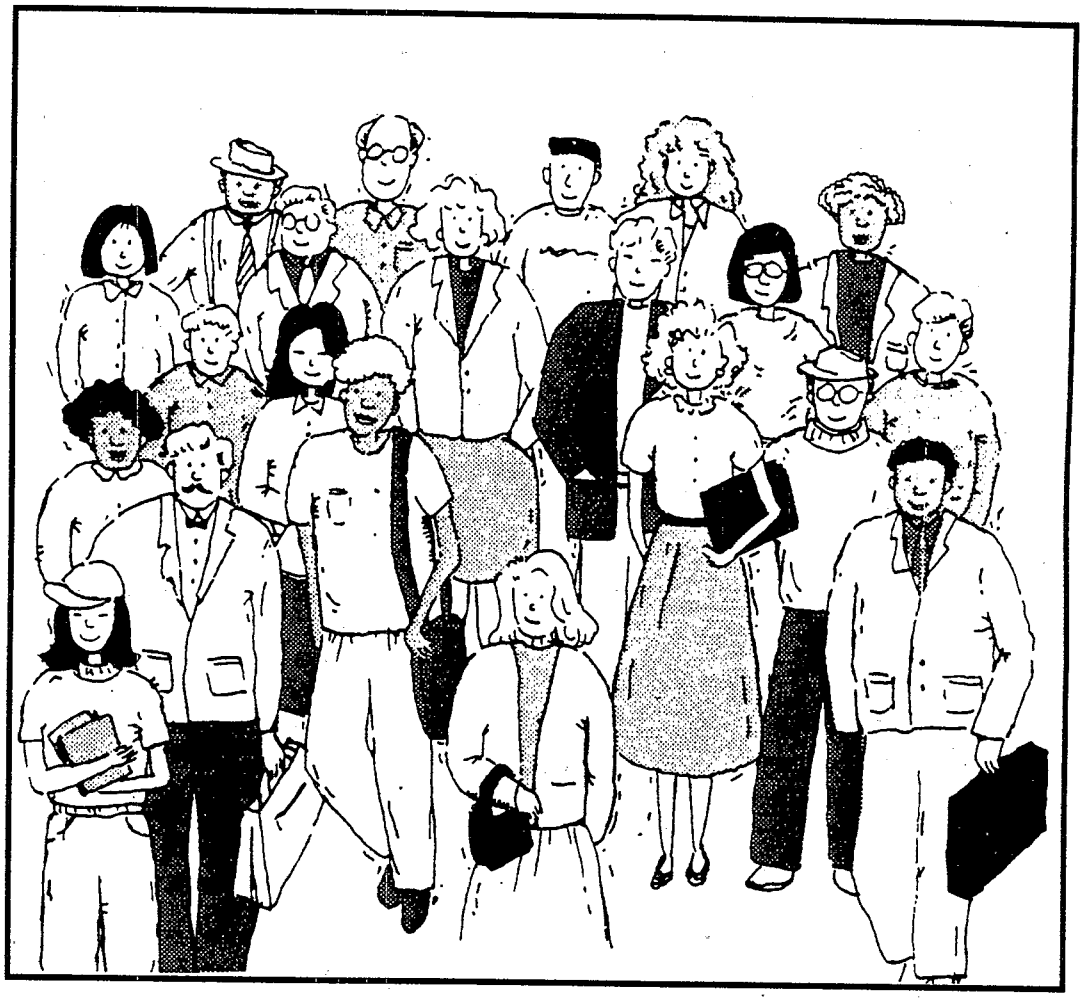
RCRA Public Participation Manual



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RCRA Public Participation Manual

1996 Edition

United States Environmental Protection Agency
Office of Solid Waste, Permits Branch
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Washington, DC 20460

Statement

This manual reviews regulatory requirements and provides policy guidance to help implement the RCRA program. The policies set forth in the attached manual are not final agency action, but are intended solely as guidance. They are not intended, nor can they be relied on, to create any rights enforceable by any party in litigation with the United States. EPA officials may decide to follow the guidance provided, or to act at variance with the guidance, based on an analysis of specific site circumstances. The Agency also reserves the right to change this guidance at any time without public notice.

This manual replaces and supersedes the 1993 RCRA Public Involvement Manual *(EPA 530-R-93-006). This manual is designed for use by agency staff, public interest organizations, private citizens, and owners/operators of hazardous waste management facilities.*

Acknowledgments

The RCRA Public Participation Manual was developed by the Office of Solid Waste with the invaluable help of a task group comprised of EPA and State regulators, industry representatives, and representatives of public interest groups. EPA would like to thank the members of the task group who provided their able services to this effort. For a full listing of participants, please refer to Appendix Q.

What This Manual Can Do For You

A Handbook for All Stakeholders

This document is a user's manual for public participation activities in the permitting process. In the same way that a user's manual explains how a car or an appliance works, this manual explains how public participation works in the RCRA permitting process and how citizens, regulators, and industry can cooperate to make it work better.

EPA teamed up with a diverse group of stakeholders from the environmental community, industry, and government agencies to produce this manual. The manual emphasizes the importance of cooperation and communication, and highlights the public's role in providing valuable input during the permitting process. The manual also furthers EPA's commitments to early and meaningful involvement for communities, open access to information, and the important role of public participation in addressing environmental justice concerns.

EPA wrote this manual to help all stakeholders in the permitting process. Here is how the manual can help you:

If you are a citizen...
This manual provides a clear description of the many public participation activities that are required by federal regulations. The manual also points out steps that agencies, company owners, and public interest groups can take to provide more public input into the process. In this manual, you will also find a list of people and organizations that you can contact to learn more about the permitting process and about community organizing.

If you are a government regulator...
This manual provides specific details about public participation requirements and outlines EPA's current policies. The manual also explains activities that you can conduct to provide better information to the public and to invite more public input into your RCRA permitting work. By reading this manual, you will learn how to open a dialogue with other stakeholders, how to assess communities and be sensitive to their concerns, how to plan for public participation, how to fulfill all the regulatory requirements, and how to go beyond the requirements.

If you are a member of a public interest or environmental group...
Reading this manual will let you know what public participation events are required under federal regulations, and how your organization can get involved. It provides useful tips, based on the experience of public participation practitioners, on how to interact with other stakeholders and

how to conduct public participation activities. The manual also provides contacts and publications that you can tap into for more information.

If you own or operate a hazardous waste management facility...
This manual describes when and how to conduct the pubic participation events involved in the permitting process. It points out the events you are responsible for and lets you know how the permitting agency will conduct other activities. By reading the manual, you will find out how to interact with the community around your facility, and how to be sensitive to their concerns, and how to cooperate and communicate with all stakeholders. The manual also describes public participation opportunities you can provide that go beyond the requirements.

Other Sources of Information

EPA is compiling a reference list of public participation and risk communication literature. For this list, EPA is interested in the following subjects areas: community organizing, community involvement and participation, environmental justice, risk communication, creative problem-solving, alternative dispute resolutions, participatory activities, environmental activism, and information-sharing. EPA is not interested in technical documents or data related to permitting. To initially solicit items for the reference list, EPA published a notice in the Federal Register (61 FR 15942). EPA intends to update the list periodically; any additional items people wish to propose for inclusion in the reference list may be submitted to the attention of the RCRA Permits Branch, Office of Solid Waste (5303W), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. Please do not send the original document. Include the full names of all authors, full titles, publisher, date of publication, city where the work was published, an abstract, and an address and/or phone number where one can write or call to obtain the publication (if applicable).

An initial draft of this reference list is available through the RCRA Hotline, or through the RCRA Information Center, in Docket Number F-95-PPCF-FFFFF, (see Appendix A for the appropriate telephone numbers).

If you are not trying to find out about public participation in the permitting process for facilities that store, treat, or dispose of hazardous wastes, then this manual will not be the best one for you. The following are suggestions of places to look for related information:

- If you are trying to learn more about public participation in the Superfund program, refer to *Community Relations in Superfund: A Handbook* (USEPA, EPA/540/R-92/009, OSWER Directive 9230.0-3C, January 1992).

- If you are trying to learn more about the siting of hazardous waste management facilities prior to permitting, you will most likely need to contact your local or state officials. See Appendix B for a list of

state agency contacts. EPA is planning to issue guidance on this topic during 1996. Contact the RCRA Hotline (see Appendix A for the number) for more information.

- If you are trying to learn about hazardous substances (other than wastes) stored by facilities or amounts of toxic substances released to the environment, you will want to find out more about the Emergency Planning and Community Right-to-Know Act (EPCRA), or and the Toxics Release Inventory (TRI). Call EPA HQ, your Regional Office, or the RCRA/Superfund Hotline (see Appendix A for phone numbers) for more information. Information on accessing EPA data is available in Appendix R.

- If you are trying to find out about how the public can participate in siting municipal waste landfills, refer to *Sites for Our Solid Waste: A Guidebook for Effective Public Involvement* (USEPA, EPA/530-SW-90-019, March 1990).

If you are unsure about whether a facility in your area will need a RCRA permit, you can contact your State agency or your Regional EPA office (see the Appendices A and B for numbers).

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Chapter 1
Introduction

Overview of this Manual

This manual covers federal public participation requirements. States may have additional requirements.

This manual is a guide to improving cooperation and communication among all participants in the RCRA permitting process. Like the September 1993 RCRA Public Involvement Manual (EPA530-R-93-006), this manual outlines public participation procedures and what staff in EPA and RCRA-authorized state programs can do to ensure that the public has an early and meaningful role in the process. However, this new manual goes beyond the scope of past manuals by providing public participation guidance to regulated industries and the communities that interact with them.

The broader scope of today's manual reflects EPA's belief that all stakeholders have a role in providing for meaningful public participation. Permitting agencies, public interest organizations, community members, and regulated facilities are all stakeholders in RCRA permitting actions. Each group has an interest in the permitting process and, moreover, can take steps to increase public participation and improve communication. This manual provides guidance for all RCRA stakeholders who seek to achieve these goals. Of course, the Federal and State agencies still administer RCRA and its public participation activities, but EPA acknowledges that members of communities and owners and operators of hazardous waste management facilities also play an integral role in the permitting process.

One reason for the broader scope of this guidance document is that facility owners and operators have more formal responsibilities than ever in RCRA public participation. This trend in EPA's approach, demonstrated through regulations such as the permit modifications procedures in 40 CFR 270.42 (52 FR 35838, September 23, 1987) and the part 124 changes in the "RCRA Expanded Public Participation" rule (60 FR 63417-34, December 11, 1995), has made facility owners and operators responsible for a number of public participation activities -- from public notices to meetings and information repositories. These new regulations underscore EPA's support for strengthening the link between facilities and their host communities.

This manual will also be helpful to many private companies that have adopted, or are establishing, public participation programs as part of their commitment to good corporate citizenship. While these activities often take

place outside of the official RCRA permitting process, EPA supports facilities in their efforts to inform and involve the public. This manual will guide facility owners and operators as they implement the public participation requirements of the RCRA program, especially those in the RCRA Expanded Public Participation rule. The manual will help facility owners and operators go beyond the regulatory requirements, expand their public participation activities, and build lasting relationships with surrounding communities.

Citizens are an essential component of the RCRA permitting process. The formal public participation activities, required by regulation, aim to provide citizens with both access to information and opportunities to participate in the process. Some citizens and other groups have expressed concerns about barriers to involvement in RCRA permitting. EPA was also concerned -- as are many members of the public -- that formal public participation begins too late in the permitting process and that RCRA permitting information is not always accessible to people. In response to these concerns and others, EPA promulgated the RCRA Expanded Public Participation rule. We hope that this rule and its accompanying policy statement will improve access to permitting information and enhance public participation.

Some of the most meaningful involvement for citizens may occur outside of the official process.

EPA recognizes that valuable public participation can take place outside of the formal procedures mandated by regulation. Through informal channels, citizens communicate and interact with other citizens, public interest groups, regulated facilities, and permitting agencies. EPA supports communities in their efforts to carry out informal means of participation that go beyond regulatory standards. Some of the most meaningful and informative involvement for citizens may come through activities not organized by permitting agencies or regulated facilities. We hope that this manual will be a valuable resource for communities and public interest groups that are concerned about RCRA facilities in their area.

Following this introductory chapter, the manual is organized as follows:

Chapter 2, "Guidelines for a Successful Public Participation Program," introduces some basic public participation concepts and points out principles of public participation that we encourage all RCRA stakeholders to follow.

Chapter 3, "Public Participation in RCRA Permitting," covers the basic steps in the RCRA permitting process and the public participation activities that accompany them. After reviewing the requirements, the chapter provides a list of additional participation activities to supplement the requirements.

Chapter 4, "Public Participation for RCRA Corrective Action Under Permits and §3008(h) Orders," details EPA's public participation

guidelines for the corrective action program. This chapter reflects the current agency position on these issues as the corrective action program continues to evolve.

Chapter 5, "Public Participation Activities: How to do Them," provides detailed descriptions for dozens of public participation techniques -- required and optional, formal and informal. The chapter explains all of the public participation methods mentioned in the previous chapters and provides information on additional methods.

The Appendices provide resources that will help any participant in the RCRA permitting or corrective action programs. Included in the Appendices are: phone numbers and addresses for contact persons at all state agencies, the 10 EPA Regional offices, and EPA Headquarters; current permitting fact sheets; example notices and press releases; and EPA policy memoranda.

If you already have a general knowledge of the RCRA permitting program, you may want to skip ahead to Chapter 2 at this point.

The Big Picture

The RCRA program involves many people and organizations with roles that vary greatly. Congress writes or amends the Act which, when signed by the President, becomes law. After the Office of Solid Waste and Emergency Response (OSWER) at EPA develops the regulations that more specifically define and explain how the law will be implemented, the RCRA program is implemented by both EPA Headquarters (OSWER) and staff in EPA regional offices. The states may, in turn, apply to EPA for the authority to run all or part of the RCRA program. In doing so, a state may adopt the federal program outright or develop its own program, as long as it is at least as stringent and as broad in scope as the federal program. The regulated community is involved with the RCRA program because it must comply with the law and its regulations. Finally, the general public participates by providing input and comments at almost every stage of the program's development and implementation.

RCRA and its 1984 Amendments

The Resource Conservation and Recovery Act, an amendment to the Solid Waste Disposal Act, was enacted by Congress in 1976 to address a problem of enormous magnitude -- how to safely manage and dispose of the huge volumes of municipal and industrial solid waste generated nationwide. The goals set by RCRA were:

- To protect human health and the environment;
- To reduce waste and conserve energy and natural resources; and

RCRA GOALS

- To protect human health and the environment
- To reduce waste and conserve energy and natural resources
- To reduce or eliminate the generation of hazardous waste as expeditiously as possible

- To reduce or eliminate the generation of hazardous waste as expeditiously as possible (also referred to as waste minimization and pollution prevention).

The Act continues to evolve as Congress amends it to reflect changing needs. It has been amended several times since 1976, most significantly on November 8, 1984. The 1984 amendments, called the Hazardous and Solid Waste Amendments (HSWA), significantly expand the scope and requirements of RCRA. The HSWA provisions related to corrective action at RCRA facilities are described later in this chapter.

The program outlined under Subtitle C of the Act is the one most people think about when RCRA is mentioned. Subtitle C establishes a program to manage hazardous wastes from cradle to grave. The objective of the Subtitle C program is to ensure that hazardous waste is handled in a manner that protects human health and the environment. To this end, EPA established regulations under Subtitle C regarding the generation; transportation; and treatment, storage, and disposal of hazardous waste. These regulations are found in Title 40 of the Code of Federal Regulations (CFR), in Parts 261-266 and Parts 268-270. [Note: The CFR contains all the general and permanent rules published by the Executive departments and agencies of the Federal Government.]

The Subtitle C program has resulted in perhaps the most comprehensive regulatory program EPA has ever developed. The Subtitle C regulations first identify those solid wastes that are "hazardous" and then establish various administrative requirements for the three categories of hazardous waste handlers: (1) generators; (2) transporters; and (3) owners or operators of treatment, storage, and disposal (TSD) facilities. This manual applies only to the TSD facilities, and the term "facilities" in this manual refers only to TSD facilities. The Subtitle C regulations set technical standards for the design and safe operation of hazardous waste facilities. These standards are designed to minimize the release of hazardous waste into the environment. Furthermore, the regulations for RCRA facilities serve as the basis for developing and issuing (or denying) permits to each facility. Issuing permits is essential to the Subtitle C regulatory program because it is through the permitting process that the regulatory agency actually applies the technical standards to facilities.

RCRA Facility Permitting

Owners or operators of TSD facilities are required to submit a comprehensive permit application covering all aspects of the design, operation, maintenance, and closure of the facility. Owners and operators are also required to certify annually that they have a waste minimization program in place. Many companies have found waste minimization is often a cost-effective alternative or supplement to waste management. Facilities in existence on November 19, 1980, operate under interim status until a final permit decision is made. Similarly, facilities that are in

existence when new regulations are promulgated that subject them to RCRA Subtitle C may also operate under interim status while they proceed through the permitting process. New facilities are ineligible for interim status and must receive a RCRA permit before construction can commence.

The permit application is divided into two parts: A and B. Part A is a short, standard form that collects general information about a facility. Part B is much more detailed and requires the owner or operator to supply detailed and highly technical information about facility operations. Because there is no standard form for Part B, the owner or operator must rely on the regulations to determine what to include in this part of the application. Existing facilities that received hazardous waste on or after November 19, 1980, or subsequently fell under Subtitle C due to new regulations, submitted their Part As when applying for interim status. Their Part B applications can be either submitted voluntarily or called in by the regulatory agency. Owners or operators of new facilities must submit Parts A and B simultaneously at least 180 days prior to the date on which they expect to begin physical construction; however, construction cannot begin until the agency has issued the permit. Permit applications are processed according to the procedures found in 40 CFR Part 124.

The RCRA Corrective Action Program

RCRA requires owners and operators of RCRA facilities to clean up contamination resulting from present and past practices, including those practices of previous owners of the facility. These clean up activities are known as corrective action. HSWA added three provisions for corrective action, thus significantly expanding EPA's authority to initiate corrective action at both permitted RCRA facilities and facilities operating under interim status. Section 3004(u) of HSWA requires that any permit issued under RCRA §3005(c) to a facility after November 8, 1984 address corrective action for releases of hazardous wastes or hazardous constituents from any solid waste management unit (SWMU) at the facility. If all corrective action activities cannot be completed prior to permit issuance, then the permit must include a "schedule of compliance" establishing deadlines and financial assurances for completing the required corrective actions. Section 3004(v) authorizes EPA to require corrective action beyond the facility boundary, if necessary. Finally, §3008(h) authorizes EPA to issue administrative (i.e., enforcement) orders or bring court action to require corrective action or other measures, as appropriate, when there is, or has been, release of hazardous waste or hazardous constituents from a RCRA facility operating under interim status.

Corrective action is typically carried out by the facility owner or operator under the requirements or conditions stated in the RCRA permit or administrative order. In some cases, the owner or operator is required, through an order, to begin corrective action prior to permit issuance. If the regulatory agency issues a permit to the facility prior to completion of all activities specified in the order, then the agency may require the owner or

operator to continue all or some of the activities under the order, or may incorporate the requirements of the order into the RCRA permit schedule of compliance.

Public Participation in the RCRA Program

Section 7004(b) of RCRA gives EPA broad authority to provide for, encourage, and assist public participation in the development, revision, implementation, and enforcement of any regulation, guideline, or program under RCRA. In addition, the statute specifies certain public notices (radio, newspaper, and a letter to relevant agencies) that EPA must provide before issuing any RCRA permit. The statute also establishes a process by which the public can dispute a permit and request a public hearing to discuss it.

In fulfilling its statutory mandate, EPA has written regulations to implement the RCRA program. To carry out its public participation responsibilities under the Act, EPA has used its authority to develop specific public participation activities in the RCRA permitting program. As we explain in more detail in the following chapters, EPA's RCRA regulations provide for public participation at all hazardous waste management facilities -- from before permit application, through the permitting process, and during the permit life.

Chapter 2
Guidelines for a Successful Public Participation Program

What is Public Participation?

The RCRA permitting process brings government, private industry, public interest groups, and citizens together to make important decisions about hazardous waste management facilities. These groups and individuals have a stake in the facility under consideration, its operations, corrective action, or changes in its design or administration. As "stakeholders" they will communicate and interact throughout the permitting process and possibly throughout the life of the facility.

Public participation plays an integral role in the RCRA permitting process. Officially speaking, EPA uses the term "public participation" to denote the activities where permitting agencies and permittees encourage public input and feedback, conduct a dialogue with the public, provide access to decision-makers, assimilate public viewpoints and preferences, and demonstrate that those viewpoints and preferences have been considered by the decision-makers (see 40 CFR 25.3(b)). "The public" in this case refers not only to private citizens, but also representatives of consumer, environmental, and minority associations; trade, industrial, agricultural, and labor organizations; public health, scientific, and professional societies; civic associations; public officials; and governmental and educational associations (see 40 CFR 25.3(a)). When one considers "the public" in this broad sense, public participation can mean any stakeholder activity carried out to increase public's ability to understand and influence the RCRA permitting process.

Public participation increases the public's ability to understand and influence the process.

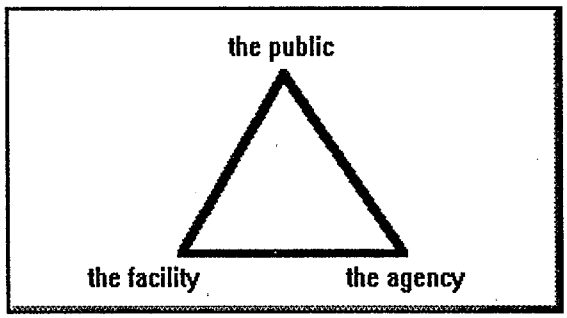

Figure 1 -- The Public Participation Triangle

We can represent the relations between these stakeholders as a triangle with the regulators, the facility owner/operator, and the interested public each forming a corner. Out of each corner runs a line that represents each group's communication with

the other participants in the process.

Public participation is a dialogue.

In the best case, the stakeholders interact well, the lines of communication are strong between all the parties, and information flows in both directions around the triangle. This last point is important: *public participation is a dialogue.* You will read more about this dialogue later in this chapter.

Why Bother With Public Participation?

There are a number of reasons why agencies, facilities, and interest groups should provide for RCRA public participation and why citizens should make an effort to participate in RCRA decision-making. The first, and most obvious reason, is that facilities and permitting agencies are required to conduct public participation activities under the Act and its implementing regulations. Additional activities provided by facilities, agencies, and other organizations in the community can complement the required activities.

The second reason to bother with public participation is "good government." Permitting agencies are charged with making many controversial decisions, which should not be made by technical expertise alone. Public participation in controversial decision-making is an essential element of the good government philosophy. Community members have a right to be heard and to expect government agencies to be open and responsive.

Public input can help the agency and the permittee make better technical decisions.

In addition to providing good government, the third reason for encouraging public input is that it can help agencies reach better technical solutions and, thus, make better policy decisions. Public input can also help permittees or prospective applicants make better business and technical decisions. A community is most qualified to tell you about its own needs, and people who live with a facility every day will have the familiarity to provide useful insights. Experience has shown that RCRA actions often benefit from public participation. With public input, permitting decisions can gain a breadth and an appreciation of local circumstances that technical staff alone could not provide.

The fourth reason to bother with public participation is that RCRA actions are more likely to be accepted and supported by community members who can see that they have had an active role in shaping the decision. Showing community members that the regulatory agency or the facility is willing to address community concerns will establish the foundation for improved understanding and community involvement in the process, even if members of the community do not always agree with the outcome of that process. By promoting public participation, permitting agencies can reduce the potential for concern over less consequential risks and dedicate more resources to addressing serious risks and issues. Many companies have also found that promoting early and meaningful public participation can save resources in the long run by avoiding delays and lawsuits based on public opposition.

What Makes A Successful Public Participation Program?

A successful public participation program is inclusive. It allows members of the community to have an active voice in the RCRA decision-making process. Agency staff, facility personnel, and citizens will be able to talk openly and frankly with one another about RCRA-related issues, and search for mutually-agreeable solutions to differences.

In addition to the paragraph above, a successful public participation program will meet the targets set out in the subsections that make up the remainder of this chapter. The principles in these following subsections are applicable to all public participation activities.

Dialogue and Feedback

A vital and successful public participation program requires a dialogue, not a monologue. In other words, information must flow in loops between any two stakeholder groups. For example, the regulators should not just release information to the facility owner/operator, who passes it to the community, who then contacts the regulators. The regulator should make the information available to everyone and ask for feedback. Each corner of the triangle must keep the two-way conversation going with the two remaining corners.

> The address and phone number of a contact person should appear on fact sheets, notices and other outreach materials.

Open communication lines require participants to be accessible to the other stakeholders. An effective way to make your group accessible is to designate a **contact person** for every permitting activity. The contact person should make his or her address and phone number available to the other stakeholders by printing it on any fact sheets or other informational materials produced by the organization. The contact person will field all inquiries on the permitting activity at hand. Other people involved in the process will appreciate this single and accessible point of contact.

> Public participation should encourage "feedback loops."

Without an active two-way communications process, no party will benefit from the "feedback loop" that public participation should provide. For example, if the regulatory agency sends out a fact sheet about an upcoming permit action, that fact sheet alone does not constitute public participation. Missing is the "feedback loop," or a way for the agency to hear from those who read the fact sheet. To get feedback, the agency might name a contact person in the fact sheet and encourage telephone or written comments, place calls to civic or neighborhood associations, visit a community group, or hold a meeting or workshop to discuss material in the fact sheet. Feedback loops enable the agency to monitor public interest or concern, adjust public participation activities, and respond quickly and effectively to changing needs. The feedback loop is a useful tool for all stakeholders in the process.

Even if a feedback loop operates successfully, public participation cannot be

Members of the public have valid concerns and can often improve the quality of permits and agency decisions.

successful if the permitting agency or the facility is reluctant or unable to consider changes to a proposed activity or permit action based on public comment or other input. While the decision-makers at the agency or the facility need not incorporate every change recommended by the public, they should give serious consideration to these suggestions and respond by explaining why they agree or disagree. Members of the public, like other stakeholders in the process, have valid concerns and can often contribute information and ideas that improve the quality of permits and agency decisions. Regulators and facility owner/operators should take special notice of this point and make available more opportunities for public participation.

Honesty and Openness

As we emphasized in the section above, participants in the RCRA permitting process should make all efforts to establish open paths of communication. Being honest and open is the best way to earn trust and credibility with the other stakeholders in the process. Making information available to the community and providing for community input can improve public perception of the permitting agency or the facility and lead to greater trust and credibility. Trust and credibility, in turn, can lead to better communication and cooperation and can focus the public debate on issues of environmental and economic impacts.

Establishing trust should be the cornerstone of your public participation activities. The following is a list of things to remember when establishing your credibility:

1. Remember the factors that are necessary for establishing trust -- consistency, competence, care, and honor.
2. Encourage meaningful involvement by other stakeholders.
3. Pay attention to process.
4. Explain the process and eliminate any mystery.
5. Be forthcoming with information and involve the public from the outset.
6. Focus on building trust as well as generating good data.
7. Follow up. Get back to people. Fulfill your obligations.
8. Make only promises that you can keep.
9. Provide information that meets people's needs.
10. Get the facts straight.
11. Coordinate within your organization.
12. Don't give mixed messages.
13. Listen to what other stakeholders are telling you.
14. Enlist the help of organizations that have credibility with communities.
15. Avoid secret meetings.

This list was adapted from the manual *Improving Dialogue With Communities* (New Jersey Department of Environmental Protection, 1988).

This manual and a number of other sources produced by states, EPA, trade groups, and public interest groups are available for more information on trust and credibility factors.

A Commitment to the Public

Public officials have ethical obligations to the public that have a practical value in building the foundation necessary for successful communication:

* informing the public of the consequences of taking, or not taking, a proposed action;
* showing people how to participate so that interested people can;
* keeping the public informed about significant issues and proposed project changes;
* providing all segments of the public with equal access to information and to decision-makers;
* assuring that the public has the opportunity to understand official programs and proposed actions, and that the government fully considers the public's concerns; and
* seeking the full spectrum of opinion within the community, not only from the business community and other agencies, but also from neighborhood and community groups, environmental organizations, and interests with other points of view.

(Adapted from *Sites for our Solid Waste*, Environmental Protection Agency, EPA/530-SW-90-019, March 1990 and 40 CFR 25.3(c)).

An Informed and Active Citizenry

If you are a citizen who is interested in a permitting issue, the regulations provide a number of opportunities to access information and get involved. The following activities are some things citizens can do to be influential and well-informed participants:

- Contact the permitting agency early. Identify the designated contact person for the project (the name should be on fact sheets and notices, or available by calling the agency).
- Do background research by talking to local officials, contacting research or industrial organizations, reading permitting agency material, and interacting with interested groups in the community.
- Perform an assessment. Request background information from the permitting agency, local officials, and the facility ownership. Ask

about day-to-day activities, the decision-making structure, and current policies and procedures; inquire about how the proposed project fits into larger political issues, local planning, and the facility's business plans. Request special information that may open up additional solutions, including pollution prevention approaches that may reduce or recycle the amount of waste that is managed in the facility.

- Ask to have your name put on the facility mailing list for notices, fact sheets, and other documents distributed by the agency. Add your name to mailing lists maintained by involved environmental groups, public interest and civic organizations.

- Tell the permitting agency, the facility owner/operator, and other involved groups what types of public participation activities will be most useful for you and your community. Inform them about the communication pathways in your area (e.g., what newspapers people read most, what radio stations are popular), the best locations for information repositories and meetings, and other information needs in the community (e.g., multilingual publications).

- Submit written comments that are clear, concise, and well-documented. Remember that, by law, permitting agencies must consider all significant written comments submitted during a formal comment period.

- Participate in public hearings and other meetings; provide oral testimony that supports your position. Remember that a public hearing is not required unless someone specifically requests one in writing.

- If any material needs further explanation, if you need to clear up some details about the facility or the permitting process, or you would like to express specific concerns, then request an informational meeting with the permitting agency or the appropriate organization, such as the State's pollution prevention technical assistance office.

- Follow the process closely. Watch for permitting agency decisions and review its responses to public comments. Be aware that you have an opportunity to appeal agency decisions.

- Remember that your interest and input are important to the agency and other concerned stakeholders.

- To get tips about community organizing, information about how to participate in the regulatory process, or possible referrals to other involved groups in your area, you can contact the local League of Women Voters chapter. If you cannot contact a local chapter, or one

does not exist, you can contact the state chapter. Phone numbers and addresses are provided in Appendix C.

EPA encourages citizens to consider these recommendations and follow them where applicable. At the same time, EPA recognizes that the best way to participate will be different in every situation. Citizens should contact other concerned persons, community organizations, and environmental groups to determine how citizens can best influence the permitting process.

Starting Early

A good public participation effort involves the public early in the process, encourages feedback, and addresses public concerns before initial decisions. The permitting agency, the facility owner/operator, and public interest organizations involved in the RCRA permitting process should make all reasonable efforts to provide for early stakeholder participation and open access to information. These efforts should include informing and seeking feedback from impacted communities before any significant actions. You should avoid the appearance of making decisions before public input. Even in cases where the facility and the agency meet privately in the early stages of the process, they should keep up the lines of communication with the public. One State agency has found success by making a meeting summary available to the public in an information repository whenever the regulators meet with facility staff. Such gestures can increase public faith while reassuring people that the agency will seek public input before making major permitting decisions.

EPA encourages public participation activities throughout the RCRA permitting process, especially when the activities foster an early, open dialogue with potentially affected parties. This can be particularly effective in exploring alternatives to treatment or that go beyond compliance, including for example, pollution prevention.

Early outreach and straightforward information can establish trust among the other stakeholders while reducing misinformation and rumors. Key contacts in the community should always know about planned activities that will be visible to members of the community, such as construction work or excavation related to facility expansions or corrective action. Interested people or groups in the community can use early participation activities to make their concerns and suggestions known before major decisions take place. Since early participation activities may be the first word that people hear about a permitting activity, EPA is requiring expanded notice efforts before the facility submits a permit application (see "Notice of the Pre-Application Meeting" in Chapter 3). All stakeholders should use their knowledge of individual communities and local communication channels (e.g., contacts in the community, the media, civic and religious

organizations) to foster effective information-sharing.

RCRA regulations require facilities and agencies to start public participation activities prior to application submittal, and continue them through the entire life of the permit. In essence, the facility owner or operator cannot put off public participation. EPA encourages permit applicants and permit holders to take early public participation activities seriously -- early activities can set the tone for the permitting process and even the entire life of the facility.

Start early and plan ahead: public interest in a facility can grow rapidly and unexpectedly.

Setting up an effective public participation program is a valuable use of time and resources. External pressure to start public participation work may not be present at the outset of a project, because members of the public may be unaware of the facility's operations and the regulatory agency's activities. However, public interest in a facility can grow rapidly and unexpectedly. Participants can best prepare for such situations by assessing their communities, taking proactive steps, and preparing for contingencies.

Getting the news out early gives people time to react. Other stakeholders can offer better information and suggestions when they have some time to think about it. For example, a facility can better incorporate community concerns into its permit application if it hears public concerns well before application submittal. Agencies and facilities owe the public the same courtesy, allowing citizens adequate time to review, evaluate, and comment on important information. By the same token, citizen participants should do their best to make their interests known early. If a citizen is invited to participate early, but decides not to and raises issues at the end of a process, then that citizen risks losing credibility with other stakeholders in the process.

Finally, extensive early outreach (as we point out in the following section) will make the permitting process or the corrective action smoother over the long run. Early outreach brings issues to the surface before stakeholders have invested great amounts of time and resources in a project; these issues are easier to address at an early stage. Moreover, early outreach minimizes the possibility that the public will feel like the agency or the facility is surprising them with an undesirable project. By providing early notice, agencies and facilities can avoid the public reactions that have "blind-sided" some projects in the past.

Assessing the Situation

Community assessments are an important step to take before preparing or revising a public participation strategy. Assessments are essential tools for facility owners who are applying for a RCRA permit (including interim status facilities), seeking a major permit modification, or undertaking significant corrective action. Permitting agencies should focus their assessments on communities where a major new facility is seeking a permit,

or in other cases where permitting activity or corrective action has the potential to evoke public interest. Additionally, assessments may be appropriate at any stage during the life of a facility, especially in situations where the level of public interest seems to be changing.

Every community is different. What works in one community may not work in another.

Community assessments allow agencies, facility owners, and public interest groups to tailor regulatory requirements and additional activities to fit the needs of particular communities. Each community is different and has its own way of spreading information and getting people interested. Important institutions and groups will also vary from place to place, as will socioeconomic status, culture and traditions, political and religious activity, and values. The facility owner, public interest groups, and the agency should make all reasonable efforts to learn the facts about the affected community. These data are essential to choosing public participation activities that will be useful and meaningful for the community.

Determining the Level of Public Interest

Some permitting activities do not generate much interest or concern among community members. Other activities will evoke strong interest and will require a much greater public participation effort. Although there are no hard and fast rules that make a facility a low- or high-profile facility, the level of interest will depend on a number of factors, such as (1) the type of RCRA action and its implications for public health and welfare; (2) the current relationships among the community, the facility, the regulatory agency or agencies, and other groups; and (3) the larger context in which the RCRA action is taking place, including the political situation, economics, and important community issues. Exhibit 2-1 (at the end of this Chapter) provides a guide for determining a facility's potential to be low-, medium-, or high-interest to the public.

Public participation activities should change over time to suit the level of interest in a facility.

While these guidelines can be useful as an early planning tool to predict public interest, agencies and facility owners should be flexible and prepared for rapid changes in the level of public interest in a permitting activity. The apparent level of public interest does not always reflect the potential for public interest. In some cases, the regulatory minimum will be sufficient. In other cases, the agency or facility should be prepared to provide additional input and information, as needed. Public participation activities should correspond to the level of community interest as it changes over time.

Public interest, environmental, and civic organizations also assess their communities to determine the amount of interest in a permitting activity. These organizations can take steps to encourage public participation in the permitting process. Door-to-door canvassing, public information sessions, flyers, fact sheets, neighborhood bulletins, and mailings are all methods of

sharing information with the public and encouraging citizen involvement. Organizations that are attempting to encourage public participation may find the rest of this section useful. In addition, more information for such groups is available by contacting the League of Women Voters (see Appendix C for contacts).

Community Assessment Methods

Facility owners should gather background information about the community before seeking a permit or a permit modification. Regulators should find out about community concerns at the outset of a major project or any project that seems likely to raise significant public interest. Public interest groups may want to perform similar background work. As emphasized in the previous section, understanding a community is essential to creating a successful public participation effort.

The facility owner is responsible for collecting his or her own information about a community before initiating any permitting activity (e.g., before requesting a permit modification or applying for a permit). Permitting agencies, on the other hand, should dedicate their resources, using their own judgment, to learning about concerns in the community and assessing communities where there is a high level of interest in a permitting activity. In some cases, permitting agencies and facility owners have cooperated to do joint outreach activities, and believe that the agency presence has made members of the community more comfortable during interviews or other activities. EPA does not recommend such cooperation as a rule (because, for example, other stakeholders could perceive this as "taking sides"). Permitting agencies should use their discretion and maintain the agency's proper role during any such activities.

EPA recommends the following steps for gathering information about the community. Although facility owners may want to follow these steps before every major permitting activity (e.g., applying for a permit or a major modification), permitting agencies should focus on major activities at facilities that have the potential to raise significant public interest :

- Reviewing news clippings and other information that indicates how the community is reacting to the facility or the permitting activity.

- Talking to colleagues or anyone who has experience working with members of the particular community.

- Contacting companies, universities, local governments, civic groups, or public interest organizations that already have experience in the community. These groups may be able to provide useful information about community concerns, demographics, or reactions to other

industry in the area. They may be able to point you towards other existing sources of community information.

If it seems like there is a low level of interest in the facility at this point, and things are not likely to change, the agency and the facility owner can begin planning the required public participation activities.

If, however, the facility shows indications of being a moderate- to high-interest level facility, a more detailed analysis of the community might be necessary, and additional public participation activities planned.

EPA recommends community interviews when there is a high level of public interest.

- To get a fuller picture, staff from the agency or the facility should consider contacting community leaders and representatives of major community groups to talk about the facility and the planned RCRA action. These interviews should represent a fair cross-section of viewpoints in the community. The community representatives may have a feel for how much community interest there is in a permitting activity. They also may be able to provide advice on how to handle the situation.

- If there are indications of likely high interest from the outset (e.g., a facility that is likely to be controversial is seeking a permit), the agency or the facility owner should consider conducting a broad range of **community interviews** with as many individuals as possible, including the facility's immediate neighbors, representatives from agencies that will participate in the RCRA action, community organizations, and individuals who have expressed interest in the facility (e.g., people on the agency's mailing list, newspaper reporters, local officials). A detailed discussion of how to conduct **community interviews** is provided in Chapter 5.

- After collecting the necessary information, the agency or the facility may wish to prepare a brief summary of major community concerns and issues (no more than five pages). The summary can be integrated into the public participation plan document or used as the basis for developing a "Question and Answer"-type **fact sheet** to distribute back to the community. See Chapter 5 for additional information on these activities.

Exhibit 2-2 at the end of this Chapter summarizes the steps to take in determining the level of public interest in facilities and gathering background information.

Targeting Public Participation in Communities

This initial assessment should provide a good idea about the scope and

The scope of the affected community will vary from facility to facility.

makeup of the "affected community." Pinpointing the affected community can be a difficult process; everyone has a different definition. EPA will not try to define the affected community here because its composition will vary with the particular characteristics of each facility and its surrounding community. *In some cases*, however, it may be appropriate to target a segment of the population that is broader than the "affected community." For instance, the appropriate target for early public notices and some other activities may go beyond people who are directly affected, to include citizens who are potentially interested or concerned about the facility. EPA recognizes that the distinction between "affected" and "concerned" or "interested" will not be completely clear in all cases. Permitting agencies should use their best judgment.

EPA realizes that resources will limit the breadth of any public participation program and that focus is necessary. It is clear that some people will have a more direct interest than others in a particular permitting activity. Given practical resource limitations, public participation activities should focus first on people with a more direct interest in a RCRA facility, while also realizing that "direct interest" is not always determined by physical proximity to a facility alone. It is impossible to point out all people who have a direct interest, but, as a general guideline, people with the most direct interests will live in the general vicinity of the facility, or have the potential to be affected by releases to groundwater, air, surface water or the local environment (e.g., through game, livestock, or agriculture or damage to natural areas). Direct interests may also include people who live on or near roads that will accept increased traffic of hazardous waste-carrying vehicles. EPA acknowledges that people residing a significant distance from the facility may have legitimate and important concerns, but EPA thinks it is reasonable to focus limited public participation resources on communities with direct interests. See the section on "The Mailing List" in Chapter 3 for a list of organizations that you should consider when thinking about the interested or affected community.

The Citizen's Role

Citizens in the community may want to assess the permitting situation, the agency (or agencies) involved, and the facility owner/operator. As we pointed out in the section above, citizens can get background on a permitting issue by talking to local officials, contacting research or industrial organizations, reading permitting agency material, and interacting with interested groups in the community. Citizens may also want to find out about day-to-day activities at the facility or the agency, the decision-making structures they use, and their current policies and procedures. Citizens may want to get more information on the owner's/operator's involvement with other facilities or other activities. The contact persons for the facility and

the agency are also good to know. Citizens can also talk to local officials, the agency, or the facility to find out how the proposed project fits into larger political issues, what local planning issues are involved, and what the facility's business plans are.

Individual community members can take part in the assessment process by providing input to other stakeholders through interviews, focus groups, or other methods used in community assessments (also see the section on "An Informed and Active Citizenry" earlier in this Chapter). This guidance manual gives an overview of the RCRA permitting process which individual community members may find helpful. The Appendices at the end of this manual provides other resources and contacts (the RCRA Hotline, agency phone numbers, and League of Women Voters' contacts) that citizens can access. EPA is also compiling a reference list of public participation and risk communication literature. The list is available through either the RCRA Information Center, in Docket Number F-95-PPCF-FFFFF, or through the RCRA Hotline (see Appendix A for appropriate telephone numbers). Members of the public can find out about permit activities in their area by contacting the permitting agency, talking to environmental groups or public interest organizations, reading state, federal, and private environmental publications in the library, looking for zoning signs or other announcements, attending public meetings and hearings, watching the legal notice section of the newspaper or checking display advertisements, listening to local talk shows, or keeping up with local events through town bulletins, associations, or council meetings.

Valuable public interaction can take place outside of the formal permitting process.

In addition, members of the community can contact the permitting agency or the facility -- outside of any formal activity -- to give early input and to share their concerns. Community members should suggest public participation activities, meeting locations, or means of communication that will work well in their community. This sort of informal communication, via letter or interview, can be very helpful, especially in terms of establishing a public participation plan (see Chapter 5 for a description of public participation plans). EPA also recognizes that valuable public interaction takes place outside of the formal permitting process. Citizens may choose to contact other groups in the community that have an interest in the permitting activity. Environmental, public interest, and civic organizations often play a role in the RCRA permitting process. These groups can provide interested citizens the opportunity to participate in efforts to influence the permitting process through collective action. Alternatively, citizens may see fit to create new organizations to discuss issues related to the permitting process or to provide input into the process.

Planning for Participation

A good public participation program avoids misunderstandings by anticipating the needs of the participants. It provides activities and informational materials that meet the needs of, and communicate clearly to, specific community members and groups. The public participation plan is the agency's schedule and strategy for public participation during the initial permitting process, significant corrective actions, and other permitting activities at facilities receiving high levels of public interest.

After assessing the situation, the agency should have an approximate idea of how interested the public is in the facility. Based on the information from the community assessment, the agency should draft a plan addressing public participation activities throughout the prospective permitting process and the life of the facility. For permitting activities and corrective actions that do not raise a high level of public interest in the community, the public participation plan will be a simple document, outlining the regulatory requirements. Major permitting activities and other high-interest activities will require a more detailed plan with participation opportunities that go beyond the requirements. Agency staff should keep in mind that community interest in a particular facility can change at any time; good plans will prepare for contingencies.

EPA recognizes that permitting agencies do not always have the resources they need to perform all the public participation activities they would like to perform. Agency staff must consider resources in all stages of the process, but particularly when developing a public participation plan. To make fewer resources go further, agencies should consider working with community groups, public interest organizations, and facility owners/operators to plan public participation events. Some relatively inexpensive activities can be very effective. More information on making use of additional resources is available in Appendix M. Information on the resources needed to perform specific public participation activities is available in Chapter 5.

The goal of the public participation activities in the plan is to meet the specific needs of members of the community by creating a structure for information to flow both to and from the public. Anyone who plans public participation activities should strive for useful and timely exchange of information with the public. Again, EPA strongly encourages anyone conducting public participation activities to solicit public input on the types of communication and outreach activities that will work best in each community. The agency, facility, civic and public interest groups should coordinate their public participation efforts, emphasizing two-way information exchange and avoiding unnecessary duplication in their activities.

The plan should create a structure for information to flow both to and from the public.

To identify activities for the public participation program, the agency should

go through the following steps:

1. list the major community issues and concerns;
2. list the community characteristics that will have a bearing on how you address these issues; and
3. list the activities that will address the community's concerns during the permitting process and, if applicable, corrective action.

Once the agency has outlined activities for the facility at hand, it should put together a strategy for implementing the activities. In general, the following are the areas of responsibility for public participation that the agency should consider:

- **Interacting with the media, especially on high-profile facilities.** If there is a high degree of interest in the facility, it will be important to have a media contact person who can get information out quickly, accurately, and consistently. The assistance of a public affairs office is often necessary (where applicable).

- **Interacting with elected officials.** For facilities receiving a moderate to high level of interest, it is often beneficial to work with elected officials to provide them with information they need to answer their constituents' questions. Put together a team of people who can fill the information needs of public officials. This team should include senior people who can answer policy questions when necessary.

- **Answering telephone and written inquiries.** It is important to follow up on all requests for information that you receive from stakeholders. Designate one person to be responsible for putting together the answers to questions in a form that is understandable to the public. This "contact person" should be named in all fact sheets and public notices. Remember the importance of two-way communication and the public participation triangle.

- **Coordinating public participation with other stakeholders.** It is crucial that all the people who are working on public participation be aware of what activities are being planned for the facility and any other facilities in the area, so that activities can complement each other whenever possible. At the least, try to avoid conflicts between competing activities. Be sensitive to major events (e.g., celebrations, other meetings, religious revivals, fundraisers, elections) and important dates (e.g., local holidays, graduations) in the community.

- **Maintaining the mailing list and information repositories.** A mailing list is required under RCRA and the agency should update it to

include new people or organizations who have expressed an interest in the facility. The facility and other organizations should refer to the agency any requests to be on the official facility mailing list. If public information repositories are established for the facility, they should be indexed and updated at least quarterly, or as required by the permitting agency. The facility may want to obtain a copy of the mailing list to use for distributing information.

- **Planning and conducting public meetings.** Set-up and coordination are critical to the success of public meetings. Public participation staff will need to choose a location for meetings based on public input and the need for comfort and accessibility. The public participation coordinator will need to schedule speakers, plan the agenda, and provide a mediator (if necessary) at the meeting. Chapter 5 provides more detail on public meetings, hearings, workshops, etc.

- **Handling production/distribution/placement of information, including fact sheets, public notices, news releases, meeting handouts and overheads, etc.** Much of your public participation time will be spent developing and producing information for interested stakeholders. Permitting agency staff may want to refer to Appendix M for a list of resources that can ease fact sheet and information production. Sometimes you may need to refer stakeholders to other agencies that have information readily available, such as the State pollution prevention technical assistance office, which often have fact sheets and technical experts available. A list of pollution prevention contacts is included in Appendix S.

Public participation activities should coincide with major steps in the permitting process.

The next step is to figure out a schedule of public participation activities. This schedule should include activities that are required by EPA regulations. In general, the timing of additional public participation activities should correspond to the completion of major steps in the technical process (e.g., application submittal, draft permit issuance, completion of the RFI). These are the times when members of the public may have new questions or concerns about the proposed action or the facility in light of new information, especially during corrective action. The regulators and the facility owner/operator should also be prepared to notify the public when any major activity will be taking place at the facility (e.g., start of construction for corrective action) or has taken place (e.g., emergency response to releases).

Permitting agencies should take the lead in writing and revising public participation plans, while allowing for input from other stakeholders and coordinating with activities held by the facility, public interest groups, and community organizations. The agency may want to involve other

stakeholders in a group process to form a comprehensive plan. Depending on the amount of public interest in a facility, the plan could be an informal one- or two-page document or a formal public involvement plan that will be available to members of the community for comment. At a minimum, the plan should include a list of the specific public participation activities for the facility and a schedule for when they will occur. We encourage agencies to make these plans -- formal and informal -- available to the public.

Developing a written public participation plan will help staff account for all the necessary steps in the permitting or corrective action process. A formal plan will also let the public know what type of activities to expect during the process. EPA recommends that a formal plan contain the following sections:

- executive summary;
- introduction/overview;
- facility history;
- the RCRA action taking place;
- summary of community interviews, outlining concerns;
- a description of any early consultation (e.g., interviews with group leaders) that led to development of the plan;
- a list of the major issues likely to emerge during the process;
- an estimation of the level of public interest likely to be generated by the decision under consideration;
- public participation activities and schedule;
- a list of the agencies, groups, and key individuals most likely to be interested in the process;
- a list of key contacts; and
- information on meeting and repository locations, where applicable.

Communities can provide valuable advice on what public participation activities will work best.

EPA encourages permitting agencies to seek public input on the plans; final plans should be available for public review. This sort of input is important for getting the public involved early in the process. In addition, communities can provide useful advice on what channels of communication will work best in the area and what sort of activities will provide the most effective participation. Communities can provide practical solutions that improve communication and may even save resources. For example, in one community where rumors spread easily, citizens suggested that the agency put status reports on voicemail so that people could call in for regular updates.

There are numerous ways that the community can contribute during the planning stage. Citizens can decide how interested they are in a particular activity by discussing issues with other stakeholders, accessing relevant documents, or calling hotlines or other experts. Those who would like to

participate in the formal process can use this time to raise questions or develop their ideas. Some citizens may want to submit comments to the agency on the public participation plan. Moreover, EPA encourages interested citizens to meet together to discuss the potential impact of RCRA actions on their communities. Citizen groups may want to invite experts from the facility, the permitting agency, engineers, environmental contractors, scientists, health experts, and attorneys to speak at their meetings.

Understanding and Interaction Between Stakeholders

While each stakeholder shares the responsibility of providing open and two-way communication, the roles and responsibilities of the different stakeholders differ substantially. Participants in the RCRA permitting process should acknowledge these differences and account for them as they approach the process. We encourage participants to do their best to understand the interests and concerns of the other participants by following the principles below:

* Strive to respect other stakeholders and their opinions. Avoid personal attacks.

* Understand that people have different levels of understanding of RCRA. Not everyone is an expert, but everyone should have the chance to know all the facts.

* Realize that decisions made during the permitting process can have profound economic and social impacts. These decisions are very real and important; people will live and work with them every day.

* Acknowledge that statutory and regulatory requirements limit what can happen during the permitting process. Remember that everyone -- citizens, regulators, facility owners/operators, and public interest workers -- has resource and time constraints

* Recognize that people have concerns that go beyond the scientific or technical details. These concerns deserve respect.

* Build your credibility by being fair, open, and respectful.

* Try to understand the values and interests of other stakeholders before jumping to conclusions.

Promoting Environmental Justice

Environmental justice refers to the fair distribution of environmental risks across socioeconomic and racial groups. Some groups and individuals associated with environmental justice issues have raised the concern that EPA and some State environmental agencies do not provide equal protection

under the nation's environmental laws. With regard to the RCRA permitting program, most of the concern surrounds the potential additional risk that hazardous waste facilities may pose when located near low-income or minority communities that already face an environmental burden from multiple sources.

On February 11, 1994, the President issued Executive Order 12898, directing federal agencies to identify and address the environmental concerns and issues of minority and low-income communities. EPA is committed to the principles in this Executive Order. Furthermore, in an effort to make environmental justice an integral part of the way we do business, the Agency issued a policy directive, in September 1994 (OSWER 9200.3-17), that requires all future OSWER policy and guidance documents to consider environmental justice issues.

EPA is committed to equal protection in the implementation and enforcement of the nation's environmental laws. Moreover, providing environmental justice for all U.S. residents is a major priority for EPA.

New EPA rules will empower communities by giving them a greater voice in the permitting process.

In the area of public participation, the Agency has made changes that will empower communities and potentially increase their voice in the permitting process. In the "RCRA Expanded Public Participation" rule (60 FR 63417-34, December 11, 1995), EPA created more opportunity for public involvement in the permitting process and increased access to permitting information. The rule gives all communities a greater voice in decision making and a clear opportunity to participate in permit decisions early in the process.

EPA strongly encourages facilities and permitting agencies to make all reasonable efforts to ensure that all segments of the population have an equal opportunity to participate in the permitting process and have equal access to information in the process. These efforts may include, but are not limited to:

- **Providing interpreters, if needed, for public meetings.** Communicating with the community in its language is essential for the two-way information flow required to ensure the public an equitable voice in RCRA public participation activities.

- **Providing multilingual fact sheets and other information.** Making sure that the materials presented to the public are written clearly in the community's primary language.

- **Tailoring your public participation program to the specific needs of the community.** Developing a program that specifically addresses the community's needs will demonstrate to community members your interest in achieving environmental equity and fostering a sense of

cooperation.

- **Identifying internal channels of communication that the community relies upon for its information, especially those channels that reach the community in its own language.** Examples of these "channels" are a particular radio show or station, a local television station, a non-English newspaper, or even influential religious leaders. By identifying and making use of these valuable communication channels, you can be sure that the information you want to publicize reaches its target audience.

- **Encouraging the formation of a citizens advisory group to serve as the voice of the community.** Such groups can provide meaningful participation and empowerment for the affected community (see Chapter 5 for more detail).

(Additional steps you can take to promote environmental justice are available in Appendix D).

Although EPA has taken steps on a national level to address environmental justice issues, many of these issues can be addressed more effectively at a local level and on a site-specific basis. Local agencies and leaders have an important role to play in addressing environmental justice concerns.

The RCRA permitting process is intended to ensure that facilities are operated in a manner that is protective of human health and the environment. Environmental justice concerns are often broader in scope, going beyond the technical design and operation of the facility to include socio-economic, ethnic, and racial factors for the surrounding community. Within the context of public participation in RCRA permitting, the best way to address environmental justice concerns is through active communication. Keeping open lines of communication among permitting agencies, facility owners, and community members is a good way to promote awareness and understanding of the permitting process, the facility operations, and the community's concerns. Providing frequent opportunities for community participation empowers the community to play an important role throughout the process.

Permitting agencies should be forthright in explaining the scope and limitations of permitting regulations to the community. Agencies should also make sure that citizens understand their rights within the permitting process (e.g., submitting comments, requesting a public hearing, appealing permit decisions). Facility owners should strive to establish good relations with the community and routinely interact with community members and organizations, seeking input and feedback when making significant decisions. Communities should gather information about other rights,

outside of the permitting process, such as those afforded under Title VI of the Civil Rights Act.

Supporting Community-Based Environmental Protection

In its May, 1995 Action Plan, EPA's Office of Solid Waste and Emergency Response (OSWER) endorses community-based environmental protection (CBEP). CBEP is a method of solving environmental problems in the context of the community in which they occur. OSWER's plan points to CBEP as a method that "brings the government closer to the people it is meant to serve." It also heralds CBEP as "a new way of accomplishing traditional tasks in a more effective, more responsive manner."

Stakeholder involvement is one of the keys to CBEP. OSWER's plan points to CBEP efforts as ones that "must empower and equip the community to participate in environmental decisions, taking into account not only the human but also the ecological and socioeconomic health of a place." Thus, the involvement and cooperation of the community, facility owners and operators, and agency personnel in the permitting process will fuel CBEP efforts. Moreover, increased access to information and opportunities for participation in the permitting process (like those in the RCRA Expanded Public Participation Rule) will empower communities and enable them to practice CBEP.

We encourage permitting agencies, facility owners and operators, public interest groups, and members of the community to carry out the spirit of this manual. As we emphasized in the section on "Promoting Environmental Justice" above, the best solutions to many environmental challenges are available at the local community level, and no problem can be solved without input from local stakeholders. Only by cooperating, communicating, and providing feedback and equal opportunities can community-based programs reach their potential for solving environmental problems.

The best solutions to many environmental challenges are available at the community level.

Permitting agencies can take a lead role in promoting a CBEP approach by discussing RCRA issues in coordination with other environmental concerns in a given area. Program distinctions between water, air, waste, and toxics are less important to stakeholders outside of the agency. Agency staff should be prepared to address RCRA concerns in the context of air and water issues that may reach beyond a particular facility. Many companies are particularly interested in finding opportunities to reduce process wastes through pollution prevention and recycling that affect air, water, and waste permit requirements. Several states are embarking on "whole facility" approaches to permitting to take advantage of this approach. Permitting agencies should consider using **fact sheets** and **availability sessions** to explain RCRA's relationship to other programs. Combining public meetings across program lines could also make the entire environmental picture more

clear to stakeholders.

Re-evaluating and Adjusting the Public Participation Program

As RCRA activity increases at a facility and becomes more visible, public interest in a site can increase dramatically. Interest can also fade away without warning. Participants in the permitting process should anticipate and plan for sudden changes in the level of interest in a facility. Periodic communication with key community contacts can help to anticipate changes in the attitude or interest of other stakeholders. All participants should make sure to keep their key contacts informed of all planned activities -- especially activities that are highly visible and tend to raise a lot of interest, such as construction work or excavation related to cleanups.

In addition, at facilities that are receiving high levels of public interest, the agency or the facility may want to conduct follow-up community interviews at a key point (or points) in the decision-making process. These interviews will help predict major shifts in public interest or concern. The agency should also encourage members of the community to submit comments throughout the process and especially during formal comment periods. Agency staff should make clear to the public (e.g., through fact sheets) how the comment and response process works.

Permitting agencies, facility owners, and other involved organizations should evaluate the effectiveness of public participation programs regularly through the process. The permitting process is complex and the best way to measure the success of a public participation plan is not always clear. The following are indicators that a public participation program is working:

- stakeholders are not asking the same questions over and over again;
- stakeholders are not raising concerns about a lack of information;
- the appropriate contact person is handling inquiries in a timely manner;
- most of the public participation time is not devoted to correcting breakdowns in the information-sharing triangle (see above) between the community, the agency, and the facility;
- the channels of communication are well-defined and open;
- interested parties are providing informed comments on the project; and
- members of the public are bringing their concerns to stakeholders that are actively involved in the process, rather than taking them directly to the press or elected officials.
- Creative, more flexible, technical solutions, including pollution prevention solutions, are being explored.

If the program is not achieving these objectives, then the agency, facility,

The best way to evaluate the success of a public participation program is to ask other stakeholders what is and isn't working.

and involved groups need to assess their techniques and determine what changes will improve the program. If members of the community are dissatisfied, then public participation activities may not be reaching the right target audiences. The community may not have adequate access to information or may not be understanding it because it is too complex. In some cases, the public may need more detailed information. The community may feel uncomfortable in relations with the facility or the agency, or the agency or the facility may be uncomfortable relating to the community. The facility may not understand its role in the process in relation to the agency's role. All of these difficulties can reduce the effectiveness of the public participation program. The best way to find out what is going wrong is to talk to the community and the other stakeholders. Ask them what is working and where improvements are needed. Modify public participation activities based on their suggestions and your own time and resource limitations.

Members of the community should have a chance to evaluate the public participation activities that the agency, the facility, and public interest or other groups are employing. EPA encourages participants to solicit feedback from the public, going beyond the regulatory requirements where necessary. **Surveys, interviews,** or **informal meetings** are all effective ways to gather feedback. In addition, the agency, facility, and involved groups should explain the permitting process to the community, update the community on significant activities, and provide information that community members can access and understand. If these standards are not being met, then the community should communicate its concerns to the appropriate contact person. Citizen input is the feedback that makes two-way communication work. All involved organizations should create a means for citizens to let them know if public participation activities are not working (e.g., use of a contact person, suggestion boxes, hotlines, surveys, etc.). Once these organizations know where the breakdown is occurring, they can adjust their programs to address community concerns.

Chapter Summary

Public participation, defined broadly, is any stakeholder activity carried out to increase public input or understanding of the RCRA permitting process.

The public participation triangle represents the communication between the public, regulators, and the facility.

Public participation is based on a dialogue.

Public participation is required, it can lead to better technical decisions, and it can engender public support for a project.

A successful public participation program allows members of the community to have an active voice in the process and to have free access to important information. Participants in a successful program will also pursue the following benchmarks:

- Creating a dialogue that provides for feedback;
- Establishing trust and credibility in the community through honesty and openness;
- Fostering an informed and active citizenry that follows the process, gives input to other stakeholders, and discusses issues with other concerned groups and people;
- Ensuring that public officials meet their obligations to the public;
- Involving the public early in the process, receiving feedback, and addressing public concerns before making decisions;
- Assessing the community to find out from citizens what types of activities would best allow them to participate;
- Planning your public participation activities ahead of time, allowing flexibility for changing interest levels in the community;
- Understanding and respecting the values and limitations of other stakeholders;
- Taking steps, such as issuing multilingual fact sheets or encouraging the formation of citizen advisory groups, to ensure that all segments of the interested community have an equal opportunity to receive information and participate in the process;
- Supporting efforts to respond to environmental challenges on a community level; and
- Periodically evaluating the effectiveness of your program in the community and adjusting as community attitudes and interest levels evolve.

Exhibit 2-1
Determining the Likely Level of Public Interest in a RCRA Facility

Level of Interest	Type of RCRA Action	Community Members' Relationships With Facility/Regulatory Agency	Larger Context
Low Level of Public Interest in a Facility	• The RCRA activity is unlikely to be controversial (e.g., a routine modification) • There is no contamination at the facility that could come into direct contact with the public	• People do not live near the facility • There is a history of good relations between the facility and members of the community • Members of the community have expressed confidence in the regulatory agency and/or the facility	• The facility receives very little media attention and is not a political issue • Community members have not shown any past interest in hazardous waste issues
Moderate Level of Public Interest in a Facility	• The RCRA action may involve activities, such as §3008(h) corrective action activities, that contribute to a public perception that the facility is not operating safely • Examples may include permits for storage and on-site activities and routine corrective actions. • Highly toxic and/or carcinogenic wastes may be involved (e.g., dioxins)	• A relatively large number of people live near the facility • There is a history of mediocre relations between the facility and members of the community • The facility is important to the community economically, and the action may affect facility operations • Members of the community have had little or poor contact with the regulatory agency • Local elected officials have expressed concern about the facility	• Community members have shown concern about hazardous waste issues in the past • The facility receives some media attention and there are organized environmental groups interested in the action • There are other RCRA facilities or CERCLA sites in the area that have raised interest or concern
High Level of Public Interest in a Facility	• The RCRA action includes a controversial technology or is high-profile for other reasons (e.g., media attention) • Highly toxic and/or highly carcinogenic wastes are involved (e.g., dioxins) • There is potential for release of hazardous substances or constituents that poses potential harm to the community and the environment • There is direct or potential community contact with contamination from the facility (e.g., contaminated drinking water wells or recreation lake)	• The nearest residential population is within a one-mile radius • A relatively large number of people live near the facility • There is a history of poor relations between the facility and the community • The facility has violated regulations and community members have little confidence in the regulatory agency to prevent future violations • There is organized community opposition to the facility's hazardous waste management practices or to the action • Outside groups, such as national environmental organizations, or state or federal elected officials have expressed concern about the facility or action • The economy of the area is tied to the facility's operations	• Community members have shown concern about hazardous waste issues in the past • Facility activities are an issue covered widely in the media • There is interest in the facility as a political issue, at the local, state, or federal level (e.g., statewide and/or national environmental groups are interested in the regulatory action) • There are other issues of importance to members of the community that could affect the RCRA action (e.g., concern over a cancer cluster near an area where a facility is applying for a permit to operate an incinerator) • There are other RCRA facilities or CERCLA sites nearby that have been controversial

Exhibit 2-2
Steps in Evaluating Facilities and Gathering Information

Step 1: Review the RCRA Action

Is it:

☐ Likely to be a controversial action (e.g., permitting a commercial waste management facility)
☐ Unlikely to be a controversial action

Step 2: Talk to colleagues who have worked in this community about their interactions with members of the public

- Has there been a large degree of public interest or concern about other projects?
- Have members of the public shown confidence in the regulatory agency?

Step 3: Review regulatory agency (or any other) files on the facility

Are there:

☐ A lot of inquiries from members of the public
Major concern(s)_____
Any organized groups?_____
☐ Few inquiries from members of the public
☐ Clippings from newspapers or other media coverage

Step 4: Formulate your preliminary impression of the community based on the above information

Step 5: Talk with several key community leaders to confirm your impression

People to interview:

1. _____
2. _____
3. _____

Step 6: Determine the anticipated level of community interest based on the above information

☐ Low (go to Step 7)
☐ Moderate (next step: conduct additional community interviews with one member of each community subgroup)
☐ High (next step: conduct a full set of community assessment interviews)

Step 7: Write a brief summary of any major community concerns/issues

Chapter 3
Public Participation During the RCRA Permitting Process

Introduction

The previous chapter examined the importance of public participation and the information-sharing triangle, while reviewing the critical components for building a successful public participation program. Chapter 3 describes the specific public participation activities that EPA requires or recommends during each phase of the RCRA permitting process, beginning before submission of the RCRA part B permit application, continuing through the preparation of draft and final permit decision, and throughout the life of the RCRA permit.

States may have their own public participation requirements in addition to the federal

Section 7004(b) of RCRA and EPA's permitting regulations, found in 40 CFR Parts 124 and 270, form the foundation for mandatory public participation activities during the permitting process for both operating and post-closure permits. The reader should note that the corrective action schedule of compliance and other corrective action provisions are typically part of the RCRA permit under 40 CFR Part 270 (unless carried out under an enforcement order). Changes to these sections of the permit must follow the permit modifications procedures of 40 CFR Part 270.41 or 270.42. We review the corrective action public participation procedures in Chapter 4.

RCRA permitting regulations require an array of public participation procedures during the permitting process and the life of the permit. However, situations often occur where the facility and the agency will need to go beyond the requirements in 40 CFR Parts 124 and 270. Following the assessment and planning guidance we provided in Chapter 2, participants in the permitting process will discover whether a certain permitting activity deserves greater public participation. Regulators, facility staff, or community groups may want to consider expanded public participation activities (described in this chapter and in Chapter 5) -- if resources allow -- at priority facilities, controversial facilities, or at facilities where the affected community has a particular need for greater involvement or access to information. Participants in the process should seek input from other stakeholders to determine if the public participation activities are adequate.

The permitting agency may suggest that the facility or public interest groups conduct additional activities to supplement required activities and strengthen communication and trust among stakeholders. In addition, EPA encourages the community to suggest additional public participation activities to the permitting agency, the facility, or community and public interest groups.

In December 1995, EPA expanded the public participation requirements in the RCRA program by promulgating new regulations. The new regulations, known as the "RCRA Expanded Public Participation" rule (60 FR 63417, December 11, 1995), require earlier public involvement in the permitting process, expand public notice for significant events, and enhance the exchange of permitting information. The new requirements, which we describe more fully in this chapter, include: (1) a public meeting held by the facility prior to submitting the part B RCRA permit application; (2) expanded notice requirements, including use of a posted sign, a broadcast notice, and a newspaper display advertisement to publicize the meeting; (3) notification of the public when the agency receives a permit application and makes it available for public review; (4) permitting agency discretion to establish an information repository, which will be supplied and maintained by the applicant or permit holder; and, (5) additional notices during the trial burn period for combustion facilities.

In addition to the new regulatory requirements, EPA is taking steps to ensure equitable public participation in the RCRA permitting process. On December 20, 1995 EPA Office of Solid Waste and Emergency Response (OSWER) Assistant Administrator Elliot Laws issued a memorandum to the EPA Regional Administrators stating the Agency's policy to ensure equal access to permitting information and provide an equal opportunity for all citizens to be involved in the RCRA permitting process (see Appendix N). In this manual, we are strongly encouraging facilities to meet the same standard of equitable public participation. EPA is committed to equal protection of our citizens under the nation's environmental laws and urges all participants in the RCRA permitting process to strive for environmental justice, equal opportunity to participate in permitting, and equal access to information.

Public participation activities should fit the diversity, character, and culture of the affected community.

To meet this standard, EPA (when it is the permitting agency) will issue multilingual notices and fact sheets and use translators, where necessary, in areas where the affected community contains significant numbers of people who do not speak English as a first language. In addition, the Agency recommends that facilities make efforts to tailor public participation activities to fit the diversity, character, and culture of the affected community. When communicating with a community, participants in the permitting process should take into account the particular pathways and methods of information transfer that are used by that community. These

principles are applicable to all public participation activities, and EPA encourages their adoption by all participants in the RCRA permitting process. See the section entitled "Promoting Environmental Justice" in Chapter 2 for more information.

Public Participation During the Permit Decision Process

The permit decision process is composed of a number of steps. Each step is accompanied by public participation requirements. As we have mentioned, the regulatory minimum for public participation may not be sufficient in all cases. Permitting agencies and facilities should consider going beyond the regulatory requirements, where necessary, to provide for meaningful and equitable public participation.

For the sake of simplicity, in this manual we will divide the permit decision process into four steps:

- the pre-application stage;
- application submittal, agency notice and review;
- preparation of the draft permit, public comment period, and the public hearing; and
- response to public comments and the final permit decision.

Stakeholders should keep in mind that the permit decision process is lengthy and can be complex and confusing. Keeping the lines of communication open during the process takes effort on the part of all participants. This effort is especially critical during the long periods of time while the agency is reviewing the permit or the facility may be responding to a Notice of Deficiency (which we describe later in this Chapter). The agency, the applicant, and other interested groups should take steps to keep the community involved and informed during these "down" times.

We also encourage stakeholders to learn about the process, ask questions, and discuss it with the other participants. Permitting agencies in particular, should make efforts to disseminate fact sheets and information packages about the permitting process. Agencies, public interest groups, or facilities may want to perform other public information tasks (see chapter 5 for descriptions) to ensure that all stakeholders understand, and are comfortable with, the permitting process.

Step One: The Pre-Application Stage

Required Activities

The RCRA Expanded Public Participation rule requires a new permit applicant (or a facility that is applying to renew a permit while making significant changes) to hold a public meeting prior to submitting the part B RCRA permit application. This meeting is the earliest formal step in the

RCRA permitting process.

Early public input can improve the quality of any permitting activity; the public can contribute information and recommendations that will be helpful to agencies as they make permitting decisions and to facilities as they develop their applications and proposals.

The Pre-Application Meeting

The most important goal EPA hopes to achieve from the pre-application meeting requirement is the opening of a dialogue between the permit applicant and the community. We believe that the applicant should open this dialogue at the beginning of the process. The meeting will give the public direct input to facility personnel; at the same time, facility personnel can gain an understanding of public expectations and attempt to address public concerns before submitting a permit application. We hope that this requirement will help address the public concern that public participation occurs too late in the RCRA permitting process.

Conducting the Meeting

> The pre-application meeting will allow the facility to hear and respond to public concerns.

The pre-application meeting should provide an open, flexible, and informal occasion for the applicant and the public to discuss the various aspects of a hazardous waste management facility's operations. Discussion at the pre-application meeting need not concern the technical aspects of the permit application in extensive detail; such technical examination is more suited to the draft permit stage (which we describe later in this Chapter). We anticipate that the applicant and the public will use this meeting to share information, learn about each other's concerns, and start building the framework for a solid working relationship. The pre-application stage is also an excellent time to explore the facility's level of expertise in waste minimization and pollution prevention, and the potential for involving the facility's waste minimization experts in the public participation process.

While a formal meeting style (i.e., like a public hearing) may suit some permitting situations, EPA realizes that it will not fit in all cases. With this idea in mind, EPA has written the regulations to allow flexibility in the type of "meeting" held by the permit applicant. For instance, an applicant may decide to hold an availability session or open house (see Chapter 5) in place of a traditional meeting. As long as this approach meets the requirements and the spirit of § 124.31 (as presented in this section), EPA will not preclude applicants from tailoring meeting styles to fit particular situations.

Regardless of the type of meeting that the applicant decides to hold, the applicant (as well as the other participants in the process) should strive for equitable participation and access to information during the pre-application meeting and the notice of the meeting (see "Promoting Environmental

Justice" in Chapter 2 and the Introduction to this Chapter).

At the meeting, permit applicants should address, at the level of detail that is practical (based on available information), the following topics: what type of facility the company will operate; the location of the facility; the general processes involved and the types of wastes to be generated and managed at the facility; and the extent to which waste minimization and pollution prevention may supplement or replace waste treatment needs. The discussions should also include the transportation routes to be used by waste transporters and planned procedures and equipment for preventing or responding to accidents or releases.

> Addressing community concerns at the start of a project can prevent misunderstanding and opposition in the long run.

These are examples of the types of issues that might be of particular concern to a community and about which the community might be able to provide useful suggestions to the applicant. The applicant might then be able to incorporate that information into the proposed facility design or operations, either as part of the initial application, if time allows, or at subsequent stages in the process (e.g., in submitting revisions to its application, or in responding to a Notice of Deficiency issued by the permitting agency). By learning about and addressing public concerns up front, the applicant may be able to prevent misunderstanding from escalating into community opposition. Moreover, the public will have a clear and open opportunity to interact and communicate with the potential applicant.

The applicant should make a good faith effort to provide the public with sufficient information about the proposed facility operations. While we do not expect applicants to go into extensive detail at the pre-application stage, they should provide the public with enough information to understand the facility operations and the potential impacts on human health and the environment. We encourage applicants to provide **fact sheets**, information packets, or other materials (see Chapter 5) that explain the proposed operations, company policies, waste minimization proposals, or other information that is relevant to the proposed facility.

The permitting agency may choose to make permitting and pollution prevention fact sheets available at the meeting. One such fact sheet is included as Appendix J of this manual. EPA recommends that permit applicants distribute this fact sheet (or a similar one produced by the state agency) at the pre-application meeting, especially in cases where a representative of the permitting agency does not attend. EPA does not expect permit applicants to answer questions about the RCRA permitting process at the pre-application meeting -- particularly where the applicant is not sure of the answer. We advise the applicant to let a representative of the permitting agency answer such questions. If an agency representative is not available at the meeting, then the applicant should provide the name of an

agency contact person and the number of the RCRA Hotline (available in Appendix A) or an applicable State information line.

Some applicants may want to consider inviting or hiring a moderator to conduct the pre-application meeting. The moderator should be a neutral third party (e.g., a civic organization, non-profit community group, or a consultant) that is not a stakeholder in the permitting decision process. A moderator can lend objectivity to the proceedings and help to keep the discussions fair, under control, and on track. Regardless of whether a third party conducts the meeting, facility representatives should be present to answer questions and interact with the community.

EPA regulations are flexible with regard to conducting the pre-application meeting. One of the few requirements is for the applicant to post a sign-in sheet, or a similar mechanism, to allow participants to volunteer their names and addresses for inclusion on the facility mailing list (see § 124.31(b)). The applicant should understand that attendees may not want to put their names on a mailing list; the sign-in sheet always should be voluntary. The applicant should make clear at the meeting that people can contact the permitting agency directly to add their names to the facility mailing list at any time.

The applicant must submit the list of attendees, along with a "summary" of the pre-application meeting, as a component of the part B permit application. We do not intend for the meeting summary to be a verbatim account of the meeting. EPA recognizes how difficult it is to keep a word-for-word record of a public meeting. Applicants should make a good faith effort to provide an accurate summary of the meeting. While the regulations do not indicate a particular format for the meeting summary, we recommend a type-written document that identifies major issues, points made in support of those issues, and any response made by the applicant or other attendees.

As mentioned above, the applicant must submit the summary as a component of the part B application. This component should be a typewritten hard-copy. Since the part B application is available for review by the public, attaching the summary as part of the application assures that people who are unable to attend the meeting will have an opportunity to find out what happened. We encourage applicants to make the summary available in other formats where a community has special needs (e.g., on audio tape for visually impaired residents).

The facility must conduct the pre-application meeting.

The RCRA Expanded Public Participation rule requires the facility to conduct the pre-application meeting. We believe that the applicant should conduct the meeting in an effort to establish a dialogue with the community. EPA encourages permitting agencies to attend pre-application meetings, in

appropriate circumstances, but *the facility must conduct the pre-application meeting*. Agency attendance may, at times, be useful in gaining a better understanding of public perceptions and issues for a particular facility, and for clarifying issues related to the permitting process. However, agency staff should ensure that their attendance does not detract from the main purposes of the meeting, such as opening a dialogue between the facility and the community, and clarifying for the public the role of the applicant in the permitting process.

The regulations do not preclude State agencies and permit applicants from working together to combine State siting meetings with pre-application meetings. EPA encourages them to do so, provided that the combined meetings fulfill the requirements in § 124.31. If meetings are combined, the portion of the meeting that is dedicated to the RCRA facility permit must be run by the applicant; the regulatory agency must give the applicant the floor for a sufficient time period. In notifying the public of the meeting, under § 124.31(d), the applicant must make clear that the RCRA portion of the meeting is separate from the general siting discussion.

The pre-application meeting will provide the community with a clear entry point for participation at an early stage in the permitting process. We encourage members of the community to become involved at the pre-application stage. Public comments and suggestions are easier for the facility to address at this early stage than later on in the process. For this reason, public input can have a greater impact at this stage. Interested citizens should attend the meeting and participate in the informal dialogue.

The public can learn more about the facility and the company seeking a permit before attending the meeting by contacting the facility, or by contacting other stakeholders in the community. Some community members may want to research to learn more about the planned (or already existing) facility. If you are interested in obtaining more information on the facility or the permitting process, you may want to contact the permitting agency or the corporation that owns the facility. Additional information about past and present owners, past waste spills and releases, complaints, and the status of other state, local, and federal permits may be available from the following: the planning board, City Hall or the town council, the county health department, local newspapers, the library, and local fire and rescue departments. These sources will give you access to information such as deeds and environmental testing results.

Meeting attendees can become part of the facility mailing list by adding their names and addresses to the sign-up sheet at the meeting or by sending their names directly to the permitting agency. People on this list will receive any significant information sent out by the agency or the facility regarding the

facility.

Citizens should note that not all aspects of the permit application will be clear at the pre-application stage, in part, because EPA is encouraging facilities to meet with the public before making all final decisions on their permit applications. This way, the facility owner/operator will be more flexible and can react more effectively to suggestions and concerns raised in the meeting. Participants at the meeting should note that the facility owner/operator will not know the answer to all questions about the permitting process. The permitting agency and the RCRA/Superfund Hotline will be available to answer questions about the permitting process and other RCRA requirements (remember that States may have different procedures than EPA)..

Date, Time, and Location of the Meeting

The timing of the meeting is flexible. EPA believes that flexibility is necessary because the optimal timing for the meeting will vary depending on a number of factors, including the nature of the facility and the public's familiarity with the proposed project and its owner/operator. The applicant should choose a time for the meeting while considering the following factors: (1) the community must receive adequate notice before the facility submits a permit application; (2) the facility's plans for construction or operation need to be flexible enough to react to significant public concerns and to make changes to the application, if necessary; (3) the meeting should not take place so long before submittal of the application that the community will forget the facility. We encourage applicants to make a good faith effort to choose the best date for the pre-application meeting.

While the final rule requires the facility to hold *only one pre-application meeting*, cases may arise where more than one meeting is preferable. For instance, if a facility holds one public meeting and takes several months to a year to submit the application, then the facility owner/operator should consider holding a second meeting. In other cases, the facility may want to hold a few meetings of different types (e.g., a **public meeting** as well as an **availability session**). Of course, permitting agencies or other stakeholder groups may decide to hold additional public meetings where appropriate.

The permit applicant should encourage full and equitable public participation by holding the pre-application meeting at a time and place that is convenient to the public. The applicant should schedule the meeting at a time when the community is most likely to be available. Many communities, for instance, may prefer a meeting held after normal business hours. Meeting schedulers should avoid holding the meeting at a time that will conflict with important community activities (e.g., social, religious, or

The applicant should avoid scheduling the meeting at a time that conflicts with other important community activities.

political events, other meetings, school activities, or local occasions). The applicant should also make sure that the meeting place has adequate space and is conducive to the type of meeting that the applicant will conduct. Finally, the meeting location should have suitable access for all persons; if such a location cannot be procured, then the applicant should make all reasonable efforts to provide for equitable participation in the meeting (e.g., by responding to written comments).

Some members of the affected community may not feel comfortable with meetings held on facility property. Applicants should address community concerns in this area. EPA encourages applicants to hold the pre-application meeting on neutral public ground, such as a local library, a community center, a fire station, town hall, or school.

Notice of the Pre-Application Meeting

EPA developed the pre-application meeting notice requirements with the goal of encouraging facilities to reach as many members of the public as possible, within reasonable means. The expanded notice requirements are intended to reach a broad audience and to encourage as many people as possible to attend the meeting. Attendance at the meeting may also provide an indication of the level of public interest in the facility, although low attendance does not necessarily equal low interest. Using the list of attendees from the meeting will allow agencies to develop larger mailing lists; these lists, in turn, will help the facility and the agency to update more people more often about the permitting process.

The new rule requires the applicant to provide notice of the pre-application meeting to the public in three ways:

- *A newspaper display advertisement.* The applicant must print a display advertisement in a newspaper of general circulation in the community. The display ad should be located at a spot in the paper calculated to give effective notice to the general public (see the example in Appendix H). The ad should be large enough to be seen easily by the reader. In addition to the display ad, we also encourage facilities to place advertisements in free newspapers, community bulletins, newsletters, and other low-cost or free publications. In some cases, potential interest in the facility may extend beyond the host community. Under these circumstances, we encourage the applicant either to publish the display ad so that it reaches neighboring communities or to place additional ads in the newspapers of those communities.

- *A visible and accessible sign.* The applicant must provide notice on a clearly-marked sign at or near the facility (or the proposed facility site). If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would

pass -- on foot or by vehicle -- by the site. EPA anticipates that the signs will be similar in size to zoning notice signs required by local zoning boards (of course, this size will vary according to the prerogative of the zoning board). If a sign on the facility grounds is not practical or useful -- for instance, if the facility is in a remote area -- then the applicant should choose a suitable alternative, such as placing the sign at a nearby point of significant vehicular or pedestrian traffic (e.g., the closest major intersection). In the case that local zoning restrictions prohibit the use of such a sign in the immediate vicinity of the facility, the facility should pursue other available options, such as placing notices on a community bulletin board or a sign at the town hall or community center. EPA intends the requirement that the sign be posted "at or near" the facility to be interpreted flexibly, in view of local circumstances and our intent to inform the public about the meeting. In addition to the requirements of § 124.31, we encourage the applicant to place additional signs or flyers in nearby commercial, residential, or downtown areas. Supermarkets, hardware or department stores, malls, libraries, or local gathering places may have bulletin boards for posting notices and flyers. EPA encourages facilities to keep track of posted signs and remove them after the meeting.

- *A broadcast media announcement.* The applicant must broadcast the notice at least once on at least one local radio or television station. EPA expects that the applicant will broadcast the notice at a time and on a station that will effectively disseminate the notice. The applicant may employ another medium, aside from television or radio, with prior approval of the permitting agency. Many communities run their own cable channels for local news and activities; this medium may be used to target a local audience, often at no charge. Television spots may be advantageous for delivering pertinent information about a hazardous waste management facility directly to the people at home.

Choose notice methods that will spread the word over all segments of the affected community.

Sample notices are provided in Appendix H and more may be available by contacting the permitting agency.

EPA encourages facilities to pick a mixture of public notice tools that meets the regulations and will allow the affected community to receive equitable, timely, and effective notice of the pre-application meeting. Such a mixture may include a number of different and specialized notices that target specific groups within each community. One example of such a targeted notice would be the use of a translated advertisement on Chinese-speaking local access television station to reach a Chinese-American enclave in an area where the community members are affected by the permitting activity. Specific segments of the affected community can be targeted by strategic placement of the newspaper display ad, the timing and station of a radio spot, the geographic location of signs, use of free newspapers, and multi-

lingual notices. EPA does not require that the applicant try to reach the largest audience with each method of public notice (e.g., the radio spot need not be placed on the most popular station). Instead, the applicant should use a combination of methods (including translations) to spread the word over all segments of the affected community, taking into account the channels of information that are most useful in reaching diverse groups.

EPA encourages applicants to go beyond the minimum requirements in the regulations when providing notice of the pre-application meeting. The following suggestions will help in providing an effective broadcast notice. In some rural areas, community members may listen to or watch predominantly one radio or television station; in this case, the applicant should use this station as the vehicle for the notice. Some areas are part of a radio market (i.e., defined by services such as Arbitron's Radio Market Definitions) or television market and have competing radio and television stations. Where there is more than one station, the facility owner or operator should consider carefully the likely audience of the station in order to ensure that a substantial number of people will see or hear the ad. Areas with many competing stations are more likely to have audiences that may be delineated, for instance, by age, ethnicity, or income. In these situations, broadcasting the notice on several stations, or in more than one language, may be beneficial. In all cases, EPA suggests that the announcement occur at listening or viewing hours with a substantial audience -- hours that will vary for each community as well as for specific groups. The facility may consult with broadcast stations and community members to determine the best times to broadcast the notice.

The regulations also require the applicant to send a copy of the notice to the permitting agency. Applicants must follow this provision, but we encourage facilities to contact the appropriate agencies before this stage. *Applicants should consider informing the agency of their intent to seek a permit before planning the pre-application meeting.* Like other stakeholders in the permitting process, the permitting agency can benefit from receiving information as early as possible in the process. In addition, the permitting agency may be able to provide guidance about how to run the pre-application meeting or what types of public notice work best in a particular community.

EPA also encourages the applicant to send a copy of the notice to all members of the facility mailing list, if one exists. This suggestion applies especially to facility owners who are applying for a permit renewal and must comply with § 124.31 because they are seeking to make a change on the level of a class 3 permit modification. At these facilities, the mailing list will already exist and people on the list will be interested in learning about the most recent activity at the facility. A mailing list will most likely not

exist for new applicants.

Free papers, existing newsletters, press releases, and word-of-mouth are inexpensive ways to notify the public.

Getting the word out at this early stage is essential to assuring adequate community participation during the entire permitting process. For this reason, we encourage the applicant to take additional steps, within reasonable means, to announce the meeting. We do not intend for applicants to spend large amounts of additional time and resources; on the contrary, there are many simple and inexpensive mechanisms for distributing information. Free announcements on television or radio, advertisements in free papers, town newsletters, flyers, small signs, and press releases are all ways to disseminate information at little or no cost. We also encourage facilities to pass information through local community groups and Local Emergency Planning Committees (established under section 301 of the Superfund Amendments and Re-Authorization Act (SARA)), professional and trade associations, planning commissions, civic leaders, school organizations, religious organizations, and special interest groups. Other stakeholders involved in the process are also good conduits for spreading news about the pre-application meeting.

The regulations require that the notice contain several pieces of information: (1) the date, time, and location of the meeting; (2) a brief description of the purpose of the meeting; (3) a brief description of the facility and proposed operations, including the address or a map (i.e., a sketched or copied street map) of the facility location; (4) a statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and (5) the name, address, and telephone number of a contact person for the applicant.

The format of the notice is flexible as long as it communicates this information. The description of the purpose of the meeting should explain the facility's intent to submit a permit application and set out other objectives for the meeting. When describing the facility, the owner/operator should briefly cover what sort of facility it is or will be (e.g., a hazardous waste incinerator), what types of wastes it may handle, and what sort of operations will take place at the facility (e.g., types of manufacturing, commercial treatment of waste, etc.). For the facility map, the owner/operator should provide a photocopy of a street map or a sketched map, the purpose of which is to let the public know just where the facility is or will be. Finally, persons needing "special access" would include anyone who may have difficulty with stairs or some entrances, persons who are visually or hearing impaired, or any person who foresees some difficulty in attending the meeting without some help. EPA does not expect facilities to provide transportation to persons who cannot find other means of reaching the meeting.

The telephone contact provided by the applicant in the pre-application notice is an important addition to the public participation resources during this phase. EPA encourages members of the community to contact the facility, the permitting agency (see Appendices A and B for State and Federal contacts) or other interested groups in the community, as necessary, to become acquainted with the permitting process and the facility plans.

EPA is not requiring the facility to submit proof of the public notice; however, we are requiring the facility to keep proof of the notice. The Agency is concerned that proof of the notices may be needed in the case of a lawsuit. The applicant should establish a simple file containing proofs for the notice. Acceptable forms of proof would include a receipt for the radio or TV broadcast, a photograph of the sign, and a photocopy of the newspaper advertisement or tear sheets.

The Facility Mailing List

The permitting agency is responsible for developing a representative mailing list for public notices under § 124.10. EPA is emphasizing the early development of a thorough mailing list as a critical step in the public participation process. If the mailing list allows the agency to keep important groups and individuals in the community up-to-date on activities at a facility, then the permitting agency and the facility will be better able to gauge community sentiment throughout the permitting process. See the section on "Mailing Lists" in Chapter 5 for additional information.

EPA anticipates that the meeting attendee list required under § 124.31(c) will help the agency generate the mailing list by identifying people or organizations who demonstrate an interest in the facility and the permit process.

> The permitting agency should develop the mailing list early.

In the past, mailing lists have not been fully developed, oftentimes, until the agency issued the draft permit or intent to deny the permit. EPA believes that the mailing list is an integral public participation tool which permitting agencies should create as early as possible in the process. Our intent in having the permit applicant submit the list of meeting attendees under § 124.31(c) was to allow the agency to formulate the mailing list at an earlier stage in the permitting process. Aside from the names identified by the permit applicant, we encourage permitting agencies to enhance the mailing list by contacting a wide variety of groups and individuals, such as: civic organizations, religious groups, public interest organizations, recreational groups, professional/trade associations, Local Emergency Planning Committees (LEPCs), emergency response and local health care personnel, environmental justice networks, educational and academic organizations, city hall and elected officials, planning and zoning boards, local development councils, involved State and Federal agencies, newspapers and reporters, immediate neighbors and property holders, other nearby

companies or business groups, facility employees, and plant tour attendees. In addition, we encourage the agency to maintain and update the lists regularly. All commenters on permitting documents, attendees at any public meetings or persons using information repositories should be placed on the mailing list, or have the option of putting their names on the list.

Members of the community and other interested groups or individuals can contact the permitting agency to have their names put on the facility mailing list. Community and public interest organizations may want to provide the permitting agency with names for the mailing list. Refer to Appendices A and B if you would like to find the addresses and phone numbers of EPA's Regional offices and the state environmental agencies.

Additional Activities

Public participation activities should be geared to the potential level of community interest.

The level of public participation activities should correspond to the potential level of community interest in the permitting process. To determine the need for additional activities, participants should consider conducting a **community assessment** (see Chapters 2 and 5). If the level of interest is high, participants will want to do a more thorough needs assessment and prepare a formal **public participation plan** (see Chapters 2 and 5).

EPA encourages applicants to provide **fact sheets**, information packets, or other materials (see Chapter 5) at the pre-application meeting. The permitting agency may also choose to make permitting fact sheets available at the meeting. One such fact sheet is included as Appendix J of this manual. EPA recommends that permit applicants distribute this fact sheet at the pre-application meeting, especially in cases where a representative of the permitting agency does not attend.

To provide widespread notice of the pre-application meeting, the applicant may want to use notice methods that go beyond the requirements. Some of these methods, such as **public service announcements**, **existing newsletters and publications**, and **newspaper inserts** are described in Chapter 5.

In some cases, the agency, facility, or a community group may find it appropriate to hold an additional meeting during the pre-application stage. **Availability sessions** or **open houses** can provide the public with an opportunity to discuss issues face-to-face with officials or other interested people.

The "RCRA Expanded Public Participation" rule gives the permitting agency the authority to require the facility owner or operator to establish an

An information repository makes information accessible to the public in a convenient location.

information repository at any point in the permitting process or during the life of a facility. The agency should assess the need for the repository by considering a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. The information repository can improve the permitting process by making important information accessible to the public in a convenient location. (See Chapter 5 for more detail on information repositories). Of course, EPA encourages facilities or interested community groups to establish their own repositories for public access to information. Chapter 5 provides more guidance on how to establish a repository.

Some permitting information is quite technical and detailed. Members of the public and other stakeholders may find this information difficult to interpret. EPA encourages permitting agencies, facilities, and community groups to provide fact sheets and additional materials to make technical and complicated information more accessible to people who are not RCRA experts. **Workshops** or **availability sessions** may be useful for explaining technical information. Some citizens or community groups may want to consult other sources for help in interpreting scientific and technical data. If you are looking for such help, you may want to contact the permitting agency, facility staff, or other sources such as local colleges, universities, public interest groups, environmental and civic organizations. Additional contacts may be available in the local community. Interested citizens may be able to find out about these contacts by talking to local newspapers and other media who cover environmental issues. People who are interviewed for or quoted in news articles can be an additional source for information.

Getting as much input as possible from the community during these initial phases of the RCRA permitting process and before a draft permit is issued will be very useful during the draft permit stage. The draft permit will be more responsive to the needs and concerns of the community, and the community will be more likely to accept the permit conditions if it sees that its concerns have been heard.

Though the early meeting may reduce public concern that the agency and the facility are making important decisions before the public becomes involved, some concern may still remain. The agency and the facility are likely to have meetings that cannot, for practical purposes, be open to public participation. One State agency found that by making notes from these meetings available through an **information repository**, public trust in the agency increased.

Step Two: Application Submittal and Review

Required Activities

After the permit applicant has met with the public and considered recommendations and input from the community, he or she may choose to pursue a RCRA permit and then submit a RCRA part B permit application to the permitting agency. Upon receiving the permit application, the permitting agency must, under § 124.32, issue a **public notice** to the facility mailing list and appropriate units of state and local government. The notice will inform recipients that the facility has submitted a permit application for agency review. In addition, the notice will inform the recipients of the location where the application is available for public review.

New EPA rules make permit applications available to the public during agency review.

Both of the provisions mentioned in the previous paragraph are the result of the RCRA Expanded Public Participation rule. EPA composed these regulations as a way to inform the public about the status of a facility's permit application early in the process .

Before issuing the notice at application submittal, the permitting agency should solicit community suggestions and input on the best place to put the application for public review (agency personnel may have gathered this information during an earlier stage in the process). We encourage the agency to issue the notice as soon as is practically possible after receiving the application. The notice must contain the following information: (1) the name and telephone number of the applicant's **contact person**; (2) the name and telephone number of the permitting agency's contact office, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process; (3) an address to which people can write in order to be put on the facility mailing list; (4) the location where copies of the permit application and any supporting documents can be viewed and copied; (5) a brief description of the facility and proposed operations, including the address or a map (i.e., a sketched or copied street map) of the facility location on the front page of the notice; and (6) the date that the application was submitted.

Permitting agencies must place the application and any supporting materials somewhere in the vicinity of the facility or at the permitting agency's offices. The permitting agency should be sensitive to the burden on members of the affected community when determining where to place the application. Many communities do not have the resources or the time to travel several hours just to access permitting information. To make information available in these situations, the permitting agency should place the application in a place with public access in the general vicinity of the facility (e.g., a public library or community center). If such placement of the document is impractical, the agency should make sure that the public has

other access to permitting information. For instance, the agency could require the facility to establish an information repository under § 124.31. If the community's information needs are on a lower level, the agency may want to make a short summary of the permit application available to the affected community. In some cases, making information available in electronic form (e.g., via diskette or Internet) may be useful.

We recommend that, where feasible, the agency place the application in a location where copying facilities are available and the public has adequate access to the documents. EPA also recommends that the application be in a locale where the documents will be secure and readily available. The application should go in the information repository, if one exists. If not, a public library or other building in the vicinity of the facility may provide a suitable choice. The permitting agency's headquarters or satellite office may be adequate if not too far from the facility.

The application should be available for review in the vicinity of the facility.

Additional Activities

The permit application review process is often lengthy. It may take anywhere from one to five years to issue a permit, depending on the facility type and level of facility owner or operator cooperation. Permit applicants and regulators should recognize that members of the public have pointed out that they often feel "in the dark" during this phase. We encourage agencies and facilities to maintain a good flow of information during application review. If resources are available, permitting agencies and facilities should plan activities during this time period to keep citizens informed about the status of the process. Holding **workshops**, conducting **informal meetings**, and providing periodic **fact sheets** and **press releases** about the facility, opportunities for pollution prevention, and the RCRA permit process can spread information and keep the community involved. Identifying a **contact person** to accept comments and answer questions will also enhance communication. A (toll-free) **telephone hotline** with recorded status reports can reduce the potential for rumors.

EPA encourages permitting agencies to respond (e.g., in writing, by phone, by holding a meeting) to comments and requests from the public during the application review process. Agencies should make good faith efforts to address public concerns and issues.

In situations where a community wants more information about potential operations at a facility and the health and environmental risks of those operations, citizens or the agency can work with the facility to set up **facility tours** and **observation decks** during the public comment period. These activities will give the community a first-hand look at a facility and the operations and activities happening on-site. (Note that safety and

liability issues need to be considered before a decision is made to include these activities.) These activities may be particularly useful for a new facility or when a facility proposes a new or different technology. Facility tours also may be particularly effective for explaining pollution prevention accomplishments and opportunities. Similarly, facility owners or operators may wish to coordinate with community leaders to tour the community. This may be useful for understanding potential community concerns.

Step Three: The Draft Permit, Public Comment Period, and Public Hearing

Required Activities

After the permitting agency reviews the permit application, it must notify the applicant in writing. If the application is incomplete, the permitting agency may request that the applicant submit the missing information. This request is known as a Notice of Deficiency (NOD). The permitting agency may issue several NODs before the application is finally complete.

Once an application is complete, the permitting agency will make a decision to issue a draft permit or a notice of intent to deny the permit application (which is a type of draft permit). In either case, the agency must notify the public about the draft permit. In the notice, the permitting agency must announce the opening of a minimum 45-day public comment period on the draft permit. The agency must print the notice in a local paper, broadcast the notice over a local radio station, and send a copy of the notice to the mailing list, relevant agencies, and applicable state and local governments. We encourage agencies to attempt to reach all segments of the affected community, within reasonable means, when issuing the notice of the draft permit (see "Step One: The Pre-Application Stage" above and Chapter 5 for more information on how to notify the public). Although the agency is not required to retain documentation of the notice, we recommend keeping a simple file with proof of the notices. Forms of proof might include a receipt for the radio ad and a photocopy of the newspaper add.

EPA regulations require the permitting agency to prepare a **fact sheet** or a **statement of basis** to accompany every draft permit. This fact sheet (or statement of basis) is required by regulation and is different than commonly used informational fact sheets. This fact sheet must explain the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The fact sheet must also include, when applicable, the following (see § 124.8(b)):

- a brief description of the type of facility or activity which is the subject of the draft permit;
- the type and quantity of wastes that are proposed to be handled at the facility;

- a brief summary of the basis for the draft permit conditions;
- reasons why any requested variances or alternatives to required standards do or do not appear justified;
- a description of the procedures for reaching a final decision on the draft permit, including (1) the beginning and ending dates of the comment period and an address to which comments can be sent, (2) procedures for requesting a hearing and the nature of the hearing, and (3) any other public participation procedures before the final permit decision; and
- the name and telephone number of a person to contact for additional information.

EPA recommends that the permitting agency include the fact sheet with the notice of the draft permit and make the fact sheet available to all interested parties.

Any person may request a **public hearing** during the public comment period. The agency must hold a public hearing if someone submits a written notice of opposition to a draft permit and a request for a hearing, or if the public demonstrates, by the number of requests for a public hearing, a significant degree of public interest in the draft permit. The Director also may hold public hearings at his or her discretion. The agency must notify the public about the hearing at least 30 days prior to the hearing. The agency may choose to combine the hearing notice with the draft permit notice. See Chapter 5 for information on holding a public hearing. Citizens may want to request a public hearing as a forum for airing community concerns. The hearing will be a standard meeting, attended by the agency and other interested parties.

There is more required public participation during the draft permit stage than at any other time during the permitting process. We strongly recommend that permitting agencies prepare public participation plans (see Chapter 5), even for the least controversial facilities, just to keep track of the activities during this stage.

By law, the agency must consider and respond to all significant comments received during the comment period.

The comment period on the draft permit allows anyone to submit their concerns and suggestions to the agency in writing. The permitting agency must, by law, consider all comments (see § 124.11) in making the final permit decision. In addition, the agency must briefly describe and respond to all significant comments raised during the comment period or during the public hearing. EPA encourages participants to submit comments during this period.

Additional Activities

You can use public participation activities to explain technical issues or the permitting process.

Permitting agencies can keep the process open by sharing all NOD information with the public, whether through the administrative record, an **information repository**, or another activity, such as a **workshop**. If the details of the NOD are too arcane or technical, the agency can provide a short **fact sheet**. The fact sheet should not gloss over any major omissions, but, by the same token, it should point out when an omission is of a less serious nature.

Interested community groups or the permit applicant may decide to provide additional public participation activities during this stage. Some suggestions for useful activities would include explaining the NOD process and discussing technical issues in the application by holding **availability sessions**. Another option is for citizens or other stakeholders to request one-on-one or small **informal meetings** with the permitting agency, the permit applicant, or community groups. Stakeholder groups can improve their communication and interaction by meeting together in an informal forum. An informal meeting may also be more appealing to some participants, who may see activities like public hearings as overly confrontational.

The permitting agency may want to provide a **news release** when issuing the draft permit or intent to deny.

The agency, facility, or a public interest group may want to organize an **availability session**, **facility tours**, or some other activity prior to the comment period so that the public can be better informed about the facility. Some permitting agencies have held **public meetings** prior to a public hearing to provide a better forum to discuss issues. **Telephone hotlines** or voicemail recordings can supplement public notices to inform the community about the dates and locations of public participation events.

Step Four: Response to Comments and Final Permit Decision

Remember that State procedures may be different.

Required Activities

After the public comment period closes, the regulatory agency reviews and evaluates all written and oral comments and issues a final permit decision. The agency must send a **notice of decision** (not to be confused with a "notice of deficiency," see above) to the facility owner or operator and any persons who submitted public comments or requested notice of the final permit decision. The agency must also prepare a written response to comments that includes a summary of all significant comments submitted during the public comment period and an explanation of how, in making the final permit decision, the agency addressed or rejected the comments. This summary shows the community that the agency considered the

community's concerns when making the final permit decisions. The agency must make the response to comments document available as part of the administrative record.

Additional Activities

If there was high interest during the comment period, the agency or the facility may want to issue a **news release** and **fact sheet** when the decision is finalized to inform a wide audience. The permitting agency may choose to update and release the fact sheet required in § 124.8.

Public Participation During the Life of a Facility

Interim Status Public Participation

When writing RCRA, Congress granted special status to facilities that existed when the statute went into effect and for facilities that would be brought under RCRA by new regulations. EPA refers to these facilities as having "interim status." According to RCRA, interim status facilities do not need a permit to operate; instead, while they are seeking permits, they follow a category of regulations created specifically for them by EPA. When EPA or a State issues a RCRA operating permit to one of these facilities, the facility loses its interim status.

Because interim status facilities can operate without a permit, many people are concerned that some of these facilities are not as safe as permitted facilities. Interim status facilities are not required to follow -- since they are not permitted -- any standardized public participation procedures or permit modification standards (that is, until the facility owner applies for a permit). Given all these conditions, interim status facilities often pose public participation challenges even though many such facilities have been operating for years.

Regulatory agencies may need to use innovative techniques to communicate with and provide information to communities around interim status facilities. EPA acknowledges that every situation will require a different type and level of community involvement. If interest grows in a certain facility, the agency should consider holding a **workshop** or an **availability session**. Information repositories are another available tool (see Chapter 5). The agency should take steps to explain the special situation of interim status facilities to citizens. Of course, if an interim status facility begins to attract public interest, permitting agencies should consider moving the

facility towards getting a permit and undergoing the public participation steps in the permitting process.

Owners and operators of interim status facilities should involve the public even before they formally start to pursue a RCRA permit. One thing the facility owners could do to improve access to information is to make a draft part B application available to the public before submitting it to the permitting agency. Facility owners who submitted part B applications in the past might make their applications available as well. (Note: any interim status facility that submits its part B application on or after June 11, 1996, will be subject to the standards of the RCRA Expanded Public Participation Rule and, thus, its application will be available for public review upon submission). The facility may also want to set up an **on-site information booth** or provide other background materials to the public. Establishing a **contact person** and making his or her name available to the public can improve communication between the facility and the community. Experience has shown that a good facility-community relationship during interim status will make for a more cooperative permitting process.

Members of the public will often have questions or concerns while a facility is in interim status. Citizens can contact the facility, the regulatory agency, or the RCRA/Superfund Hotline to ask questions or to inquire about other sources of information. Citizens may also want to contact public interest organizations, local government, or other involved citizens for more information. Interim status facilities will eventually need to enter the RCRA permitting process, which citizens can use as an opportunity to air concerns and to encourage the facility to make important changes.

Permit Modifications

Modifications can be initiated by either the agency or the facility.

Over time, a permitted facility may need to modify its permit. Just as public participation is a component of the initial permit process, it is also a part of the permit modification process. This section discusses different kinds of permit modifications and their corresponding public participation requirements. It is important to note that public participation responsibilities and activities vary depending on, first, who initiated the modification (i.e., the regulatory agency or the facility owner or operator) and, second, the degree to which the modification would change substantive provisions of the permit. No matter who initiates the modification, when a modification is proposed, only those permit conditions subject to modification are reopened for public comment.

State permitting agencies may have modifications processes that differ from the federal requirements. Contact your State agency (see Appendix B) for more details.

There are many reasons to modify a permit. In some cases, the regulatory

agency may initiate a permit modification under 40 CFR 270.41. This section of the regulations identifies three causes for which the regulatory agency may require a permit modification: (1) alterations or additions to the permitted facility or activity; (2) new information received by the regulatory agency; or (3) new standards, regulations, or judicial decisions affecting the human health or environmental basis of a facility permit. In addition, the regulatory agency may modify a compliance schedule for corrective action in the permit. Modifications initiated by the regulatory agency are subject to the full 40 CFR Part 124 permitting requirements, as described earlier in this chapter. Specifically, the permitting agency must

- Issue public notice of the draft modification;
- Prepare a fact sheet or statement of basis;
- Announce a 45-day public comment period;
- Hold a public hearing, if requested, with 30-day advance notice;
- Issue notice of the final modification decision; and
- Consider and respond to all significant comments.

More often, however, the facility owner or operator requests a permit modification to improve facility operations or make changes in response to new standards. Facility-initiated modifications are categorized under 40 CFR 270.42 as Class 1, 2, or 3 according to how substantively they change the original permit. Class 1 modifications require the least public involvement; Class 3, the most. Like agency-initiated modifications, a decision to grant or deny a Class 3 permit modification request is subject to the public participation procedures of 40 CFR Part 124.

Since facility owners or operators initiate modifications more often than the regulatory agency, the remainder of this chapter lays out the requirements for facility-initiated modifications. The permitting agency is also encouraged to follow these public participation activities, even if not required under an agency-initiated modification. Appendix L consists of an EPA fact sheet entitled "Modifying RCRA Permits," which provides more detail on permit modifications and associated public participation activities. Exhibit 3-1 at the end of this Chapter presents an easy-to-read synopsis of modification requirements and timelines.

When the Facility Owner or Operator Initiates a Modification

When a facility owner or operator wants to change a RCRA permit, he or she informs the regulatory agency and interested members of the public, either before making the change if it is substantive (Class 2 or 3), or soon after (with a few exceptions), if the change is minor (Class 1). In any case,

When a facility initiates a modification, it is responsible for some public participation activities.

this is relatively *early* notification for members of the public, who often perceive that RCRA actions are "done deals" by the time public comment is solicited.

The *facility owner or operator* is responsible for conducting most of the public participation for modifications he or she initiates. In addition, the facility, rather than the regulatory agency, bears the burden of explaining and defending its actions to the public. To ensure that the facility's public participation efforts are successful, staff from the facility and the agency should discuss how to conduct the required activities; the agency should provide guidance and assistance where necessary. Moreover, EPA encourages facilities to consult with communities to determine what activities will best promote public participation.

Class 1 Modifications

Class 1 modifications address routine and administrative changes, including updating, replacing, or relocating emergency equipment; updating certain types of schedules identified in the permit; improving monitoring, inspection, recordkeeping, or reporting procedures; and updating sampling and analytical methods to conform with revised regulatory agency guidance or regulations. They do not substantively alter the conditions in the permit or reduce the facility's ability to protect human health and the environment. With a few exceptions, most Class 1 modifications do not require approval from the regulatory agency before they are implemented. (The exceptions are listed in Appendix I to 40 CFR 270.42.)

The only public involvement requirement for Class 1 modifications is that *within 90 days of implementing a change, a facility must send a* ***public notice*** *to all parties on the mailing list compiled by the permitting agency.* The facility is responsible for obtaining a complete facility mailing list from the agency. (For more information on **mailing lists** see Chapter 5.) Any member of the public may ask the agency to review a Class 1 modification.

Class 2 Modifications

Class 2 modifications address facility-initiated changes in the types and quantities of wastes managed, technological advances, and new regulatory requirements, where such changes can be implemented without substantively altering the facility's design or the management practices prescribed by the permit. Class 2 modifications do not reduce, and, in most cases should enhance, the facility's ability to protect human health and the environment. During a Class 2 modification, there may be good opportunities to explore "low tech" pollution prevention opportunities that reduce waste generation but do not require major process changes (e.g.,

Class 2 modifications require a number of activities, including a public notice, comment period, and a public meeting.

segregating waste streams, modifying maintenance procedures, or installing closed loop recycling).

Class 2 modifications require the facility to submit a modification request and supporting documentation to the regulatory agency. In addition, *the facility must notify the people on its mailing list about the modification request and publish this notice in a major local newspaper of general circulation*. The facility must publish the notice and mail the letter within seven days before or after it submits the request to the regulatory agency. The newspaper notice marks the beginning of a **60-day public comment period** and announces the time and place of a public meeting. In addition, the notice must identify a **contact person** for both the facility and the regulatory agency and must contain the statement, "The permittee's compliance history during the life of the permit being modified is available from the regulatory agency contact person." The notice should state that public comments must be submitted to the permitting agency's contact person.

The public comment period provides an opportunity for the public to review the modification request at the same time as the permitting agency. The facility must place the request for modification and supporting documentation in a location accessible to the public in the vicinity of the facility (see guidance on **information repositories** in Chapter 5 for suitable locations). The *facility must conduct the **public meeting*** no earlier than 15 days after the start of the 60-day comment period and no later than 15 days before it ends. The meeting, which tends to be less formal than a public hearing held by the regulatory agency in the draft permit stage, provides for an exchange of views between the public and the owner or operator and a chance for them to resolve conflicts concerning the permit modification. The meeting must be held, to the extent practicable, in the vicinity of the permitted facility (*the guidance on the pre-application meeting, earlier in this chapter, is applicable to this public meeting*).

The requirements for this meeting, like the pre-application meeting, are flexible. The facility is not required to provide an official transcript of the meeting, though we encourage owners/operators to consult the community and find out if this information would be useful. The permitting agency is not required to attend the meeting or respond to comments made there; however, EPA recommends that agency staff attend the meeting to clarify questions about the permitting process and to find out about any public concerns and how the owner or operator plans to address them.

The permitting agency is required to consider all written comments submitted during the public comment period and must respond in writing to all significant comments in its decision. EPA expects that the meeting will

provide information to the public and improve the written comments submitted to the permitting agency. EPA anticipates that community input at the meeting may also result in voluntary revisions in the facility's modification request.

As the following paragraphs explain, the Class 2 modification procedures were written to ensure quick action by the agency. However, when seen by the public, these procedures can be very confusing. A simple solution that the permitting agency or the facility should consider is to provide a fact sheet or a time table to the public at the meeting.

The procedures for Class 2 modifications include a default provision to ensure that the permitting agency responds promptly to the facility's request. The agency must respond to Class 2 modification requests within 90 days or, if the agency notifies the facility of an extension, 120 days. At any time during this 120-day period, the agency can: (1) approve the request, with or without changes, and modify the permit accordingly; (2) approve the request, with or without changes, as a temporary authorization having a term of up to 180 days; or (3) deny the request. If the permitting agency does not reach a final decision on the request within this period, the facility is granted an automatic authorization that permits it to conduct the requested activities for 180 days. Activities performed under this authorization must comply with all applicable federal and state hazardous waste management regulations. If the agency still has not acted within 250 days of the receipt of the modification request, *the facility must notify persons on the facility mailing list within seven days, and make a reasonable effort to notify other persons who submitted written comments*, that the automatic authorization will become permanent unless the regulatory agency approves or denies the request by day 300. The public must always have a 50-day notice before an automatic authorization becomes permanent. The agency must notify persons on the facility mailing list within 10 days of any decision to grant or deny a Class 2 modification request. The agency must also notify persons on the facility mailing list within 10 days after an automatic authorization for a Class 2 modification goes into effect.

At any time during the Class 2 procedures the agency may also reclassify the request as a Class 3 modification if there is significant public concern about the proposed modification or if the agency determines that the facility's proposal is too complex for the Class 2 procedures. This reclassification would remove the possibility of a default decision.

As previously indicated, the permitting agency may approve a temporary authorization under 40 CFR 270.42(b) for 180 days for a Class 2 modification. In addition, the agency may grant a facility temporary authorization under 40 CFR 270.42(e), which would allow the facility,

without prior public notice and comment, to conduct certain activities necessary to respond promptly to changing conditions. *The facility must notify all persons on the facility mailing list about the temporary authorization request within seven days of the request.* Temporary authorizations are useful for allowing a facility owner or operator to perform a one-time or short-term activity for which the full permit modification process is inappropriate, or for allowing a facility owner or operator to initiate a necessary activity while his or her permit modification is undergoing the Class 2 review process. A temporary authorization is valid for up to 180 days, and the permitting agency may extend the authorization for an additional 180 days if the facility initiates the appropriate Class 2 modification process for the covered activity. In addition, any extension of the activity approved in the temporary authorization must take place under Class 2 procedures.

Class 3 modifications are more likely than other modifications to raise concern.

Class 3 Modifications

Class 3 modifications address changes that substantially alter a facility or its operations. For example, a request to manage new wastes that require different management practices is a Class 3 modification.

Class 3 modifications usually involve changes that are broader or more detailed than Class 1 or 2 modifications; they are also more likely to raise concern. Though the Class 3 modifications process allows significant opportunity for public participation, additional activities may be helpful in some situations. Permit holders, regulators, and community interest groups may want to consider taking steps to encourage earlier participation. Facilities, in particular, should recognize that some Class 3 modifications will significantly alter their operations. In such cases, and in all cases where public interest may be high, *permittees should consider providing information and public participation activities prior to submitting the modification request.*

When concern is high, it is critical for the facility to consult with the agency to make sure that the facility knows how to conduct the required public participation activities. In some cases, the permitting agency might encourage the facility to go beyond the requirements and hold **workshops** and publish **fact sheets** to explain the proposed change. Public participation activities held by the agency or public interest groups can supplement the regulatory requirements.

As with Class 2 modifications, Class 3 modifications require the facility to submit a modification request and supporting documentation to the permitting agency, and *notify persons on the facility mailing list about the*

modification request and publish notice in a major local newspaper of general circulation. The facility must publish the notice and mail the letter within seven days before or after the submitting the modification request to the regulatory agency. The notice must contain the same information as the Class 2 notification (see above), including an announcement of a ***public meeting to be held by the facility*** at least 15 days after the notice and at least 15 days before the end of the comment period. The newspaper notice marks the beginning of a **60-day public comment period.**

In holding a public meeting during the comment period, the facility owner or operator should follow the guidance for the pre-application meeting above. The requirements for this meeting are flexible. The facility is not required to provide an official transcript, though we encourage owners/operators to consult the community and find out if this information would be useful. As with Class 2 modifications, the agency is not required to attend the meeting or to respond to comments made at the meeting. However, it is important that the permitting agency attend the facility's public meeting in order to gauge concern about the proposed change and prepare appropriately for a public hearing, if one is requested. By attending the public meeting, the agency may learn whether it needs to conduct additional public participation activities (e.g., hold a **workshop** or **informal meetings**) after preparing the draft modification. The agency can also clarify questions about the permitting process. The agency should consider responding to issues raised at the meeting as part of the response to comments for the 60-day comment period. Of course, people who attend the meeting have the opportunity to submit formal comments to the permitting agency during the comment period.

At the conclusion of the 60-day comment period, the agency must consider and *respond to all significant written comments received during the comment period*. The agency must then either grant or deny the Class 3 permit modification request according to the permit modification procedures of 40 CFR Part 124.

Class 3 modifications are subject to the same public participation procedures as permit applications.

Class 3 modifications are subject to the same review and public participation procedures as permit applications, as specified in 40 CFR 270.42(c). The agency is required to perform the following tasks:

- Preparation of draft permit modification conditions or notice of intent to deny the modification;
- Publication of a **notice** of the agency's draft permit decision, which establishes a 45-day **public comment period** on the draft permit modification;
- Development of a **fact sheet** or **statement of basis**;
- Holding a **public hearing**, if requested, with **30-day advance notice**;

- Issuance of the **notice of decision** to grant or deny the permit modification; and
- Consideration and response to all significant written and oral comments received during the 45-day public comment period.

With Class 3 permit modifications, the public has 60 days to comment on the facility's requested modification and another 45 days to comment on the agency's draft permit modification or proposed notice of intent to deny the modification. And, in addition to the public meeting held by the facility owner or operator, the public may also request a **public hearing** with the agency.

The permitting agency must notify persons on the facility mailing list within 10 days of any decision to grant or deny a Class 3 modification request. As with Class 2 modifications, the regulatory agency may grant a facility a temporary authorization to perform certain activities requested in the Class 3 modification for up to 180 days without prior public notice and comment. For example, the agency may grant temporary authorizations to ensure that corrective action and closure activities can be undertaken quickly and that sudden changes in operations not covered under a facility's permit can be addressed promptly. Activities performed under a temporary authorization must comply with all applicable federal and state hazardous waste management regulations. *The facility must issue a public notice to all persons on the facility mailing list within seven days of submitting the temporary authorization request.* The agency may grant a temporary authorization without notifying the public. The permitting agency may reissue a temporary authorization for an additional 180 days provided that the facility has initiated the appropriate Class 3 modification process for the activity covered in the temporary authorization and the agency determines that the extension is warranted to allow the facility to continue the activity while Class 3 procedures are completed. See Appendix L for an EPA fact sheet on modifying RCRA permits.

Public Participation in Closure and Post-Closure

Facilities may discontinue operations at one or more units for a number of reasons. For example, units may have reached capacity, the facility owner or operator may no longer wish to accept wastes, or the facility may have lost interim status and be required to close by the permitting agency. During closure, facility owners or operators complete treatment, storage, and disposal operations; apply final covers or caps to landfills; and dispose of or decontaminate equipment, structures, and soil. Post-closure, which applies only to land disposal facilities that do not "clean close" (i.e., remove all contaminants from the unit), is normally a 30-year period after closure during which owners or operators of disposal facilities conduct monitoring and maintenance activities to preserve the integrity of the disposal system.

Closure and Post-Closure at Permitted Facilities

EPA regulations (40 CFR 264.112 and 264.118) require facilities seeking operating permits to submit closure and post-closure plans (if appropriate) with their Part B applications in accordance with 40 CFR 270.14(b)(13). Furthermore, land disposal facilities that leave wastes in place when they close must obtain a post-closure permit, which specifies the requirements for proper post-closure care. Consequently, *the public has the opportunity to comment on a facility's closure and post-closure plans and any amendments made to the plans as part of the permitting process and permit modification procedures*, as described earlier in this chapter.

Facilities seeking permits for post-closure are exempt from the pre-application meeting requirement (§ 124.31) in the RCRA Expanded Public Participation rule. The facility, permitting agency, or community group may decide to hold some type of meeting prior to issuance of the post-closure permit. Refer to Chapter 5 for information on **public meetings**, **availability sessions**, and **workshops**.

The permitting agency or other involved organizations should be aware of closure issues that may concern the public, and they should plan public participation activities accordingly. For example, if the public has reservations about how "clean" the facility will actually be after the facility closes, public interest groups, the agency, or the facility may want to provide **fact sheets** or conduct educational **workshops** and **informational meetings** about the closure plan and the conditions at the facility.

> Public participation for the post-closure phase must address public concerns about corrective action.

If the facility owner or operator is leaving a facility, and possibly even the community, the public may be very concerned about whether the facility owner or operator will really be vigilant in monitoring the post-closure operations at the facility or will have enough financial resources to do so. Moreover, almost all post-closure permits will contain schedules of compliance for corrective action if a facility closes before all necessary corrective action activities are completed. As a result, public participation events in the post-closure phase need to address community concerns about corrective action. (See Chapter 4 for additional information on corrective action activities.) Note, however, that unless corrective action is required in the post-closure permit, public interest in closure plans is usually limited.

Closure and Post-Closure at Interim Status Facilities

Facilities may also close under interim status, often under enforcement orders. Facilities that are closing under interim status must submit closure and post-closure plans (if appropriate) under 40 CFR 265.112 and 265.118.

Public participation activities for interim status facilities during the closure and post-closure processes are specified in 40 CFR 265.112(d)(4) and 265.118(f). The regulations require that *the permitting agency provide the*

*public and the facility, through a **newspaper notice**, with the opportunity to submit written comments on the closure and post-closure plans and request modifications to the plans no later than 30 days from the date of the notice.* EPA encourages permitting agencies to use other methods of notice, as appropriate, to announce the meeting. In response to a request, or at its own discretion, the agency may hold a **public hearing** on the plan(s), if such a hearing might clarify one or more of the issues concerning the plan(s). The agency must provide **public notice** at least 30 days before the hearing. The agency will approve, modify, or disapprove the plan(s) within 90 days of their receipt.

The public can petition the permitting agency to extend or reduce the post-closure care period applicable to an interim status facility or land disposal unit. Whenever the agency is considering a petition on a post-closure plan, it will *provide the public and the facility, through a **public notice in the newspaper**, with the opportunity to submit written comments within 30 days of the date of the notice.* Again, EPA encourages permitting agencies to go beyond the newspaper notice requirement, as appropriate, to disseminate the notice. In response to a request or at its own discretion, the agency may hold a **public hearing** on the post-closure plan, if such a hearing might clarify one or more of the issues concerning the plan. The agency must provide **public notice of the hearing** at least 30 days before it occurs. If the agency tentatively decides to modify the post-closure plan, 40 CFR 265.118(g)(2) requires that *the agency provide the public and the facility, through a **public notice in the newspaper**, with the opportunity to submit written comments within 30 days of the date of the notice*, as well as the opportunity for a public hearing. After considering the comments, the regulatory agency will issue a final decision.

An interim status facility may amend its closure plan at any time prior to the notification of partial or final closure, and its post-closure plan any time during the active life of the facility or during the post-closure care period. An owner or operator with an approved closure or post-closure plan must submit a written request to the permitting agency to authorize a change. In addition, the agency may request modifications to the closure and post-closure plans. If the amendment to the closure plan would be a Class 2 or Class 3 modification, according to the criteria specified in 40 CFR 270.42, then the modification to the plan will be approved according to the procedures in 40 CFR 265.112(d)(4) detailed above. Similarly, if the amendment to the post-closure plan would be a Class 2 or Class 3 modification, according to the criteria specified in 40 CFR 270.42, the modification will be approved according to the procedures in 40 CFR 265.118(f), also described above.

Chapter Summary

Some permitting situations will call for public participation that goes beyond the regulatory requirements

The "RCRA Expanded Public Participation" rule (60 FR 63417, December 11, 1995), provides for earlier public participation in the permitting process, expands public notice for significant events, and enhances the exchange of permitting information

EPA strongly encourages permitting agencies and facilities to ensure equal access to permitting information and provide an equal opportunity for all citizens to be involved in the RCRA permitting process

The permit decision process and the required public participation activities can be divided into four key steps :

1. The Pre-Application Stage

   - Facility gives public notice and holds an informal public meeting
   - Agency develops a mailing list
   - Additional activities that may apply include: community assessments, public participation plans, information repositories, and fact sheets

2. Application Submittal, Notice, and Review

   - Agency issues a notice to the facility mailing list and state and local governments
   - Agency makes application available for public review
   - Additional activities that may apply include: observation decks, facility tours, community tours, workshops, and news conferences.

3. Preparation of Draft Permit, Public Comment Period, and the Public Hearing

   - Agency issues public notice of draft permit (or intent to deny)
   - Agency prepares a fact sheet or statement of basis
   - Agency announces a 45-day public comment period
   - Hold a public hearing, if requested or at the agency's discretion, with 30-day advance notice
   - Additional activities that may apply include: information sessions, workshops, news releases, and fact sheets.

4. Response to Public Comments and the Final Permit Decision

   - Agency responds to all significant comments raised during the public comment period, or during any hearing
   - Agency issues notice of final permit decision

The regulatory agency can initiate a permit modification under 40 CFR 270.41 following the full permitting procedures of 40 CFR Part 124. A facility may also initiate a Class 1, 2, or 3 permit modification under 40 CFR 270.42. For facility-initiated modifications, public participation activities are required of both the facility and the regulatory agency, as described below:

1. Class 1

   Facility Requirements:

   - Notify mailing list within 90 days

2. Class 2

   Facility Requirements:

   - Notify mailing list and public newspaper notice
   - Announce 60-day public comment period
   - Place modification request and supporting documentation in an accessible location in the vicinity of the facility
   - Hold public meeting

- If the regulatory agency does not act within 250 days of the modification request, notify mailing list that automatic authorization will become permanent in 50 days

Regulatory Agency Requirements:

- Allow 60 days for public comment on the modification request
- Consider all written comments and respond in writing to all significant comments
- Issue notice to the mailing list within 10 days of any decision to grant or deny a modification request
- Issue notice to the mailing list within 10 days after an automatic authorization goes into effect

3. Class 3

Facility Requirements:

- Notify mailing list and publish newspaper notice
- Announce 60-day public comment period
- Place modification request and supporting documentation in an accessible location in the vicinity of the facility
- Hold public meeting

Regulatory Agency Requirements:

- Allow 60 days for public comment on the modification request
- Issue public notice
- Prepare a fact sheet or statement of basis
- Announce a 45-day public comment period on draft permit decision
- Hold a public hearing, if requested, with 30-day advance notice
- Issue or deny the modification request
- Respond to written and oral comments from the 45-day comment period
- Consider and respond to all significant written comments received during the 60-day comment period

For Class 2 or 3 modifications, the permitting agency may grant a facility temporary authorization to perform certain activities for up to 180 days. The facility must notify the public within seven days of making the request. The agency may grant a temporary authorization without prior public notice and comment.

For facilities seeking permits, the public has the opportunity to comment on closure and post-closure plans and any amendments to the plans as part of the permitting process and permit modification procedures. The public can also comment and request hearings on closure and post-closure plans submitted by interim status facilities. The permitting agency can initiate, and the facility can request, modifications to interim status plans; these requests are also subject to public comment.

Post-closure permits and plans often mandate corrective action.

Exhibit 3-1
Public Participation Requirements for Class 1, 2, and 3 Permit Modifications

Class 1

Type of Changes -- Routine and administrative changes

Required Activities

Within 90 days of implementing a change, facility must notify all parties on mailing list.

Class 2

Type of Changes -- Improvements in technology and management techniques

Required Activities

Day 1: Regulatory agency receives modification request.
Day 7: Facility publishes newspaper notice, notifies mailing list, and places copy of permit modification request and supporting documents in accessible location.
Days 15-45: Facility holds public meeting.
Day 60: Written public comments due to regulatory agency.
Day 90: Regulatory agency response to modification request due, including response to written comments. Deadline may be extended 30 days.
Day 120: If regulatory agency has not responded, requested activity may begin for 180 days under an automatic authorization.
Day 250: If regulatory agency still has not responded, facility notifies public that authorization will become permanent unless regulatory agency responds within 50 days.
Day 300: If regulatory agency has not responded, activity is permanently authorized.

Regulatory agency must notify mailing list within 10 days of any decision to grant or deny modification request, or after an automatic authorization goes into effect.

Class 3

Type of Changes -- Major changes to a facility and its operations

Required Activities

Day 1: Regulatory agency receives modification request.
Day 7: Facility publishes newspaper notice, notifies mailing list, and places copy of the permit modification request and supporting documents in an accessible location.
Days 15-45: Facility holds public meeting.
Day 60: Written public comments due to regulatory agency.

After the conclusion of the 60-day comment period, the regulatory agency must grant or deny the permit modification request according to the permit modification procedures of 40 CFR Part 124. These include:

- Issuing public notice of the draft permit modification or intent to deny the modification;
- Preparing a fact sheet or statement of basis;
- Announcing a 45-day public comment period;
- Holding a public hearing, if requested, with a 30-day advance notice;
- Considering and responding to all significant written and oral comments received during the 45-day comment period; and
- Issuing notice of the final permit modification.

In addition, the regulatory agency must consider and respond to all significant written comments received during the 60-day comment period.

Chapter 4
Public Participation in RCRA Corrective Action Under Permits and §3008(h) Orders

Introduction

RCRA requires owners and operators of hazardous waste management facilities to clean up contamination resulting from current and past practices. These cleanups, known as corrective actions, reduce risks to human health and the environment.

As with the rest of the RCRA program, state environmental agencies can receive authorization from EPA to implement the corrective action program. The corrective action requirements in authorized states must be at least as stringent as the federal requirements and may be more stringent. Where states implement the program, EPA plays an oversight role; the Agency implements the program in non-authorized states.

This chapter lays out a framework for corrective action public participation that follows the typical approach to facility cleanup (e.g., site investigation, analysis of alternatives, remedy selection). However, alternative approaches may be used provided they achieve the goals of full, fair, and equitable public participation. More than 5,000 facilities are subject to RCRA corrective action. The degree of cleanup necessary to protect human health and the environment varies significantly across these facilities. Few cleanups will follow exactly the same course; therefore, program implementors and facility owners/operators must be allowed significant latitude to structure the corrective action process, develop cleanup objectives, and select remedies appropriate to facility-specific circumstances. Similar latitude must be allowed in determining the best approach to public participation, in order to provide opportunities appropriate for the level of interest and responsive to community concerns.

Corrective action may take place under a permit or an enforcement order.

At the federal level, corrective actions may take place under a RCRA permit or as an enforcement order under §3008 of RCRA. In authorized states, corrective action may take place under a state-issued RCRA permit, a state cleanup order, a state voluntary cleanup program, or another state cleanup authority. Since authorized states may use a variety or combination of state authorities to compel or oversee corrective actions, EPA encourages

interested individuals to check with their state agency to gather information on the available public participation opportunities.

The RCRA corrective action program is the counterpart of EPA's other hazardous waste clean-up program, "Superfund," which is formally known as the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Unlike most Superfund clean-ups, RCRA corrective actions generally take place at facilities that continue to operate, and the current facility owner or operator is involved in the cleanup. Because cleanups under RCRA and Superfund often involve similar issues, EPA encourages equivalent public participation procedures in the two programs. Thus, parts of this chapter will refer you to the *Community Relations in Superfund* handbook (EPA/540/R-92/009, January 1992), which is available by calling the RCRA/Superfund Hotline at 1-800-424-9346.

Current Status of the Corrective Action Program

On May 1, 1996, EPA published an Advance Notice of Proposed Rulemaking (ANPR) in the Federal Register (61 FR 19432). The Notice: (1) presents EPA's strategy for writing final corrective action regulations; (2) describes the current corrective action program and requests information to help EPA identify and implement improvements to the program; and (3) emphasizes areas of flexibility in the current program and describes program improvements already underway.

> The ANPR emphasizes areas of flexibility in corrective action and describes how the program is improving.

Public participation during corrective action derives from a combination of regulations and EPA guidance. The regulations set out requirements that facilities and agencies must meet when a permit is issued or modified, under 40 CFR parts 124 and 270, to incorporate corrective action provisions. EPA guidance, on the other hand, suggests additional provisions that the permitting agency may include in the permit. One example of such guidance for corrective action activities is the Proposed Subpart S rule (55 FR 30798, July 27, 1990). The Subpart S regulations are not final, but much of the 1990 proposal is routinely used as guidance by permit writers.[1]

> Although Subpart S regulations are not final, much of the 1990 proposal is routinely used as guidance by permit writers.

Since there are no regulations requiring public participation under §3008(h) orders, any such activities are based on guidance. EPA policy states that the opportunities for public participation should be generally the same as those

[1] Two provisions of the 1990 proposal were promulgated in 1993: the final corrective action management unit (CAMU) and temporary unit regulations on February 16, 1993 (58 FR 8658). Under this final rule, CAMUs and temporary units may be designated by the regulatory agency in the permit prior to or during remedy selection according to the procedures in 40 CFR 270.41; these units may also be implemented through the use of Section 3008(h) orders or order modifications. Conversely, the facility may request a permit modification to implement a CAMU following the Class 3 permit modification process defined in 40 CFR 270.42. If approval of a temporary unit or time extension for a temporary unit is not requested under a Class 3 permit modification or obtained under a regulatory agency-initiated modification, the facility owner or operator may request approval for a temporary unit according to the procedures for a Class 2 permit modification. Chapter 3 (RCRA Permitting) discusses the public participation activities associated with each level of permit modification.

opportunities that accompany corrective action under a permit (see the section called "Special Considerations for Public Participation Activities Under §3008(h) Orders" below).

In the 1996 ANPR, the Agency reaffirmed using portions of the 1990 proposal as guidance.

The May 1, 1996 ANPR reaffirms the Agency's use of portions of the 1990 proposal as guidance, including many of the portions addressing public participation in corrective action. While much of the 1990 proposal will still be used as guidance, the ANPR emphasizes the need for flexibility in developing site-specific corrective action schedules and requirements, including public participation requirements tailored to meet the needs of the local community.

As described in the ANPR, EPA is actively looking for opportunities to identify and implement improvements to make the corrective action program faster, more efficient, more protective, and more focused on results. In the ANPR, the Agency emphasizes that revisions to the corrective action program should also enhance opportunities for timely and meaningful public participation.

This chapter outlines the public participation activities associated with the corrective action process under both permits and §3008(h) orders. It describes public participation activities currently required under federal regulations and policies, as well as additional activities that EPA recommends. If additional guidance is appropriate upon promulgation and re-proposal of corrective action regulations, EPA will update this chapter and make it available to the public.

The three paragraphs below provide a few guidelines for public participation, in the form of overarching principles, which should be considered throughout the corrective action process.

Early Participation

Public participation should come early in the corrective action process.

As we emphasized in Chapter 2, public participation should begin early in the permitting process. It should also begin early in the corrective action process. Many of the important decisions in a corrective action are made during the site investigation and characterization. Overseeing agencies and facilities should make all reasonable efforts to provide for early public participation during these phases.

Consistency with Superfund

A significant portion of the RCRA corrective action process is analogous to the Superfund process. Due to this similarity, EPA encourages permitting agencies and facilities to make public participation activities under the RCRA system consistent with those activities required under Superfund. For example, RCRA interim actions should provide opportunities for participation that are similar to, or go beyond, Superfund public participation

for removal actions, and similar opportunities for participation should be available under both corrective measures implementation and a Superfund remedial action.

Shared Responsibility for Public Participation Activities

The corrective action process may involve cleanup steps that are initiated by an overseeing agency or a facility owner/operator. Public participation activities will often be more useful for the public if the party who performed the latest cleanup step then conducts the public participation activity. For instance, if the facility owner/operator does a facility investigation, then it would usually be more appropriate for the facility owner/operator to run the public meeting or whatever activity follows the investigation. In addition, EPA recognizes that important forms of public participation take place outside of the formal corrective action process. The Agency encourages public interest, environmental, civic, and other organizations to provide such activities. The Agency also encourages citizens to discuss cleanup and permitting issues with knowledgeable stakeholders in the community.

Special Considerations for Public Participation Activities Under §3008(h) Orders

As we mentioned above, corrective action activities are conducted under an order issued under RCRA Section 3008(h). RCRA 3008(h) orders may be used to get corrective action started in advance of facility permitting or when a facility is closing under interim status. RCRA 3008(h) orders may be issued either on consent or unilaterally. A consent order is issued when the facility and the regulatory agency have come to an agreement about the corrective action; a unilateral order is issued when the regulatory agency and the facility have been unable to agree about the need for, or the scope of, corrective action.

As a matter of EPA policy, the substantive corrective action requirements and public participation requirements imposed under an order are generally the same as those that would occur if corrective action were taking place under a permit (61 FR 19432, May 1, 1996); however, because orders have significant administrative differences from permits there are some special considerations. For example: under a §3008(h) order, there may be limitations on the permitting agency's ability to release or discuss certain information; no public participation activities are statutorily *required* under §3008(h), though EPA policy is that public participation under corrective action orders be generally the same as under permits; and, while facility owner/operators may agree to conduct public participation activities under a consent order, under a unilateral order public participation responsibilities will likely fall to the permitting agency.

> Under EPA policy, public participation requirements during corrective action are generally the same under orders and permits.

In addition to ensuring that appropriate public participation activities occur during implementation of a corrective action order, in some cases, it may be useful to begin public participation prior to the issuance of the order by assessing the community's concerns and identifying the most appropriate

means of addressing those concerns. (Assessing a community's concerns and planning for public participation is discussed in greater detail in Chapter 2.) When corrective action will take place under a consent order, care should be taken to explain to the community that corrective action orders on consent are not traditional enforcement actions in that they are simply means to expedite initiation of corrective action activities; they are not typically issued in response to a violation at the facility.

Limitations on Releasing Information: When the agency is negotiating an order with the facility, confidentiality of certain information must be maintained. The aim of these negotiations is to encourage frank discussion of all issues and to resolve differences, thereby allowing the agency to issue an order on consent rather than unilaterally. Agency staff should take notice: public disclosure of some information may be in violation of state and federal statutes, and could jeopardize the success of the negotiations, so be sure to coordinate any public notices with enforcement staff before releasing information.

Not being able to fully disclose information to the public can pose problems, particularly in a community where interest is high and citizens are requesting information. If interest in the facility is high, the project manager, project staff, and the Public Involvement Coordinator should discuss how to address citizens' concerns without breaching confidentiality. At the very least, the public deserves to know why these limitations are necessary and when and if they will be lifted.

Further constraints may be placed upon public participation if discussions with the facility break down, and the case is referred to the Department of Justice (DOJ) to initiate litigation. In this situation, public participation planning should be coordinated with the lead DOJ attorney as well.

Strongly Suggested Versus Required Activities: As discussed earlier in this Chapter, EPA's policy is that the substantive corrective action requirements and public participation requirements imposed under an order should be generally the same as those that would occur if corrective action were taking place under a permit. U.S. EPA's Office of Solid Waste and Emergency Response has issued two directives addressing public participation in §3008(h) orders: Directive 9901.3, *Guidance for Public Involvement in RCRA Section 3008(h) Actions* (May 5, 1987) and Directive 9902.6, *RCRA Corrective Action Decision Documents: The Statement of Basis and Response to Comments* (April 29, 1991). These directives suggest public participation activities in orders, even though such activities are not required by statute. The directives suggest the following activities **after** a proposed remedy has been selected:

- Writing a **statement of basis** discussing the proposed remedy;
- Providing **public notice** that a proposed remedy has been selected and the statement of basis is available;

- Providing a **public comment period** (30-45 days) on the proposed remedy;
- Holding a **public hearing** if requested; and
- Writing a **final decision** and **response to comments.**

The remainder of this Chapter reflects EPA's support for having equivalent public participation steps under both permits and orders. While there are no requirements for public participation under orders, EPA strongly suggests the activities reviewed in this Chapter. In our review of the corrective action elements (initial site assessment, site characterization, etc.) in the following pages, we discuss public participation activities that are required or additional. Because EPA strongly suggests public participation activities under orders, we present them under the "Required Activities" headings for each corrective action element.

Consent Versus Unilateral Orders: If the agency is issuing a consent order, the agency should consider negotiating with the facility to have it write a **public participation plan** (if community interest in the facility is high), or at least conduct some activities as terms of the order. If the agency is issuing a unilateral order, however, circumstances may be such that it is necessary and/or appropriate for the agency to assume all or most public participation responsibilities. Care must be used regarding the disclosure of information prior to the issuance of a unilateral order. Premature disclosure may place additional strain on the facility-agency relationship.

Public Participation In Corrective Action

Because corrective action activities involve investigation of releases and potential releases of hazardous waste, the community is likely to take an active interest. Corrective action investigations and remedial activities may be very visible to the public. Experts visit the facility to conduct investigations, trucks and equipment travel back and forth to the facility, and government agencies oversee activities. Delays in the cleanup or long "down times" between permitting activities are not uncommon. All of these factors can heighten the anxiety and concern of the community. Accordingly, the community may require more information on issues related to current or potential contamination, including levels of contamination, the extent of health and environmental risks, and the potential for future risks. The public may also seek additional opportunities to give input to the overseeing agency or the facility.

The regulatory requirements provide a baseline for adequate public participation while leaving a great deal of flexibility in the program. Some situations will call for public participation opportunities that go beyond the regulatory baseline. Where regulations do not specify public participation during corrective action, overseeing agencies and facility owners/operators should develop site-specific public participation strategies that are consistent with existing requirements and provide for full, fair, and equitable public participation.

The scope and complexity of corrective actions will vary significantly across facilities. For this reason, EPA has created a flexible program that allows regulatory agencies to tailor corrective action requirements to facility-specific conditions and circumstances. While EPA's public participation regulations establish a baseline of requirements, some situations will call for public participation opportunities that go beyond the regulatory baseline. This is particularly true in the corrective action program because many of the specific corrective action regulations, including regulations for public participation, are not yet final and because corrective action activities often occur outside the permitting process (e.g., under a federal or state order). In this chapter, we will discuss times during the process when additional public participation can be critical. We encourage stakeholders to follow the guidance in this chapter and Chapter 2 when planning for public participation in the corrective action process.

Corrective actions, like most site cleanup activities, usually involve several key elements. These elements are:

- Initial Site Assessment (RCRA Facility Assessment (RFA));
- Site Characterization (RCRA Facility Investigation (RFI);
- Interim Actions;
- Evaluation of Remedial Alternatives (Corrective Measures Study (CMS);
- Remedy Selection;
- Remedy Implementation (Corrective Measures Implementation (CMI)); and
- Completion of the Remedy.

A successful corrective action program must be procedurally flexible; no one approach will be appropriate for all facilities.

The corrective action process is not linear. The elements above should not be viewed as prescribed steps on a path, but as evaluations that are necessary to support good cleanup decisions. Because these elements may not occur in the same order (or at all) at every facility, we encourage planners to use them as general guidelines, while leaving flexibility for changes. A successful corrective action program must be procedurally flexible; no one approach to implementing these cleanup elements will be appropriate for all facilities. The seven elements, and the public participation activities associated with them, are described in the sections below.

Refer to Chapter 3 for additional information on permitting, including permit modifications, and Chapter 5 for specific details on public participation activities described in this chapter.

Initial Site Assessment (RFA)

The corrective action process usually begins with an initial site assessment, called a RCRA Facility Assessment or RFA. The RFA is conducted either by the overseeing agency or by the facility with subsequent agency approval. The purpose of an RFA is to gather data about a site, including

releases and potential releases of hazardous waste and hazardous constituents, to determine whether a cleanup may be necessary. RFAs usually include (1) a file review of available information on the facility; (2) a visual site inspection to confirm available information on solid waste management units (SWMUs) at the facility and to note any visual evidence of releases; and (3) in some cases, a sampling visit to confirm or disprove suspected releases.

The results of an RFA are recorded in an RFA report. The RFA report will describe the facility and the waste management units present at the facility and note any releases or potential releases. It will also describe releases and potential releases from other, non-waste-management-associated sources (e.g., a spill from a product storage tank). Interested individuals may request copies of RFA reports from the appropriate EPA regional office or state agency.

In addition to the information recorded in RFA reports, if corrective action is taking place in the context of a RCRA permit, the permit application will also describe the physical condition of the facility including its subsurface geology, the waste management units present at the facility, and any releases and potential releases.

The RFA report usually serves as the basis for future corrective actions at a facility. If, after completion of the RFA, it appears likely that a release exists, then the overseeing agency will typically develop facility-specific corrective action requirements in a schedule of compliance, which will be included in the facility's permit or in a RCRA Section 3008(h) corrective action order.

In the case of corrective action implemented through a permit, the public may comment on the schedule of compliance for corrective action during permit issuance and subsequent permit modification (see Chapter 3 for more information on the permitting process and permit modifications).

When corrective action is implemented though a 3008(h) order, the public should be given an opportunity to comment on the schedule of compliance when the order is issued; however, it may take many months of discussions between the facility owner/operator and the overseeing agency before an order is issued. In the meantime, the facility owner/operator may develop a **mailing list**, modeled after the mailing list developed under the permitting process, and a **public participation plan**.

On the day the order is issued, the administrative record, containing all information considered by the agency in developing the order, is made available for inspection by the public. The agency may also want to place a copy of the administrative record at a local library close to the facility. The overseeing agency or facility owner/operator should consider writing a **fact sheet** that gives details of the order and the corrective action process.

If there is a high level of interest in the facility, an **open house** or **workshop** should be considered.

Site Characterization (RFI)

A RCRA Facility Investigation or RFI is necessary when a release or potential release is identified and additional information is necessary to determine the nature and scope of corrective action, if any, that is needed. The purpose of an RFI is to characterize the nature and extent of contamination at the facility and to support selection and implementation of a remedy or remedies or, if necessary, interim measures.

Required Activities

If corrective action is being conducted in the context of a RCRA permit, the public has the opportunity to review and comment on the scope of the RFI and RFI schedules and conditions during permit issuance. The RFI is usually conducted by following an agency-approved RFI plan. If the RFI plan is incorporated into a permit by a permit modification, then the public will have an opportunity to comment on the scope and schedule of the RFI during the modification process. See Chapter 3 for more information on public participation during permit modifications.

If corrective action is being conducted under a 3008(h) order, the public should be given the opportunity to review and comment on the scope of the RFI and RFI conditions when the order is issued and/or when the RFI workplan is approved.

RFIs can often involve numerous rounds of field investigation and can take months or even years to complete. During the RFI process, it may be necessary to change the RFI requirements or modify the RFI schedule to react to new information. When corrective action is being conducted in the context of a RCRA permit, the public has an opportunity to comment on changes to RFI conditions and schedules during the permit modification process. Significant changes to the scope of RFI requirements are typically Class 3 permit modifications, changes to RFI schedules or investigatory details (e.g., a change in the number of samples to be collected in a given sampling area) are typically considered either Class 1 or Class 2 modifications, depending on their significance. When corrective action is being conducted under an order, the public's opportunities to review changes to RFI conditions and schedules should be consistent with the opportunities that are available under a permit. The **facility mailing list,** developed during the initial stages of the permitting process, or a mailing list developed during preparation of the corrective action order, should be used and updated throughout the corrective action process in order to keep members of the community informed. (See Chapters 3 and 5 for more information on facility mailing lists.)

In some cases (e.g., where there is a high level of public interest in corrective action activities), the overseeing agency will determine that an **information repository** is needed to ensure adequate public involvement. When corrective action is being conducted under a RCRA permit the agency can require the facility to establish a repository under § 270.30(m). A repository at the RFI stage will provide access to information from an early stage in the process, though the agency has the discretion to use this provision at any stage in the permitting process or at any stage during the corrective action. If the agency decides to require a repository, it will direct the facility to notify the public of the existence of the repository, including the name and phone number of a **contact person**. See Chapter 5 for more detail on information repositories.

Additional Activities

The start of the RFI usually marks the beginning of highly visible, on-going corrective action activities at a facility. Because RFI activities are highly visible and because many of the important decisions regarding the scope of potential corrective actions may be made during the RFI, it will generally be appropriate to reevaluate community concerns and the level of public participation and to revise the **public participation plan** accordingly (see Chapter 5) when RFIs begin. Such efforts early in the process, before community concerns and issues become overwhelming, will be beneficial in the long run.

Developing and distributing **fact sheets** throughout the RFI process is an excellent way to keep in touch with the community. It is a good idea to issue a fact sheet before the RFI begins to explain the investigation's purpose and scope. Another fact sheet should be issued after the RFI is completed to report the investigation results.

EPA encourages all facilities to make the results of the RFI readily available to interested stakeholders. One means of providing access to the information is to send a **summary of the RFI report** to the **facility mailing list**, as proposed in the 1990 Subpart S proposal. The facility may choose other means of distributing the information, such as through a **fact sheet or project newsletter**. The full report should be made available for review in an **information repository**, if one exists, or through some other method that is convenient for the interested public.

The facility owner/operator should provide notice to all adjacent landowners and other persons who may have been affected by releases of contamination, via air or ground water, from the facility. EPA recommends that the owner/operator follow the provisions in the 1990 proposal (proposed § 264.560(a) and (b)) for **notifications for discoveries of contamination** (see 55 FR 30882).

Informal meetings or **workshops** held by the facility, the permitting agency, or public interest groups can provide valuable forums for discussing community concerns.

Interim Actions

Interim actions are activities used to control or abate ongoing risks to human health or the environment in advance of final remedy selection. For example, interim actions may be required in situations where contamination poses an immediate threat to human health or the environment. They also may be required to prevent further environmental degradation or contaminant migration prior to implementing the final remedy. Interim actions may occur at any point in the corrective action process; however, they are often implemented during the RFI or CMS.

Required Activities

When corrective action is proceeding under a RCRA permit, the permit may identify specific interim measures and/or stabilization measures (if they are known at the time of permit issuance) or may have general conditions that govern when interim measures might be required during the course of the corrective action. In either case, the public can comment on the interim measures strategy in the draft permit as part of the permitting process.

When corrective action is proceeding under a 3008(h) order, the public should have the opportunity to comment on specific interim measures or general interim measure conditions when the order is issued, or otherwise in a manner that is consistent with the opportunities available when corrective action takes place under a permit.

Additional Activities

In recent years EPA has increasingly emphasized the importance of interim measures and site stabilization in the corrective action program. In the ANPR, EPA notes that an overriding goal in our management of the corrective action program is to help reduce risks by emphasizing early use of interim actions (while staying consistent with the environmental objectives at the facility). If a facility owner/operator or the permitting agency anticipates that an early interim action will be the only cleanup step taken over a significant period of time, then the facility or the agency should inform the public of such a plan and receive feedback, unless the immediacy of the situation will not allow for feedback. The facility and the agency should both announce a **contact person** to provide information and respond to inquiries about the action. Agencies and facilities may find Superfund guidance on removal actions useful in the RCRA context (see *Community Relations in Superfund: A Handbook*, Chapter 5).

It is a good idea to keep the public informed of such activities by issuing **fact sheets** or holding **informal meetings**. Because interim measures can be conducted at any stage in the corrective action process, you should incorporate activities related to interim measures into the rest of your public involvement program.

Evaluation of Remedial Alternatives (CMS)

When the need for corrective measures is verified, the facility may be required to perform a Corrective Measures Study (CMS) to identify and evaluate potential remedial alternatives. In cases where EPA or a state is using performance standards or a similar approach and in cases where the preferred remedial alternative is obvious (e.g., where EPA has issued a presumptive remedy that is appropriate to site-specific conditions), submission of a formal CMS may not be necessary.

Required Activities

When corrective action is proceeding under a permit, the permit schedule of compliance may already include conditions that specify when a CMS is warranted; the public can comment on these draft permit conditions at the time of permit issuance. However, because the RFI and CMS phases may last several years, depending on the complexity of the facility, the community may be frustrated by the length of time involved and the lack of information on results or findings. Significant changes to the scope of CMS requirements, as specified in the permit, may be considered Class 3 permit modifications requiring significant public involvement. Changes to the CMS schedule, or CMS details are typically considered class 1 or 2 permit modifications, as appropriate.

Public participation during corrective action under a 3008(h) order should be consistent with public participation under a permit. The public should have the opportunity to review and comment on the scope of the CMS and CMS conditions when the order is issued and/or when the CMS workplan is approved.

Additional Activities

In the 1996 ANPR, EPA emphasizes that it expects facility owners/operators to recommend a preferred remedy as part of the CMS. While there is no formal requirement for public participation at this time, EPA strongly encourages the facility to present its preferred remedy to the community before formally submitting it to the agency. The facility should seek community input through an **informal meeting, availability session,** or another method that encourages dialogue. This early input is likely to improve many preferred remedies and make them more agreeable to communities. Moreover, it will make the facility and the overseeing agency aware of community concerns and ways to address them.

Holding **workshops** and **informal public meetings** about the CMS process, the remedies being considered, and the activities being conducted at the facility will keep the community involved and informed. **Fact sheets** distributed at significant milestones during the CMS can keep the community abreast of the progress that has been made.

The agency and the facility should provide the name and number of a **contact person**. A contact person will accept comments and answer questions from the community, disseminate information, demonstrate the agency's and facility's willingness to talk with the community, and give the facility or the agency an opportunity to respond to public concerns. The agency or the facility may even consider establishing a **hotline** if a large number of people call with questions. The mailing list and local newspapers are good ways to advertise availability of the hotline.

Remedy Selection

Following receipt of a recommendation of a preferred remedy from the facility owner/operator, the overseeing agency will review the preferred remedy and other remedial alternatives and decide to tentatively approve the preferred remedy, tentatively select a different remedy or require additional analysis of remedial alternatives. The tentatively selected remedy will then undergo public review and comment, usually in the form of a proposed modification to the facility's permit or corrective action order. Following public review, the agency will respond to public comments and then modify the facility permit or corrective action order to incorporate the remedy.

Required Activities

When corrective action is proceeding under a permit, public review and comment on the tentatively selected remedy is generally conducted using the procedures of 40 CFR 270.41 for agency-initiated permit modifications. For such a modification, 40 CFR 270.41 requires the same level of public participation as is required for a draft permit. The agency must release the proposed modification for public review and issue a **public notice** announcing that the proposed modification is available for review. The agency must publish this notice in a major local newspaper, broadcast it over local radio stations, and send it to all persons on the mailing list.

In addition, agency staff must prepare a **fact sheet** or **statement of basis** to explain the proposed modification and the significant factual and legal reasons for proposing the remedy. The statement of basis describes the proposed remedy, but does not select the final remedy for a facility. This approach allows for consideration of additional information during the **public comment period**. Following the comment period, public comment and/or additional data may result in changes to the remedy or in another choice of remedy. After the agency has considered all comments from the public, the final decision -- selecting the remedy or determining the need to

develop another option -- is documented in the response to comments. (For more information on statements of basis, refer to OSWER Directive 9902.6, *RCRA Corrective Action Decision Documents: The Statement of Basis and Response to Comments* (April 29, 1991)).

A **45-day public comment period** on the draft permit modification follows publication of the public notice. The comment period provides the public with an opportunity to comment, in writing, on conditions contained in the draft permit modification. If information submitted during the initial comment period appears to raise substantial new questions concerning the draft permit modification, the agency must re-open or extend the comment period.

The members of the public may request a **public hearing** on the draft permit modification. If a hearing is requested, the agency must give a **30-day advance notice** to the community that states the time and place of the hearing. The agency Director has the discretion to schedule a public meeting or hearing even if the community does not request one. In some cases, scheduling a public hearing before the public requests one may save valuable time in the modification process and demonstrate a willingness to meet with the community to hear its questions and concerns.

After the public comment period closes, the agency must review and evaluate all written and oral comments and issue a final decision on the permit modification. Then the agency must send a **notice of decision** to the facility owner or operator and any persons who submitted public comments or requested notice of the final decision and prepare a written **response to comments**. This document must include a summary of all significant comments received during the public comment period and an explanation of how they were addressed in the final permit modification or why they were rejected. The response to comments must be made available through the Administrative Record and the **information repository**, if one was established, and must be sent to the facility and all persons who submitted comments or requested a copy of your response.

When corrective action is proceeding under a 3008(h) order, the Agency's longstanding policy is that the public's opportunity to review and comment on tentatively-selected remedies should be commensurate with the opportunity that would be available if the corrective action were conducted under a permit. At a minimum, this opportunity should include: publishing a notice and a brief analysis of the tentatively-selected remedy (this is typically referred to as a statement of basis) and making supporting information available; providing a reasonable opportunity for submission of written comments; holding a public hearing or public meeting, if requested by the public or determined necessary by the overseeing agency; preparing and publishing responses to comments; and, publishing the final remedy decision and making supporting information available. Additional guidance is available in OSWER Directives 9901.3, *Guidance for Public Involvement*

in RCRA Section 3008(h) Actions (May 5, 1987) and 9902.6 *RCRA Corrective Action Decision Documents: The Statement of Basis and response to Comments* (April 29, 1991).

Additional Activities

The agency, public interest groups, or the facility should consider holding **workshops** or **informal meetings** during the public comment period to inform the public about the proposed remedy. These discussion sessions can be especially useful when information about corrective measures in a draft permit modification is quite technical or the level of community concern is high.

Remedy Implementation (CMI)

Once the overseeing agency modifies the permit or corrective action order to include the selected remedy, the facility must begin to implement the remedy. Remedy implementation typically involves detailed remedy design, remedy construction, and remedy operation and maintenance; it is called Corrective Measures Implementation or CMI. Corrective measures implementation is generally conducted in accordance with a CMI plan, approved by the overseeing agency.

Required Activities

When corrective action is proceeding under a permit, the public will have an opportunity to comment on CMI conditions and schedules during the permit modification for remedy selection or when the permit is modified to incorporate the CMI plan. Significant changes to the scope of CMI may be considered Class 3 permit modifications. Changes to the CMI schedule are typically considered either Class 1 or Class 2 permit modifications, as appropriate.

When corrective action is proceeding under a 3008(h) order, the public's opportunity to comment on CMI conditions and schedules should be consistent with the opportunities that would be available if corrective action were taking place under a permit.

Additional Activities

Remedy implementation will often involve highly visible activities, such as construction of new on-site treatment and containment systems, and staging and transportation of large volumes of materials. These activities may result in increased levels of public interest, which may already be high due to the public's participation in remedy selection.

EPA recommends that the facility notify all individuals on the facility **mailing list** when the construction plans and specifications are available for public review. If the facility has established an **information repository**,

then the plans should go in the repository; otherwise, the facility should place the plans in a convenient location with public access.

As mentioned earlier, the corrective action process can take years to complete. Additional public participation activities may be appropriate during corrective measures implementation to inform the community of the progress of the remedial action, especially if the public shows concern over the pace and scope of the cleanup operations. In particular, it may be useful to release periodic **fact sheets** to the community that report on progress of the cleanup operations. It may also be helpful to hold an **availability session/open house** near or on the site of the facility to demonstrate or explain the activities involved in the remedy.

Completion of Remedy

Once corrective measures are complete the overseeing agency will either terminate the corrective action order or modify the permit to remove the corrective action schedule of compliance. Decisions regarding completion of corrective measures can be made for an entire facility, for a portion of a facility, or for a specified unit or release. EPA policy is for the public to be given an opportunity to review and comment on all proposals to complete corrective action.

Required Activities

When corrective action is proceeding under a permit, proposals to complete corrective measures should follow the procedures for Class 3 permit modifications. See the section on Class 3 modifications in Chapter 3 for details.

When corrective action is proceeding under a 3008(h) order and a proposal to complete corrective measures is issued, the public should have notice and comment opportunities that are consistent with the opportunities available under the Class 3 permit modification procedures.

Additional Activities

In some cases, hazardous wastes or hazardous constituents will remain in or on the land after completion of corrective measures. When this occurs, the overseeing agency may require the facility to record a notation in the deed to the facility property regarding the types, concentrations, and locations of such waste or constituents.

Chapter Summary

At the federal level, corrective actions may take place under a RCRA permit or as an enforcement order under §3008 of RCRA.

In authorized states, corrective action may take place under a state-issued RCRA permit, a state cleanup order, a state voluntary cleanup program, or another state cleanup authority. Authorized states may use a variety or combination of state authorities to compel or oversee corrective actions.

EPA's recent Advance Notice of Proposed Rulemaking (ANPR) (61 FR 19432, May 1, 1996) for the corrective action program does three things: (1) it presents EPA's strategy for writing final corrective action regulations; (2) it includes a description of the current corrective action program and requests information to help EPA identify and implement improvements to the program; and (3) it emphasizes areas of flexibility in the current program and describes program improvements already underway.

The ANPR also affirmed EPA's use of the 1990 proposal as guidance and emphasized the Agency's commitment to enhanced public participation.

As a matter of EPA policy, the type and timing of public participation activities for §3008(h) orders are generally the same as those for corrective action in permitting.

There are three important distinctions between conducting public participation in corrective action under a §3008(h) order and through permitting:

1. Under a §3008(h) order, there may be limitations on the release or discussion of certain information;

2. No public participation activities are required under §3008(h) but they are strongly encouraged in guidance. In addition, the agency may require the facility to conduct additional activities as a term in the order; and

3. Facilities may agree to conduct public participation activities under a consent order, however, under a unilateral order, the responsibility will likely fall to the agency.

While being flexible, the corrective actions should provide for early public participation, seek consistency with Superfund community involvement standards, and allow facility owner/operators to perform public participation activities where appropriate.

The corrective action process is composed of seven basic elements which are not prescribed steps, but evaluations that are necessary to make good cleanup decisions. Because these elements may not occur in the same order (or at all) in every situation, we encourage planners to use them as general guidelines, while leaving flexibility for changes. A successful corrective action program must be procedurally flexible

The basic elements (with corresponding public participation activities that are currently required or suggested):

1. Initial Site Assessment (RCRA Facility Assessment)

   - Schedule of compliance will go into permit, where public can comment
   - For enforcement orders, the agency will release administrative record and make it available for public review. The agency may provide a fact sheet and hold an open house or workshop.

2. Site Characterization (RCRA Facility Investigation)

   - Update mailing list, if necessary
   - Establish information repository, if required
   - Revise public participation plan
   - Modify permit, if necessary, to reflect changes to schedule of compliance
   - Under an order, provide notice and comment on the planned RFI
   - Develop fact sheets on the investigations
   - Mail summary of RFI Report to facility mailing list and make available to the public

- Hold informal meetings or workshops
- Issue notifications for discovery of contamination

3. Interim Actions -- May occur at any time during the process

- Provide for public input and feedback , as appropriate given time constraints, and announce a contact person
- Use fact sheets and informal meetings, if appropriate

4. Evaluation of Remedial Alternatives (Corrective Measures Study)

- Hold informal meetings or workshops when facility presents preferred remedy
- Identify a contact person
- Develop fact sheets on the study
- Establish a hotline

5. Remedy Selection

- Agency-initiated permit modifications follow 40 CFR 124 procedures, including public notice, public comment period, and a hearing (if requested)
- For corrective action under an order, the agency should: publish a notice and a statement of basis; take public comment; holding a public hearing or public meeting, if requested by the public or determined necessary by the overseeing agency; prepare and publish responses to comments; and, publish the final remedy decision while making supporting information available.
- Hold workshop on proposed remedy
- Once final remedy is selected, send out notice of decision
- Issue response to comments
- Hold informal meetings or workshops on the final remedy

6. Corrective Measures Implementation

- Notify public when plans and specifications are available for review
- Develop fact sheets on remedy implementation
- Coordinate availability session/open house

7. Completion of Remedy

- Agency may remove schedule of compliance from the permit or terminate the order by following the Class 3 modifications procedures for a permit or a similar process for an order.

Chapter 5
Public Participation Activities: How to Do Them

Introduction

This chapter presents a "how-to" for a broad range of activities that permititng agencies, public interest groups, and facility owners/operators can use to promote public participation. The variety of activities in this chapter should fit any situation: from the formal regulatory process that EPA follows, to community-based discussions of RCRA issues, to events held by the facility owner or operator.

Some of the activities in this chapter (for instance, public hearings) will be more appropriately led by a permitting agency; however, all stakeholders can learn more about the different kinds of activities by reviewing this chapter. Moreover, EPA would like to emphasize that this list is not exhaustive. You should consult with other stakeholders to determine if these or any other public participation activities will best suit your particular situation. Several of the appendices provide contact lists for various stakeholder groups.

As we emphasized in the preceding chapters, public participation is a dialogue. It involves both getting information out to other stakeholders and getting feedback in the form of ideas, issues, and concerns. We have divided this chapter's activities to reflect the dual role of public participation. The first group of activities involves techniques that disseminate information. The second group involves techniques that are useful for gathering and exchanging information. Note that some of these activities, such as informal meetings, are useful both for disseminating and collecting information. On the other hand, some activities, such as public notices, provide one-way communication. *EPA encourages stakeholders to combine public participation techniques so that they provide two-way communication.* For instance, if an agency issues a public notice, it should create a feedback loop by including the name and number of a contact person in the notice. Similarly, a facility or a public interest group could provide for feedback in an information repository by asking users to complete surveys or by assigning a staff person to answer questions at the repository.

The following pages contain summaries of numerous public participation activities, information on how and when to conduct them, an estimate of how much effort they require, and their advantages and limitations. Each summary includes a checklist to help in conducting the activity. Examples of public notices and fact sheets are also included.

Use this directory to locate specific activities:

Public Participation Plans 5-4

☞ Disseminating Information

Public Notices 5-8
- Newspaper Advertisements 5-9
- Newspaper Inserts 5-9
- Free Publications and Existing Newsletters 5-9
- Public Service Announcements 5-10
- Broadcast Announcements and Advertisements 5-10
- Signs and Bulletin Boards 5-10
- Telephone Networks or Phone Trees 5-11

Translations 5-16
Mailing Lists 5-19
Notices of Decision 5-24
Introductory Notices 5-26
Fact Sheets/Statements of Basis 5-29
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Facility Tours 5-56
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News Releases and Press Kits 5-62
News Conferences 5-67

☞ Gathering and Exchanging Information

Community Interviews 5-70
Focus Groups 5-77
Door-to-Door Canvassing 5-80
Public Comment Periods 5-84
Unsolicited Information and Office Visits 5-87
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Contact Persons 5-94
Telephone Contacts 5-97
Telephone Hotlines 5-100
On-Scene Information Offices 5-103
Question and Answer Sessions 5-106
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Informal Meetings with Other Stakeholders 5-112
Public Meetings 5-117
Public Hearings 5-123

Availability Sessions/Open Houses 5-130
Workshops 5-134
Attending Other Stakeholder Meetings and Functions 5-139
Citizen Advisory Groups 5-141

Public Participation Plans

Regulatory Requirements

None.

Description of Activity

A public participation plan provides a community-specific plan for interacting with a community regarding the permitting or corrective action activities taking place at a RCRA facility. The plan, typically prepared by the permitting agency, assesses the level of community interest as well as the types of concerns identified through a variety of sources (e.g., **community interviews**) and, based on this information, recommends specific activities for involving the community in the RCRA process. See the section on "Planning for Participation" in Chapter 2 and the detailed sample plan in Appendix I for more information. Chapter 3 of *Community Relations in Superfund* also provides useful guidance.

The level of detail in the plan will vary according to the probable level of public interest, the type of permitting activity, the location of the facility, and other applicable factors. The steps described in this section are not all necessary in every plan. Depending on the situation, the public participation plan may vary from a two-page schedule of activities to a comprehensive study of the population, an itinerary of permitting activities, and an analysis of community concerns.

Level of Effort

A Public Participation Plan may take several days to two weeks to complete. Revision of a plan could take a few days to a week. The range of effort depends on the priority of the site and the complexity of the activities performed at that site.

How to Conduct the Activity

A Public Participation Plan should be based on information collected during community interviews (if conducted) and information obtained from other sources, such file searches, reviews of past media coverage, and community assessments done by third parties (see the section entitled "Planning for Participation" in Chapter 2). This information is analyzed and organized into a community-specific plan. Typical sections of a public participation plan are:

- Introduction -- several paragraphs clearly explaining the purpose of the document.
- Facility History -- several paragraphs to several pages providing an overview of the facility, its technical and regulatory history, and a

history of past community concerns and involvement in activities at the facility. Short cut: attach the facility fact sheet if one already exists.

- Community Concerns -- several paragraphs to several pages summarizing the concerns identified during the community interviews.

- Objectives of the Plan -- several paragraphs to several pages, depending on the objectives, providing a narrative of the major objectives of the plan. Objectives typically relate to the specific concerns outlined in the previous section.

- Public Participation Activities -- several paragraphs to several pages, depending on the plan, describing the specific activities that will be conducted to meet the objectives outlined in the previous section (e.g., meetings, fact sheets, briefings for local officials, etc.) and a schedule for conducting these activities.

- Appendices -- Appendices can be included to provide the mailing list, media contacts, and public meeting and information repository locations.

The activities in a public participation plan should be tailored to address community concerns and needs. The plan should include the kinds of activities that are discussed in this manual.

The plan should be presented in a public document that serves to demonstrate to the community that the agency (and public interest groups and the facility owner, if involved) listened to specific community concerns and developed a specific program around those concerns. EPA encourages permitting agencies to seek input from other stakeholders during development of the plan. The facility owner and public interest groups can provide information about their planned activities and the community representatives can suggest the types of activities, information channels, and logistics that will work best in the area.

Revisions of all or parts of the public participation plan for a facility may be done in order to incorporate new information, reflect changes in community concern, and adjust public participation activities to meet these changes. A revision ensures that the plan remains sensitive to citizens' concerns through the final phases of a permit determination or a corrective action. It can also evaluate which public participation activities were effective and which were not.

When to Use

Public participation plans may be prepared:

- At the beginning of the RCRA process (e.g., for facilities seeking a

permit or facilities beginning corrective action) to schedule activities and assign responsibilities;

- After community interviews (if conducted).

Public participation plans should be revised:

- When a significant change in community concerns or activities at the facility occurs (e.g., after a remedy is selected or the facility proposes a significant permit modification); and
- At least every two years for longer-term projects.

Accompanying Activities

Although they are not necessary in every case, **community interviews** can be very helpful when writing a plan. The plan typically includes the **mailing list** and provides the locations of the **information repositories** and **public hearings**.

Advantages and Limitations

Public participation plans establish a record of community concerns and needs and a set of activities to meet those needs. Because the plans are community-specific, they ensure that the community gets the information they need in a fashion that is most useful and they assist the project staff in making the most efficient use of their time when interacting with the public.

The plan represents the agency's commitment to dedicate significant resources to the activities specified; thus, agency staff should make certain that resources are available to implement all activities identified in the plan. The plan should not schedule activities that the agency will not be able to conduct.

Community concerns can change significantly and may require that the public participation plan be revised periodically. The plans should be seen as "evolving" documents. The agency may need to revise the plan often, conducting new community interviews each time. At the least, the agency should be prepared to revise activities or expand activities as the project proceeds.

Revising the plan will help to ensure that the agency continues to respond to citizens' concerns during long-term projects. Minor changes also can help a public participation planner; for example, the contacts list can incorporate changes in addresses, new telephone numbers, and the names of new officials.

Checklist for Public Participation Plans

As applicable:

- ___ Review facility background file and other information sources
- ___ Review comments gathered during the community interviews
- ___ Coordinate with other key stakeholders to discuss the plan
- ___ Write draft plan
  - ___ Introduction -- explains the purpose of the document
  - ___ Project History -- provides an overview of the project, its technical and regulatory history, and a history of past community concerns and involvement in the project (if available)
  - ___ Community Concerns -- summary of the concerns identified during the community interviews
  - ___ Objectives of the Plan -- explains the major objectives relating to specific concerns outlined in the previous section of the document
  - ___ Public Participation Activities -- describes the specific activities to be conducted to meet the objectives of the plan and schedule
  - ___ Appendices -- provide information on key contacts, media, public meeting and information repository locations.
- ___ Coordinate internal review of plan
- ___ Solicit community input on the plan
- ___ Prepare final plan based on comments
- ___ Distribute plan to information repositories if they exist, or make the plan available to the public in a convenient place

Public Notices

Regulatory Requirements

The permitting agency must give official public notice when issuing the draft permit (§ 124.10(c)), holding a public hearing under § 124.12, or when an appeal is granted under § 124.19. This notice must be sent by the agency to all relevant units of federal and local government, the applicant, and all parties on the facility mailing list. In addition, the notice must be broadcast over local radio stations and published in a daily or weekly major local newspaper of general circulation.

A prospective permit applicant must issue a similar, but broader, public notice to announce the pre-application meeting (§ 124.31). This notice must be published as a display advertisement in a paper of general circulation and must be sent to the permitting agency and appropriate units of local government. The applicant must also post the notice as a sign at or near the facility, and as a broadcast media announcement. The notice must include the name, address, and telephone number of a contact person for the applicant.

The facility owner/operator must provide public notice for permit modfications (including modifications to incorporate corrective action provisions) under § 270.42. For a class 1 modification, the facility must notify the facility mailing list. For a class 2 modification, the facility must notify the mailing list and publish a newspaper notice when requesting the modification. The permitting agency must notify the mailing list within 10 days of granting or denying a modification request. For a class 3 modification, the facility must publish a newspaper notice and notify the mailing list when requesting a modfication. The permitting agency must follow the procedures for modifications in part 124 when granting or denying the class 3 permit modification. The permitting agency will also notify people on the mailing list and State and local government within 10 days of any decision to grant or deny a Class 2 or 3 modification request. The Director also must notify such people within 10 days of an automatic Class 2 modification goes into effect under § 270.42(b)(6)(iii) or (v).

If the permitting agency initiates the permit modification, under § 270.41, then the agency must follow the notice requirements for a draft permit in § 124.10(c) (see above in this section). Agency-initiated modifications may include modifications during the corrective action process.

If the permitting agency requires a facility to establish an information repository under § 124.33 or § 270.30(m), the agency Director will specify notice requirements. At the least, the facility will provide written notice to the people on the mailing list.

Permitting agencies must also provide provide public notice during the trial

burn stage at permitted and interim status combustion facilities (§ 270.62(b) and (d); 270.66(d)(3) and (g)) and when an interim status facility undergoes closure or post-closure (see §§ 265.112(d)(4) and 265.118(f)).

Description of Activity

Public notices provide an official announcement of proposed agency decisions or facility activities. Notices often provide the public with the opportunity to comment on a proposed action.

Most RCRA notices contain essentially the same types of information. Where they differ is in how they are distributed by the agency or the facility. Some go to members of the mailing list, some as legal advertisements in the newspaper, and some others as signs or radio advertisements. In all cases, EPA encourages facilities and permitting agencies to make a good faith effort to reach all segments of the affected community with these notices. As we mention earlier in this manual, any organization that wants to provide public notice has a number of inexpensive and simple options available to it, including: free circulars; existing newsletters or organzation bulletins; flyers; bulletin boards; or storefront signs.

There are many effective ways to spread information. However, the job of anyone giving notice is to find out what information pathways will be most effective in a particular community. Public interest groups, the facility, and the permitting agency should seek community input on this topic. The citizens of that community are the most qualified people to explain what methods will work best in their community. **Community interviews** are one way to learn more about how the citizens communicate.

The following are the most common ways to give public notice:

- Newspaper Advertisements. Traditionally, public notices have often appeared as legal advertisements in the classified section of a newspaper. While this method provides a standard location for the ads, display advertisements (located along with other commercial advertisements) are more likely to reach a larger audience. Display advertisements offer an advantage over legal classified ads since they are larger, easier to read, and are more likely to be seen by the casual reader. A sample is available in Appendix H of this manual.
- Newspaper Inserts. Inserts stand out from other newspaper advertisements since they come as a "loose" section of the newspaper (a format often used for glossy advertisements or other solicitations). They provide a way to reach beyond the most-involved citizens to inform a broader segment of the community.
- Free Publications and Existing Newsletters. Placing a notice in a newsletter distributed by a local government, a civic or community organization, or in a free publication (e.g., a paper that highlights local or community activities) is a generally inexpensive way to target

a specific audience or segment of the community. Some publications may not be appropriate for communicating information from your organization. By publishing information through a group that has a specific political interest or bias, your organization may be perceived as endorsing these views. Permitting agencies may want to avoid associations with groups that appear to represent the agency's interests. In any case, the relationship between your organization and the newsletter or publication should be clear to the public.

You may want to consider some of the following options. Local governments sometimes send newsletters or bulletins to their entire population; such newsletters can reach an entire affected community. Planning commissions, zoning boards, or utilities often distribute regular newsletters; they may be willing to include information about permitting activities. Newsletters distributed by civic, trade, agricultural, religious, or community organizations can also disseminate information to interested readers at low cost. Some segments of the affected community may rely on a free local flyer, magazine, independent or commercial newspaper to share information.

- Public Service Announcements. Radio and television stations often broadcast, without charge, a certain number of announcements on behalf of charities, government agencies, and community groups. In particular, they are likely to run announcements of public meetings, events, or other opportunities for the public to participate. One drawback with a public service announcement is that you have no guarantee that it will go on the air. If it does go on the air, it may come at odd hours when relatively few people are listening.
- Broadcast Announcements and Advertisements. A number of RCRA notices must be broadcast over radio or another medium. Beyond these requirements (which are further explained below and in the section on "Notice of the Pre-Application Meeting" in Chapter 3), you may consider providing notice via a paid TV advertisement or over a local cable TV station. Paid advertisements can be expensive and may be seen by the public as taking a side. You can avoid this drawback by limiting information to the facts (e.g., time, date, location of the meeting). Some local access cable TV stations run a text-based community bulletin board, which may provide a useful way to distribute information.
- Signs and Bulletin Boards. The notice requirements for the pre-application meeting (§ 124.31) require posting of a visible and accessible sign. Signs can be a useful means of public notice, especially for residents and neighbors of the facility or planned facility. A sign on the site should be large enough so that passers-by, whether by foot or by vehicle, can read it. If few people are likely to pass by the site, consider posting the sign at the nearest major intersection. Another option is to place posters or bulletins on community bulletin boards (in community centers, town halls, grocery stores, on heavily-travelled streets) where people are likely to

see them. The signs should contain the same information as a written or broadcast notice.

- Telephone Networks or Phone Trees. This method provides an inexpensive, yet personal, manner of spreading information. The lead agency, facility, or organization calls the first list of people, who, in turn, are responsible for calling an additional number of interested people. Phone trees are a good way to provide back up plans or reminders while reducing the number of calls made by individual staff members. As an alternative to calling the first tier, the lead agency, facility, or organization may want to distribute a short written notice.

Level of Effort

Preparing a public notice and arranging for its publication takes a day or two, depending on the need for review. Producing a television or radio ad, or building a sign will take longer, depending on the situation.

How to Conduct the Activity

To prepare a public notice:

1. **Identify the major media contacts.** While there may be many daily newspapers serving a particular area, use only one or two for the public notice. In general, use the newspaper with the widest circulation and greatest visibility in order to reach the most people and elicit the greatest response. In some cases, you may want to choose specific newspapers to reach target audiences; find out what papers the affected community reads and place your notices there. Use a similar strategy for notices in the broadcast media. If you are giving notice via more than one media, you have more flexibility for reaching specific audiences. See the section on "Notice of the Pre-Application Meeting" in Chapter 3 for more information.

2. **Take into account publication schedules.** Many local or community newspapers are published on a weekly or bi-weekly basis. This may make it difficult to coordinate the publication of the notice with the event. In such a case, consider using a city-wide newspaper that is published more frequently. If the city-wide paper is not likely to reach all segments of the affected community, you should make efforts to supplement the newspaper notice with other means of notice (e.g., signs or broadcast media).

3. **Include the following information in the public notice:**

   - Name and address of the facility owner/operator;
   - A brief description of the business conducted at the facility and the activity that is the subject of the notice;
   - Name, address and telephone number of an individual who can be contacted for further information on the activity;
   - A brief description of the comment procedures and the date,

time, and place of any hearing;

- If the permit is issued by EPA, the location of the administrative record and the times when it is open for public inspection; and
- Any additional information considered appropriate.

Also, try to format the notice so that it is eye-catching. A logo can help.

4. **Announce dates, times, and locations clearly in the public notice.** When announcing an event such as a hearing, make sure that the date and time do not conflict with other public meetings, religious or non-religious holidays, or other important community events.

5. **Provide ample notice.** For RCRA permits, the public notice must allow at least 45 days for public comment. Public notice of a public hearing must be given at least 30 days prior to the hearing. Be sure to state the opening and closing dates for comment periods.

6. **If possible, review a typeset version of the notice before it is published to ensure accuracy.**

7. **Keep proof of the notice for your files.** Newspapers often can provide "tear sheets" as a record of the notice. Similar proofs are available from radio or television stations. You should consider keeping photgraphs of posted signs.

When to Use

The "Regulatory Requirements" section above reviews the mandatory public notices. In addition, agency personnel can use informal public notices to announce other major milestones or events in the permit review or corrective action process. Permitting agencies may also want to use public notices when they are establishing mailing lists. The facility must issue notices when it requests a permit modification, holds a pre-application meeting, or establishes an information repository.

Public notices can be useful for any organization involved in the RCRA permitting process. Whenever a public interest organization is planning an activity, or would like to supplement notices given by the facility or the agency, you may want to consider using one of the public notice methods in this manual. Notices can also help build your mailing lists.

Accompanying Activities

Public notices are used to announce **public comment periods** and **public hearings**. They can also be used to announce other meetings and milestones, opportunities to join the **mailing list**, as well as the availability of an **information repository**, **fact sheets**, or other permitting information.

Advantages and

Public notices are an efficient, simple means of alerting the public to

Limitations

important events. However, public notices should never substitute for other activities that involve direct communication with the public.

Public notices can be more effective, and provide more of a feedback loop, when they are combined with a means of gathering information from the public. Every notice should contain a **contact person** so that the public can direct comments or questions to the agency, the facility, or other stakeholder groups.

See "Description of Activity" above in this section for advantages and limitations of specific notice methods.

Checklist for Public Notices

- ___ Compile information to be included in the public notice:
  - ___ Name of agency overseeing the permit or corrective action
  - ___ Name, address, and phone number of contact person
  - ___ Facility owner/operator and description of facility activities
  - ___ Purpose of public notice
  - ___ If applicable provide the date, time, and location of public hearing (or meeting)
  - ___ Description of the procedures governing the public's participation in the process
- ___ Draft the public notice, announcement, or advertisement
- ___ Coordinate review of the draft public notice
- ___ Prepare final public notice
- ___ Receive final approval of public notice
- ___ Coordinate placement of the public notice in the local newspaper(s), coordinate distribution of the public notice to the facility mailing list, submission to radio/television stations or other publications (as applicable)

For publication in local newspaper(s):

Name of Newspaper	Publication Days	Advertising Deadline

- ___ Prepare procurement request or advertising voucher for public notice publication
- ___ Obtain price quotes (i.e., cost per column inch)
- ___ Determine size of public notice _____
- ___ Determine deadlines for publication of the public notice
- ___ Submit for publication
- ___ Request proof of publication; file proof in facility file

Checklist for Public Notices (continued)

For distribution to the mailing list:

__ Verify that facility mailing list is up-to-date

__ Produce mailing labels

__ Distribute to the mailing list

For broadcast on local radio/television stations:

___ Verify media list

___ Prepare procurement request or advertising voucher for public notice spots

___ Obtain price quotes

___ Distribute to stations

___ Request proof of airing and file in facility file

Translations

Regulatory Requirements

None. EPA strongly recommends using multilingual fact sheets, notices, and other information (as appropriate) to provide equal access to information in the permitting process.

Description of Activity

Translations provide written or oral information in a foreign language to a community with a significant number of residents who do not speak English as a first language. There are two types of translations:

- A written translation of materials originally written in English;
- A simultaneous verbal translation (i.e., word by word) of a public meeting or news conference, usually with small headsets and a radio transmitter.

Translations ensure that **all** community members are informed about activities at a facility and have the opportunity to participate in the decision-making process.

Level of Effort

The amount of time needed to translate a document depends on the length of the document and the complexity of the information in the document. You should allow at least several days for translation.

How to Conduct the Activity

To develop a successful translation:

1. **Evaluate the need** for a translation. Evaluate the demographic characteristics of the community as well as the type of public participation activities being planned. Consider whether citizens' ability to take part in an activity is limited by their inability to speak or understand English.

2. **Identify and evaluate translation services.** A successful translation depends on the skill of the translator. More problems may be created than solved if inaccurate or imprecise information is given. Many translators will not be familiar with the technical terms associated with hazardous materials and few, if any, will be familiar with the RCRA permitting and corrective action processes. This problem may be further compounded in the case of oral translations (especially simultaneous translations) as there is no time for review or quality control. Thus, it is necessary to contract someone with experience in translating technical information and check the translator's work to ensure that the content and tone are in keeping with the intent. You also need to ensure that the translator uses the same dialect as those in

your intended audience.

3. **Avoid the use of jargon or highly technical terms.** As a matter of standard practice, a staff member should go over in advance all technical and RCRA terms that may cause problems with the translator.

4. **For verbal presentations, public meetings, and news conferences, plan what to say ahead of time.** If the translator has a prepared written speech to work with in advance, there is more time to work out any vocabulary "bugs" and thereby reduce the chances of faltering over unfamiliar material or making inaccurate word choices. If possible, practice with the translator before the actual meeting or presentation date.

5. **Anticipate questions from the audience and reporters**, and have at least the technical aspects (e.g., chemical names, statistics) of the answers translated in advance.

When to Use

A translation can be used:

- When a signficant portion of the community does not speak English as a first language. A written translation should be provided for fact sheets or letters, unless a presentation or public meeting would be more appropriate (e.g., the literacy rate among the foreign-speaking community is low).
- Verbal translations are recommended where there is considerable concern over the facility, extreme hostility, or suspicion of the agency's efforts to communicate with community members.

Accompanying Activities

The need for translations is often determined during the community assessment and **community interviews**. Translations are generally used for **fact sheets, public notices, presentations, public meetings, public hearings**, and **news conferences**.

Advantages and Limitations

Written translations and use of translators ensure that a greater number of community members can participate effectively in the process and, therefore, provide input to decisions concerning the RCRA-regulated process. This effort assures the community of your organization's sincerity in providing opportunity for public participation.

Translations are very costly, especially simultaneous translations of public meetings. Sentence-by-sentence oral translations frequently double the length of public meetings, and may make information more difficult to present effectively and smoothly. In addition, very few translators are familiar with the RCRA permitting and corrective action processes. For

facilities having highly volatile or sensitive problems, it may be difficult to communicate your organization's position and involve community members in a constructive dialogue.

Checklist for Translations

- ___ Determine need for translations
- ___ Identify translation service or identify staff to provide translating services
- ___ Fact sheet translations
  - ___ Provide English text (including text for graphics, headlines, fact sheet flag)
- ___ Meeting translations
  - ___ Determine if translation will be simultaneous or if translations will occur following statements.
  - ___ If simultaneous, provide audio equipment for translator/participants
  - ___ Prepare list of technical and RCRA terms that will need to be translated
  - ___ Prepare, in advance with the translator, presentations, responses to questions

Mailing Lists

Regulatory Requirements

The permitting agency must establish and maintain the facility mailing list in accordance with § 124.10(c)(1)(ix). The agency must develop the list by: (a) including people who request in writing to be on the list; (b) soliciting persons for "area lists" from participants in past permit proceedings in that area; and (c) notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as Regional- and State-funded newsletters, environmental bulletins, or State law journals.

Description of Activity

Mailing lists are both important databases and essential communication tools. Mailing lists ensure that concerned community members receive relevant information. They allow messages to reach broad or targeted audiences. The better the mailing list, the better the public outreach and delivery of information. Mailing lists typically include concerned residents, elected officials, appropriate federal, state, and local government contacts, local media, organized environmental groups, civic, religious and community organizations, facility employees, and local businesses.

It is recommended that you develop an internal distribution list at the same time you prepare your external mailing list. The distribution list for permitting agencies should include all technical project staff, public involvement staff, legal staff, and staff from other affected programs (Air, Water, etc.), as appropriate. This list will help ensure that all relevant project staff receive the same information about all phases of the project. Facilities and community organizations should follow similar procedures to keep their staffs and members informed.

Level of Effort

A mailing list can be developed in conjunction with other public participation activities. Depending on the size of the list, inputting information into a data base can take several days. Updating will require approximately half a day per quarter.

How to Conduct the Activity

To develop and update a mailing list, consider the following:

1. **Solicit names, addresses, and phone numbers of individuals** to be included on the list. This should include individuals who put their names and addresses on the sign-in sheet at the pre-application meeting, if applicable. Telephone numbers are useful to have so that you can contact these individuals for community interviews and to aid you when you update your list.

   Individuals to include in your mailing list:

- The people interviewed during community interviews, as well as other names these people recommend;
- All nearby residents and owners of land adjacent to the facility;
- Representatives of organizations with a potential interest in an agency program or action (e.g., outdoor recreation organizations, commerce and business groups, professional/trade associations, environmental and community organizations, environmental justice networks, health organizations, religious groups, civic and educational organizations, state organizations, universities, local development and planning boards, emergency planning committees and response personnel, facility employees);
- Any individual who attends a public meeting, workshop, or informal meeting related to the facility, or who contacts the agency regarding the facility;
- Media representatives;
- City and county officials;
- State and Federal agencies with jurisdiction over wildlife resources;
- Key agency officials; and
- The facility owner/operator.

2. **Review background files** to ensure all interested individuals are included on the mailing list.

3. **Input information into a computer system** so that it can be categorized and sorted and printed on mailing labels.

4. **Send a letter or fact sheet to the preliminary mailing list developed using 1) and 2) above.** Inform key Federal, State, and local officials, citizens, and other potentially interested parties of your activities and the status of upcoming permit applications or corrective actions. Ask whether they wish to receive information about this facility. Ask them for accurate addresses and phone numbers of other people who might be interested in the project.

5. **Update your mailing list** at least annually to ensure its correctness. Mailing lists can be updated by telephoning each individual on the list, and by using local telephone and city directories as references. The permitting agency can update the official mailing list from time to time by requesting written indication of continued interest from those

listed. The agency can then delete any people who do not respond (see § 124.10(c)(1)(ix)(C)).

See the section on "The Facility Mailing List" in Chapter 3 for more information.

When to Use

A mailing list is a required public participation activity for permitting. Additional people may want to join the list if corrective action will take place at a facility. Public interest groups or other involved organizations often have mailing lists.

- Develop a mailing list as soon as possible during the permit application phase, or as soon as the need for a RCRA Facility Investigation is identified.
- Update the mailing list regularly.

Develop a distribution at the same time you develop a mailing list.

Accompanying Activities

Mailing lists are useful in identifying individuals to contact for community interviews. They are also needed to distribute **fact sheets** and other materials on the facility. **Public notices** and sign-up sheets at **public meetings** or **information repositories** can help you build mailing lists.

Advantages and Limitations

Mailing lists provide the names of individuals and groups interested in activities at RCRA facilities. However, lists can be expensive and time-consuming to develop, and they require constant maintenance.

Checklist for Mailing Lists

Mailing List Development:

- ___ Verify the list format (i.e., name, title, company, address, phone number)
- ___ Consider issuing a public notice to solicit names for the mailing list
- ___ Identify people to be included on the list:
  - ___ People who signed the attendance sheet at the pre-application meeting (if applicable)
  - ___ City elected officials (mayor and council)
  - ___ City staff and appointees (city manager, planning director, committees)
  - ___ County elected officials (supervisors)
  - ___ County staff and appointees (administrator, planning director, health director, committees)
  - ___ State elected officials (senators, representatives, governor)
  - ___ State officials (health and environment officials)
  - ___ Federal elected officials (U.S. Senators, U.S. Representatives)
  - ___ Federal agency officials (EPA)
  - ___ Residents living adjacent to facility
  - ___ Other interested residents
  - ___ Media
  - ___ Business groups of associations
  - ___ Businesses possibly affected by the facility (i.e., located down-wind of facility)
  - ___ The facility owner/operator
  - ___ Consultants working on the project or related projects
  - ___ Local environmental groups
  - ___ Other civic, religious, community, and educational groups (e.g., League of Women Voters, government associations, churches, homeowners and renters associations)
  - ___ State and Federal Fish and Wildlife Agencies

Checklist for Mailing Lists (continued)

__ Have list typed

__ Prepare mailing list

__ Store on computer data base

Mailing List Updates:

__ Verify names/addresses by searching telephone directory

__ Verify names/addresses by searching city directory

__ Verify names/addresses by calling each individual

__ Consider issuing a notice asking for written indication of continued interest (§ 124.10(c)(1)(ix)(C))

Notices of Decision

Regulatory Requirements

RCRA requires the permitting agency to issue a notice of decision to accompany the final permit decision (under § 124.15 procedures). The agency must send the notice to the permit applicant and to any person who submitted written comments or requested notice of the final permit decision (§ 124.15). Note that Class 3 modifications and the corrective action final remedy selection also follow § 124.15 procedures and require a Notice of Decision.

Description of Activity

A notice of decision presents the agency's decision regarding permit issuance or denial or modification of the permit to incorporate changes such as the corrective action remedy.

Level of Effort

A notice of decision may take several days to write and review, depending on the complexity. Allow time for several rounds of revisions. If you need to develop graphics, such as site maps, allow time to produce the graphics.

How to Conduct the Activity

The notice should briefly specify the agency's final decision and the basis for that decision. The notice must also refer to the procedures for appealing a decision. Notices of decision must be sent to the facility owner/operator (permit applicant) and each person who submitted written comments or requested notice of the final permit decision. You may want to send the notice to other interested parties as well. Final permits generally become effective 30 days after the notice of decision.

When to Use

- When a permit decision has been finalized following the 45-day public comment period;
- When the permitting agency makes its final decision regarding a permit modification.

Accompanying Activities

A **response to comments** document must be issued at the same time the final permit decision is issued.

Advantages and Limitations

The notice of decision provides a clear, concise public record of the decision. However, the notice of decision should not be a substitute for other activities that involve direct two-way communication with the public.

Checklist for Notices of Decision

- ___ Determine contents of the notice of decision
  - ___ Decision made and basis for that decision
  - ___ Information on appeal procedures
- ___ Coordinate writing the notice with technical and legal staff
  - ___ Technically accurate
  - ___ Satisfies statutory requirements
  - ___ Provides the public with all necessary information in a clear and concise manner
- ___ Coordinate internal review of notice of decision
- ___ Prepare final notice of decision based on internal review comments
- ___ Notify the facility owner/operator and anyone who submitted written comments or requested notice of the final decision
- ___ Notify other interested parties of the decision
- ___ Place copy of the notice of decision in the administrative record and the information repository (if one exists)

Introductory Notices

Regulatory Requirements

While EPA regulations do not specifically require an introductory notice, § 124.32 provides for an agency notice at the time of application submittal. Permitting agencies may want to consider the guidance in this section (in addition to the § 124.32 requirements) when preparing the notice at application submittal. Chapter 3 provides guidance specifically for the notice at application submittal.

Description of Activity

An introductory notice explains the agency's permit application review process or the corrective action process and the opportunities for public participation in that process.

Level of Effort

The amount of time needed to prepare an introductory notice is based on whether the notice is prepared as a public notice or a fact sheet. If prepared as a public notice, allow a day or two for writing, review, and placement in newspapers and other media. If prepared as a fact sheet, allow several days to a week to write and review, depending on the layout and graphics used, and several days for printing.

How to Conduct the Activity

To prepare an introductory notice:

1. **Determine the best method to explain the permit application review or corrective action process.** An introductory notice can be presented as a public notice, a fact sheet, or a flier distributed to the facility mailing list.

2. **Prepare and distribute the notice.** Coordinate the writing and distribution of the notice with technical project staff. Take care to write the notice avoiding technical terms and jargon.

3. **Include an information contact.** Provide the name, address, and phone number of a contact person who the public can call if they have questions or need additional information about the facility. You might add a return slip to the notice for people to complete and return to your organization if they would like additional information or to be placed on a mailing list.

When to Use

An Introductory Notice can be used:

- When you find the community knows little or nothing about the RCRA process; and

- When you need to notify the public of how they can become involved in the RCRA process.

Accompanying Activities

Informal meetings, availability sessions/open houses, or **workshops** may be conducted following release of the notice.

Advantages and Disadvantages

An introductory notice informs the public about the agency's permit application review process and how they can be involved in the process. However, the notice is a one-way communication tool. A **contact person** should be identified in the notice so that interested members of the community can call this person if they have questions.

Checklist for Introductory Notices

- ___ Determine how you will distribute the notice.
  - ___ Public notice in newspaper
  - ___ Fact sheet or flier sent to the mailing list
- ___ Prepare draft introductory notice
- ___ Include name and phone number of a contact person
- ___ Coordinate internal review of introductory notice
- ___ Write final introductory notice based on comments received during the internal review
- ___ Verify facility mailing list is up-to-date
- ___ Request mailing labels
- ___ Distribute introductory notice

Fact Sheets/ Statements of Basis

Regulatory Requirements

EPA's regulations require the agency to develop a fact sheet or a statement of basis to accompany the draft permit. The agency will develop a fact sheet for any major hazardous waste management facility or facility that raises significant public interest (§ 124.8). The agency must prepare a statement of basis for every draft permit for which a fact sheet is not prepared (§ 124.7). Note that these requirements also apply to Class 3 modifications and agency-initiated modifications (such as the agency may use at remedy selection), which must follow the part 124 procedures. Specific requirements for these activities are described below under "How to Conduct the Activity."

Description of Activity

RCRA-required fact sheets and statements of basis summarize the current status of a permit application or corrective action. This required fact sheet (or statement of basis) is probably different than the commonly-used informational fact sheets that most people recognize. The required fact sheet must explain the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. They can vary in length and complexity from simple two-page documents to 12-page documents complete with graphic illustrations and glossaries.

The agency and other stakeholder groups may find it useful to develop other fact sheets to be used in public participation activities. These informal/informational fact sheets can explain difficult aspects of the permitting process or provide technical information in language that an ordinary person can understand. These fact sheets may come in many different varieties and levels of detail.

Fact sheets are useful for informing all interested parties about the basis for the permitting agency's decision regarding a facility permit or proposed corrective action activities. They ensure that information is distributed in a consistent fashion and that citizens understand the issues associated with RCRA programs.

Statements of basis are generally shorter than fact sheets and summarize the basis for the Agency's decision. Statements of basis are often used in the corrective action program to summarize the information contained in the RFI/CMS reports and the administrative record. They are designed to facilitate public participation in the remedy selection process by:

- Identifying the proposed remedy for a corrective action at a facility and explaining the reasons for the proposal.

- Describing other remedies that were considered in detail in the RFI and CMS reports.

- Soliciting public review and comment on all possible remedies considered in the RFI and CMS reports, and on any other plausible remedies.

- Providing information on how the public can be involved in the remedy selection process.

In emphasizing that the proposed remedy is only an initial recommendation, the statement of basis should clearly state that changes to the proposed remedy, or a change from the proposed remedy to another alternative, may be made if public comments or additional data indicate that such a change would result in a more appropriate solution. The final decision regarding the selected remedy(ies) should be documented in the final permit modification (if applicable) with the accompanying response to comments after the permitting agency has taken into consideration all comments from the public.

Level of Effort

Fact sheets and statements of basis may take from two days to two weeks to write, depending on their length and complexity. Allow time for several rounds of revisions. Allow three days for printing. (Short Cut: Use already developed RCRA templates with graphics that are on file at your agency).

How to Conduct the Activity

The first step in preparing a fact sheet is to [illegible] the information to be presented. EPA decisionmaking regulati[illegible] that RCRA permit fact sheets contain the following types of i[illegible]

- A brief description of the type [illegible] ctivity which is the subject of the draft permit;

- The type and quantity of wastes [illegible] he permit;

- A brief summary of the basis fo[illegible] rmit conditions and the reasons why any variances or al[illegible] he proposed standards do or do not appear justified;

- A description of the procedures for reaching a final decision, including the beginning and ending dates of the public comment period and the address where comments can be sent, and procedures for requesting a public hearing; and

- Name and telephone number of a person to contact for additional information.

A statement of basis is prepared the same way as a fact sheet. The

statement of basis summarizes essential information from the RFI and CMS reports and the administrative record. The RFI and CMS reports should be referenced in the statement of basis. The statement of basis should:

- Briefly summarize the environmental conditions at the facility as determined during the RFI.
- Identify the proposed remedy.
- Describe the remedial alternatives evaluated in sufficient detail to provide a reasonable explanation of each remedy.
- Provide a brief analysis that supports the proposed remedy, discussed in terms of the evaluation criteria.

Select a simple format for presenting the information. Avoid using bureaucratic jargon, acronyms, or technical language in the text, and be concise.

Use formatting techniques to make the fact sheet or statement of basis more interesting and easy-to-read. People are less likely to read a fact sheet or statement of basis consisting of a solid sheet of typed text than one with clear, informative illustrations. Moreover, a well-designed document suggests that the permitting agency takes its public participation program seriously.

Coordinate the production of these documents with technical project staff. Technical staff should review them to ensure that the information conveyed is accurate and complete. Outreach staff should review them to ensure that the communication goals are being met.

Arrange for printing and distribute copies of the fact sheet or statements of basis to the mailing list, place extra copies at the information repository, and distribute additional copies at public meetings and hearings.

When to Use

While fact sheets/statements of basis are required for draft permits, they can also be helpful at other times in the permitting and corrective action processes:

- During technical review of the permit application;
- At the beginning of a RCRA facility investigation;
- When findings of the RCRA facility investigation are available;
- When the corrective action is completed; and
- When the Notice of Decision is released.

In addition, fact sheets can be written to explain a facility inspection or emergency action, a new technology, or a community-based activity.

Fact sheets and statements of basis can be particularly useful in providing background information prior to a public meeting or public hearing.

Accompanying Activities

Fact sheets and statements of basis are generally used in conjunction with the **mailing list**, **public notices**, **public comment periods**, and **public meetings** and **hearings**. However, as stated above, they can be helpful at almost any stage in the permitting or corrective action processes.

Advantages and Limitations

Fact sheets and statements of basis are effective in summarizing facts and issues involved in permitting and corrective action processes. They communicate a consistent message to the public and the media. Produced throughout the permitting or corrective actions processes, they serve to inform the public about the regulatory process as well as the technical RCRA issues and can aid in creating a general community understanding of the project. They are relatively inexpensive and can be distributed easily and directly to the mailing list. In addition, fact sheets and statements of basis can be tailored to meet specific information needs identified during community assessments.

However, a poorly written fact sheet or statement of basis can be misleading or confusing. Documents of this type that are not written in an objective style can be perceived as being too "persuasive" and considered "propaganda" by mistrusting communities. Remember that fact sheets and statements of basis are a one-way communication tool, and therefore should always provide the name and telephone number of a contact person to encourage comments and questions.

Checklist for Fact Sheets/Statements of Basis

- ___ Determine purpose and focus of fact sheet or statement of basis
- ___ Develop outline
  - ___ Organize contents in a logical manner
  - ___ Determine appropriate graphics
- ___ Verify mailing list is up-to-date
- ___ Request mailing labels
- ___ Coordinate preparation of fact sheet or statement of basis with technical staff as appropriate
  - ___ Draft text
  - ___ Draft graphics
  - ___ Draft layout
  - ___ Place mailing coupon on reverse side of mailing label
- ___ Coordinate internal review of fact sheet or statement of basis
- ___ Incorporate revisions into final fact sheet or statement of basis
- ___ Proofread final fact sheet or statement of basis
- ___ Arrange printing of fact sheet or statement of basis
  - ___ Select paper weight, ink color, and color paper
- ___ Print fact sheet or statement of basis
- ___ Distribute fact sheet or statement of basis to the mailing list and place additional copies in the repository

Project Newsletters and Reports

Regulatory Requirements

None.

Description of Activity

Project newsletters and reports are means of direct communication that keep interested people informed about corrective action and permitting activities. Both publications provide a level of project detail that is not usually available from the news media. A project newsletter uses a reader-friendly, news-based format to provide regular updates on activities in the permitting process and actions taking place at the facility. Project reports may include official technical reports or other environmental documents and studies related to a particular facility. Sending these reports directly to key stakeholders can spread information more effectively than simply placing the documents in an information repository.

Level of Effort

Newsletters can require significant amounts of staff time and resources to write, copy, and distribute. Direct transmission of reports will require less staff time, but may cost more to copy and distribute.

How to Conduct the Activity

To provide a project newsletter or project reports:

1. **Assign a staff person to produce the newsletter.** Instruct project staff to direct relevant information and reports to this person.

2. **Decide on a format and style for the newsletter.** Evaluate the resources you have available for the newsletter and decide what type of newsletter you will produce. Keep in mind that a visually-attractive newsletter with plenty of graphics and simple language is more likely to be read. Avoid bureaucratic or technical jargon. The newsletter should contain real news that is useful to people. Since people who are not familiar with the project may pick up the newsletter, write it so that first-time readers can understand it.

3. **Provide for review.** Permitting agencies, in particular, will want to ensure the credibility of their newsletters by making sure that they are objective. In such cases, you may consider asking a **citizen advisory group**, a consultant, or a non-partisan civic group (e.g., the League of Women Voters), to review the document. If the public has concerns over the credibility of your organization, it may be beneficial for the citizens advisory group or a neutral body to produce the newsletter. An objective newsletter should candidly report all developments at the facility.

4. **Summarize detailed reports.** If you are distributing a technical report, you should consider including a summary. Another option is to include findings in the project newsletter and allow people to send in a clip-out request form or contact your staff for copies of the full report.

5. **Check your mailing list.** Make sure that your mailing list is up to date and includes all interested stakeholders and media contacts (see the section on **Mailing Lists** above).

6. **Update your mailing list.** Project newsletters may continue for a number of years. You should consider updating your mailing list by including an "address-currency" card in the newsletter on a regular basis (e.g., once a year). By sending in this card, people will continue to receive the newsletter.

When to Use

Project newsletters and reports can provide detailed information about a facility that is not usually available in the media. These methods may be most useful when:

- there is a high level of public interest in a facility;
- when many citizens do not have access to an information repository, or a repository has not been established;
- you would like to maintain project visibility during extended technical studies; or
- presenting the results of detailed studies through a newsletter will better inform the public.

Accompanying Activities

A **mailing list** is essential for distribution of reports and newsletters. You should consider **availability sessions, open houses**, or **informal meetings** to explain the results of detailed reports and studies. Always include a **contact person** in the newsletter or report.

Advantages and Limitations

Newsletters and project reports are useful ways to disseminate important information to stakeholders. Making reports widely available can enhance their credibility.

Newsletters may require significant amounts of staff time and resources. Direct distribution of technical reports may create confusion if they are not accompanied by a summary.

Checklist for Project Newsletters and Reports

- ___ Assign a staff person to be in charge of producing the newsletter or reports
- ___ Direct the project staff (e.g., through a memo) to forward all relevant project information to the newsletter director
- ___ Decide on format, style, and frequency of distribution
- ___ Draft the newsletter
- ___ Review the newsletter for content, style, simple language, and visual appeal
- ___ (If applicable) Send the newsletter to an assigned neutral party for review
- ___ If you produce detailed project studies or reports, write a summary in simple language and attach to the report or include the summary in the newsletter
- ___ Distribute the newsletter to the mailing list
- ___ Update the mailing list on a regular basis

Response to Comments

Regulatory Requirements

According to § 124.17, the permitting agency must prepare a response to comments at the time that it issues a final permit decision. The agency will also issue a response to comments when making final decisions on requested Class 2 and 3 permit modifications under § 270.42 and agency-initiated modifications under § 270.41.

Description of Activity

A response to comments identifies all provisions of the draft permit or modification that were changed and the reasons for those changes. It also briefly describes and responds to all significant comments on the draft permit that were received during the public comment period.

The response to comments should be written in a clear and understandable style so that it is easy for the community to understand the reasons for the final decision and how public comments were considered.

Level of Effort

A response to comments can be a time-intensive activity because of the large amount of organization, coordination, and review needed. On average, allow several hours per comment for completion, as some questions may take only a few minutes to answer while others may involve in-depth technical and legal responses. In general, preparing response to comments documents can take from several days for low-interest facilities to several weeks for high-interest facilities.

How to Conduct the Activity

There is no required format for preparing response to comments documents. However, several EPA Regions have adopted a two part approach:

- Part I is a summary of commenters' major issues and concerns and expressly acknowledges and responds to those issues raised by the local community. "Local community" means those individuals who have identified themselves as living in the immediate vicinity of a facility. These may include local homeowners, businesses, the municipality, and facility employees. Part I should be presented by subject and should be written in a clear, concise, easy to understand manner suitable for the public.

- Part II provides detailed responses to all significant and other comments. It includes the specific legal and technical questions and, if necessary, will elaborate with technical detail on answers covered in Part I. It also should be organized by subject.

Think of Part I as a type of fact sheet for the detailed responses provided in Part II. Because both parts deal with similar or overlapping issues, the response to comments should state clearly that any points of conflict or ambiguity between the two parts shall be resolved in favor of the detailed technical and legal presentation in the second part.

In order to effectively address all public comments, closely coordinate the preparation of responses with appropriate legal and technical staff. Also, it is important to be certain that all comments are addressed. A system of numbering all comments as they are received and referring to these numbers in all internal drafts of the response document may help keep track of them. Computer databases are a good way to keep track of and arrange the comments.

In addition, the Response to Comments should include a summary that discusses the following:

- The number of meetings, mailings, public notices, and hearings at which the public was informed or consulted about the project;
- The extent to which citizen's views were taken into account in decision-making; and
- The specific changes, if any, in the project design or scope that occurred as a result of citizen input.

Response to comments documents must be sent to the facility owner/operator and each person who submitted written comments or requested notice of the final permit decision.

When to Use

A response to comments is required for all final permit decisions and decisions on class 2 and 3 modifications..

Accompanying Activities

A response to comments usually accompanies the **notice of decision**.

Advantages and Limitations

A response to comments provides a clear record of community concerns. It provides the public with evidence that their input was considered in the decision process. The summary also is an aid in evaluating past public participation efforts and planning for subsequent activities.

Comments may be difficult to respond to at times, like when the public raises new issues, questions, or technical evidence during the public comment period. The permitting agency may need to develop new materials to respond to these questions.

Checklist for Response to Comments

- ___ After reviewing comments, determine organization of document
  - ___ Determine groups, subgroups of comments
  - ___ Where applicable, paraphrase and summarize comments
- ___ Write a response for each comment, group or subgroup of comments
- ___ Prepare an introductory statement including:
  - ___ A summary of the number and effectiveness of meetings, mailing, public notices, and hearings at which the public was informed or consulted about the project
  - ___ The numbers and kinds of diverse interests which were involved in the project
- ___ Prepare a summary statement including:
  - ___ The extent to which citizen's views were taken into account in decision-making
  - ___ The specific changes, if any, in the project design or scope that occurred as a result of citizen input.
- ___ Coordinate internal review of the Response to Comments with all necessary departments (public affairs, technical, legal)
- ___ Prepare final Response to Comments
- ___ Distribute Response to Comments to:
  - ___ Information Repository
  - ___ Facility owner/operator
  - ___ Each individual who makes written or oral comments
  - ___ Individuals who asked to receive the Response to Comments
  - ___ Appropriate agency officials
  - ___ Administrative Record

Information Repositories

Regulatory Requirements

EPA regulations authorize the permitting agency to require a facility to establish an information repository during the permitting process (§ 124.33) or during the active life of a facility (§ 270.30).

Description of Activity

An information repository is a collection of documents related to a permitting activity or corrective action. A repository can make information readily available to people who are interested in learning about, or keeping abreast of, RCRA activities in or near their community.

Information repositories are not mandatory activities in every situation. As mentioned above, RCRA regulations give the permitting agency the authority to require a facility to set up and maintain an information repository. The agency does not have to require a repository in every case; it should use its discretion. Additionally, a facility or an environmental group may voluntarily set up a repository to make it easier for people in the community to access information.

The size and location of the repository will depend on the type of permitting activity. The regulations allow the permit applicant or permittee to select the location for the repository, as long as it is in a location that is convenient and accessible to the public. If the place chosen by the facility does not have suitable access, then the permitting agency can choose a more suitable location. EPA encourages the facility and the agency to *involve the public when suggesting a location for the repository -- the potential users of the facility are best qualified to tell you if it's suitable.* See #1 under "How to Conduct the Activity" below.

The information that actually goes in the repository can differ from case to case, depending on why the repository was established. If the agency requires a facility to establish the repository, then the agency will set out the documents and other information that the facility must include in the repository. The agency will decide what information will be most useful according to the specifics of the case at hand. For instance, multi-lingual fact sheets and other documents will be most appropriate in situations where there are many non-English-speakers in an affected community. Similarly, if the community needs assistance in understanding a very technical permitting situation, then the agency and the facility should provide fact sheets and other forms of information that are more accessible to the non-technical reader. See #2 under "How to Conduct the Activity" below.

The permitting agency should assess the need, on a case-by-case basis, for an information repository at a facility. When doing so, the agency has to

consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. Since any of these other factors may indicate that the community already has adequate access to information, and since repositories can be resource-intensive, permitting agencies should use this authority only in cases where the community has a true need for additional access to information.

For example, in determining levels of public interest the agency staff will want to consider: What kind of turnout has there been at public meetings? What kind of responses during community interviews? What level of media attention? How many inquiries have been coming in? What levels of community involvement have there been in previous facility and/or local environmental matters? If another repository already exists, can it be augmented with materials to meet the information needs of the permit or corrective action at hand? Is it located in a convenient and accessible place? [Note: If a facility has an existing repository that does not completely satisfy the need that the agency identifies, then the agency may specify additional steps that the facility must take to make the repository meet the public need.]

Is the nearest copy of the administrative record "close enough"? The answer to this question could depend on a few things. Ask yourself some other questions first. For example: Can people get there by public transportation or only by a personal vehicle (i.e, by car or taxi)? Do most people in the community rely on public transportation, or do most people have and use their own cars? Apart from whether it is accessible by public transportation or personal vehicle, how long is the trip? Is the administrative record available for review on weekends or after business hours?

Level of Effort

Depending on the amount of available documentation, the information repository may take a week to establish, including compiling and indexing documents and arranging for placement in a library or other location. Updating may take a day or two every quarter. A public notice announcing the availability of the information repository may take between a day to write, review, and place in newspapers or send to the mailing list.

How to Conduct the Activity

To establish an information repository:

1. **Determine a suitable location.** For repositories established under §§ 124.33 or 270.30, the initial choice of location is made by the facility. If the agency decides that the facility-proposed location is not suitable, then the agency will suggest another location.

   Whether required or established voluntarily, the repository should be be convenient and accessible for people in the community. Whoever

establishes the repository should consider, in particular, locations suggested by community residents. Typical locations include local public libraries, town halls, or public health offices.

A facility may choose to set up the repository at its own offices. Before doing so, the facility owner or operator should discuss his or her intent with community representatives and/or the agency. It is important to confirm that people are comfortable about coming onto facility property and trust that you will properly maintain the information in the repository.

Facility owners and operators should be sensitive to the concern that some citizens have about repositories that are on facility property. Some people do not feel comfortable when they need to attend a meeting or a function on the facility grounds. If the members of your community may feel uncomfortable at the facility, then you should make all efforts to establish the repository at a suitable off-site location. All repositories should be in a location where its users will feel comfortable when accessing information.

In evaluating potential sites for the repository, there are several factors to consider. The location should have adequate access for disabled users, should be accessible to users of public transportation (where applicable), and should be open after normal working hours at least one night a week or on one weekend day. Repositories should be well lit and secure.

A facility should also ensure that someone in its company and someone at the repository location are identified as the information repository contacts -- to make sure that the information is kept up-to-date, orderly and accessible.

Depending on the level of community concern, or the location of the facility relative to the surrounding communities, more than one repository may be desirable. For example, if a county seat is several miles from the RCRA-regulated facility, and county officials have expressed a strong interest in the facility, two repositories may be advisable: one in the community closest to the facility, and the other in the county seat.

2. **Select and deposit the materials to be included in the repository.** For repositories established under EPA's regulations, the permitting agency will decide, on a case-by-case basis, what documents, reports, data, and information are necessary to help the repository fulfill its intended purposes, and to ensure that people in the community are provided with adequate information. The agency will provide a list of the materials to the facility. The agency has the discretion to limit the contents of repositories established under §§ 124.33 and 270.30. While there is no outright ban on materials, EPA encourages

regulators to ensure that repository materials are relevant and appropriate.

Facilities, permitting agencies, and public interest groups may decide to establish repositories aside from those required by regulation. Whoever establishes a repository should consult the public regarding what materials would be most useful to members of the surrounding community. EPA encourages parties to place substantive and appropriate materials in the repository.

If you are establishing an information repository, you should consider including the following documents:

- Background information on the company or facility;
- Fact sheets on the permitting or corrective action process;
- Meeting summary from the pre-application meeting (if one was conducted);
- Public involvement plan (if developed);
- The draft permit;
- Reports prepared as part of the corrective action investigations, including the RCRA Facility Assessment (RFA), the RCRA Facility Investigation (RFI), and the Corrective Measures Study (CMS);
- Fact sheets prepared on the draft permit or corrective action plan;
- Notice of decision;
- Response to comments;
- Copies of relevant RCRA guidance and regulations;
- A copy of the Cooperative Agreement, if the state is the lead agency for the project;
- Documentation of site sampling results;
- Brochures, fact sheets, and other information about the specific facility (including past enforcement history);
- Copies of news releases and clippings referring to the site;
- Names and phone numbers of a contact person at the facility and at the permitting agency who would be available to answer questions people may have on the materials in the repository; and
- Any other relevant material (e.g., published studies on the potential risks associated with specific chemicals that have been found stored at the facility).

You should organize the documents in binders that are easy to use and convenient for the on-site repository host. For projects that involve a large number of documents, separate file boxes should be provided as a convenience to the repository host to ensure that the documents remain organized.

3. **Publicize the existence of the repository.** For repositories required under RCRA regulations, the permitting agency will direct the

facility, at a minimum, to announce the repository to all members of facility mailing list. If you establish a repository aside from EPA's regulations, you should be sure to notify local government officials, citizen groups, and the local media of the location of the project file and hours of availability. Newsletters of local community organizations and church groups are another means of notifying the public.

4. **Keep the repository up-to-date by sending new documents to it as they are generated.** If the permitting activity is controversial or raises a lot of community interest, you should consider providing several copies of key documents so that community members can check them out for circulation. For repositories required under RCRA regulations, the facility is responsible for updating the repository with new documents and maintaining the documents in the repository.

When to Use

An information repository is recommended:

- When the agency requires the facility to establish an information repository. In making its determination, the agency will consider relevant factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record; and

- When interest in the facility is high and the public needs convenient access to relevant facility documents.

Accompanying Activities

The contact person(s) should be responsible for making sure that all relevant materials have been filed in the repository.

If you establish a repository, you may want to consider setting aside time at the repository to periodically staff a "walk-up" **information table**. An information table would entail having a representative from your organization, the permitting agency, or both, available to answer questions that repository visitors may have. You may decide to establish the information table on a routine basis (for example, once a month) or at key milestones in the permitting or corrective action process (for example, after a draft permit decision or completion of the RFI).

Advantages and Limitations

An information repository provides local officials, citizens, and the media with easy access to accurate, detailed, and current data about the facility. It demonstrates that your organization is responsive to citizens' needs for comprehensive information on the facility.

An information repository is a one-way communication tool and does not

allow for interaction between citizens and your organization (unless used in conjunction with a "walk-up" information table). The information repository may also include technical documents, which may be difficult for citizens to understand.

Checklist for Information Repositories

[Note: this checklist contains all the steps for information repositories required under §§ 124.33 and 270.30. Anyone who is establishing a repository apart from these requirements should check above in this section to find out which steps apply].

- ___ Determine location of Information Repository; check with agency
- ___ Establish contact with the director of the location determined above
- ___ Mail a letter to the permitting agency confirming the location of the Information Repository
- ___ Agency will mail a list of required documents to the facility
- ___ Collect and compile the documents to include in the Information Repository
  - ___ Documents sequentially numbered
  - ___ Index prepared
  - ___ Documents placed in notebooks
- ___ Deliver documents to location determined above
  - ___ Have location director sign a letter/memo acknowledging receipt of the documents
- ___ Send a notice to the facility mailing list indicating the availability of the Information Repository; provide additional means of notice (e.g., newspaper, broadcast media) as appropriate
- ___ Update the Information Repository as key public documents are available and at key technical milestones

Exhibits

Regulatory Requirements

None.

Description of Activity

Exhibits are visual displays such as maps, charts, diagrams, photographs, or computer displays. These may be accompanied by a brief text explaining the displays and the purpose of the exhibit. Exhibits provide a creative and informative way to explain issues such as health risks or proposed corrective actions. They make technical information more accessible and understandable.

Level of Effort

Exhibits may take from one day to one week to write, design and produce depending on the complexity of the exhibit. Computer software production will take longer. Allow time for review of the exhibit's design and concept.

How to Conduct the Activity

To develop and display an exhibit:

1. **Identify the target audience.** Possible audiences include:

   - General public;
   - Concerned citizens;
   - Environmental/Public Interest groups;
   - Media representatives; and
   - Public officials.

2. **Clarify the subject.** Possible subjects include:

   - The RCRA program or the permit or corrective action process;
   - Historical background on the facility;
   - Public participation activities;
   - Corrective action or waste management technologies; and
   - Health and safety issues associated with the facility.

3. **Determine where the exhibit will be set up.** If the general public is the target audience, for example, assemble the exhibit in a highly visible location, such as a public library, convention hall, or a shopping center. If concerned citizens are the target audience, set up a temporary exhibit at a **public meeting, availability session/open house,** or **an informal meeting**. An exhibit could even be as simple as a bulletin board at the site or staff trailer.

4. **Design the exhibit and its scale according to the message to be transmitted.** Include photos or illustrations. Use text sparingly.

When to Use

Exhibits can be used:

- When level of interest in the facility is moderate to high;
- When information to be conveyed can be explained graphically;
- When staff time is limited and the audience is large;
- When a display can enhance other information being distributed; and
- When displays will be useful over long periods of time and at different facilities (e.g., generic posterboards on RCRA process).

Accompanying Activities

Exhibits are useful at **public meetings**, **public hearings**, and **availability sessions/open houses**. If an **observation deck** is installed at a site, a nearby exhibit could explain corrective action or compliance activities under way.

Advantages and Limitations

Exhibits tend to stimulate public interest and understanding. While a news clipping may be glanced at and easily forgotten, exhibits have a visual impact and leave a lasting impression. Exhibits also can convey information to a lot of people with a low level of effort.

Although exhibits inform the public, they are, for the most part, a one-way communication tool. One solution to this drawback is to attach blank postcards (**surveys**) to the exhibit, encouraging viewers to comment or submit inquiries by mail to the agency. Another approach is to leave the phone number of the **contact person** who can answer questions during working hours. However, these requests must be answered or citizens may perceive the agency as unresponsive to their concerns. Finally, computer touch screens can provide some feedback by answering common questions about an exhibit.

Checklist for Exhibits

- ___ Determine purpose, use of exhibit
  - ___ Identify the audience
  - ___ Clarify the message
  - ___ Determine where and how the exhibit will be displayed
    - ___ Free-standing
    - ___ Table-top display
    - ___ Will the exhibit need to be easily transported?
- ___ Coordinate design and construction with public involvement coordinator (and contractors, if available)
  - ___ Write copy
  - ___ Determine graphics
  - ___ Design the exhibit
  - ___ Coordinate review of the design, text, and graphics
  - ___ Complete the exhibit based on review comments

Briefings

Regulatory Requirements

None.

Description of Activity

Briefings are useful for sharing information with key stakeholders, whether they are involved regulators, elected officials, or members of involved public interest or environmental groups. You can use briefings to inform other stakeholders about the status of a permit application or corrective action; to provide them with materials such as technical studies; results of the technical field and community assessments; and engineering designs. These sessions are conducted in person, and the briefings usually precede release of information to the media or occur before a public meeting. Briefing key stakeholders is particularly important if an upcoming action might result in political controversy.

Level of Effort

Briefings will usually take a day to plan and conduct.

How to Conduct the Activity

To schedule and hold briefings:

1. **Inform your audience** far in advance of the date of the briefing. It is usually best to hold the initial briefing in a small public room, such as a hotel meeting room, conference room, or at the stakeholders' offices. Where relationships might be antagonistic, it may be best to hold the briefing in a neutral location.

2. **Present a short, official statement** explaining the information in the context of the RCRA process and announcing future steps in the process.

3. **Answer questions about the statement.** Anticipate questions and be prepared to answer them simply and directly.

   If the briefing has been requested, find out in advance the information that the stakeholders seek and prepare to answer these and related questions.

When to Use

Briefings are appropriate:

- When key stakeholders have expressed a moderate to high level of concern about the facility or the process;

- Before the release of new information to the media and the public;

- When unexpected events or delays occur; and
- At any point during the permit or corrective action processes. If local officials have expressed concern during the preliminary assessment of the facility, a briefing may be appropriate to explain the RCRA permitting or corrective action program and the technical actions that are scheduled for the facility.

Accompanying Activities

Briefings usually precede **news conferences, news releases, informal meetings**, or **public meetings**.

Advantages and Limitations

Briefings allow key stakeholders to question you directly about any action prior to public release of information regarding that action. By providing a "heads up," you can prepare other key stakeholders to answer questions from their constituents when the information becomes public. Briefings also allow for the exchange of information and concerns.

Because briefings are normally offered to a small select group, they are not considered to be general information dissemination to the public. Care must be taken to provide the public with ample opportunity to receive information. At briefing sessions, include the appropriate officials, taking care not to exclude people key to the public participation process. Avoid the perception that you are trying to bury facts or favor special interest groups.

Although briefings can be an effective tool for updating key stakeholders (e.g., state and local officials, community leaders, involved regulators) they always should be complemented by activities to inform the general public, such as **informal meetings** with small groups, **public meetings**, or **news conferences**.

Checklist for Briefings

- ___ Determine date, time, and location of briefing.

  Date: _____

  Time: _____

  Location: _____

- ___ Notify key state and local officials, citizens, and other interested parties of the briefing
- ___ Prepare presentation
- ___ Prepare any handout materials
- ___ Conduct briefing
- ___ Follow-up on any questions you are unable to answer during the briefing

Presentations

Regulatory Requirements

None.

Description of Activity

Presentations are speeches, panel discussions, video tapes or slide shows held for local clubs, civic or church organizations, school classes, or concerned groups of citizens to provide a description of current RCRA activities. They help improve public understanding of the issues associated with a permitting or corrective action.

Level of Effort

One to two days may be needed to set up and schedule the presentation, prepare for it, give the presentation, and follow up on any issues raised. Add more time if you need to prepare visual equipment.

How to Conduct the Activity

Develop procedures that can be changed easily to suit different audiences. To conduct presentations:

1. **Contact groups that may be interested in learning about your work.** Announce the program through the media and in your publications. Adjust the tone and technical complexity of any presentation to suit the audience's needs.

2. **Select a standard format** such as the following:

   - Introduce yourself, your organization, the RCRA permitting or corrective action process, and the facility;
   - Describe the issues that affect your audience;
   - Discuss what is being currently done; and
   - Discuss how citizens can play a part in making decisions about the facility.

3. **Set a time limit of 20 minutes.** Consider having several staff members deliver short segments of the presentation. Allow time for a **question-and-answer session**.

4. **Schedule presentations at convenient times,** possibly evenings or weekends, or during regularly-scheduled meetings of other groups. Consult with members of your target audience to find out what time is best for them.

5. **Select supporting materials** (slides, graphics, exhibits, etc.) that will

hold the audience's attention but not distract from the speaker's message. Conduct a trial run in front of colleagues and rehearse the presentation as much as possible.

6. **If substantive issues or technical details cannot be handled in the time allowed for the presentation, name a contact for further information.**

When to Use

Presentations may be held:

- When there is moderate to high interest in a facility;
- When it is practical to integrate short RCRA presentations into meetings on other subjects; and
- When a major milestone in the RCRA process is reached.

Accompanying Activities

Fact sheets or handouts should be distributed so that participants have something to refer to after the presentation. Incorporating **exhibits** into your presentation will hold the audience's attention and aid in their understanding of the material. **Question and answer sessions** will help clear up any misunderstanding about the presentation and allow you to address complex issues in more detail

Advantages and Limitations

Because the presentation is delivered in person, the audience has a chance to ask questions, and the presenter can gauge citizens' concerns. Also, many people can be reached at one time, reducing individual inquiries. Making project staff available for community speeches and presentations will signal your organization's interest in the community.

Presentations require substantial effort to be effective. A poorly planned presentation can distort residents' views of the situation.

Because the presentation is rehearsed, accommodating different or unanticipated concerns of the audience can be difficult. Handle these concerns during a **question-and-answer session** after the presentation.

Checklist for Presentations

- ___ Contact groups that may be interested in a presentation
- ___ Determine message(s) to be presented based on stated community interests/concerns
- ___ Prepare presentation(s) based on responses from groups contacted
  - ___ Prepare handout materials
  - ___ Prepare exhibits or other visual materials
- ___ Determine what staff are available for presentations
- ___ Schedule presentations
- ___ Conduct rehearsals
- ___ Conduct presentations
- ___ Conduct follow-up question-and-answer session after presentations
  - ___ Respond to questions you were unable to answer
  - ___ Contact group regarding other presentation topics in which they may be interested

Facility Tours

Regulatory Requirements

None, though the tour will have to comply with facility safety plans.

Description of Activity

Facility tours are scheduled trips to the facility for media representatives, local officials, and citizens during which technical and public outreach staff answer questions. Facility tours increase understanding of the issues and operations at a facility and the RCRA-regulated process underway.

Level of Effort

Facility tours generally take a day to plan and conduct.

How to Conduct the Activity

To conduct facility tours:

1. **Plan the tour ahead of time.**

   The facility owner/operator may decide to conduct a tour, or the agency may set up a tour of the facility. If agency staff plan to lead the tour, they should coordinate with the facility owner/operator. Citizens groups should arrange tours with the facility owner/operator. If there is a Citizens Advisory Panel, the members could lead or participate in tours.

   Before the tour, you should:

   - Determine tour routes;
   - Check on availability of facility personnel, if needed; and
   - Ensure that the tour complies with the safety plan for the site.

   If it is not possible to arrange tours at the facility (e.g., the facility is under construction or not yet built), perhaps it would be possible to arrange a tour at one like it. Interested community members may benefit from touring a facility that has similar operations or where similar technologies have been applied. Touring a RCRA-regulated facility can give residents a clearer perception of what to expect at their own site.

2. **Develop a list of individuals that might be interested** in participating in a tour, including:

   - Individual citizens or nearby residents who have expressed concern about the site;

- Representatives of public interest or environmental groups that have expressed interest in the site;
- Interested local officials and regulators;
- Representatives of local citizen or service groups; and
- Representatives of local newspapers, TV, and radio stations.

3. **Determine the maximum number that can be taken through the facility safely.** Keep the group small so that all who wish to ask questions may do so. Schedule additional tours as needed.

4. **Think of ways to involve tour participants.** A "hands-on" demonstration of how to read monitoring devices is one example.

5. **Anticipate questions.** Have someone available to answer technical questions in non-technical terms.

When to Use

Tours may be conducted:

- When there is moderate to high interest in the facility, especially among elected officials;
- When it is useful to show activities at the facility to increase public understanding or decrease public concern;
- When it is practical and safe to have people on facility grounds; and
- During the remedial phase of corrective action.

Accompanying Activities

Fact sheets, exhibits, and **presentations** complement facility tours. An **observation deck** near the facility would allow them to watch the progress of activities on their own. An **on-scene information office** would allow for an agency official to be around and for less formal tours of the facility. An alternative to a facility tour would be a **videotape presentation** showing activity and operations at the facility. This would be effective in cases where tours cannot be conducted.

Advantages and Limitations

Facility tours familiarize the media, local officials, and citizens with the operations and the individuals involved in the permitting or corrective action. Unreasonable fears about the risks of the facility may be dispelled, as might suspicion of corrective action crews working at the facility. The result is often better understanding between stakeholders.

Facility tours require considerable staff time to arrange, prepare, and coordinate. Staff may have difficulty gaining site access for non-agency

people. Insurance regulations for the facility and liability, safety and injury considerations may make tours impossible.

Checklist for Facility Tours

- ___ Determine need for facility tours
- ___ Coordinate tours with the facility
  - ___ Tour routes
  - ___ Facility personnel
  - ___ Tour dates
  - ___ Compliance with health and safety
- ___ Determine maximum number of people that can be taken on the tour
- ___ Notify interested citizens on availability of facility tours
  - ___ Call interested citizens
  - ___ Distribute mailing to facility mailing list
  - ___ Have citizens respond and reserve space on the tour
- ___ Determine plant staff or agency staff to conduct tour
- ___ Prepare responses to anticipated questions
- ___ Conduct tours
- ___ Follow-up on any requested information from interested citizens

Observation Decks

Regulatory Requirements

None.

Description of Activity

An observation deck is an elevated deck on the facility property, near the area where corrective or RCRA-regulated activities are in progress. The deck allows interested citizens to observe facility activities or corrective actions directly in order to remove some of the unfamiliarity, and hence fear, that may encompass RCRA-regulated activities.

Level of Effort

Maintaining an observation deck may be a time-intensive activity depending on the deck's hours of operation. Up to 40 hours a week may be necessary to staff the deck. Short Cut: Consider hiring a contractor to staff the deck, or limit the hours when it is open to the public.

How to Conduct the Activity

To use an observation deck, the agency and the facility should work together to:

1. **Decide whether or not an observation deck is needed or desirable.** Gauge community interest in the facility and whether or not there is a location for a deck that would facilitate observation.

2. **Coordinate deck construction.** Determine the best location for the observation deck keeping in mind safety and public access issues.

3. **Coordinate staffing of the observation deck.** Determine the hours of operation for the observation deck. Identify staff to supervise the observation deck and prepare staff to answer questions from the public.

4. **Announce the availability of the observation deck.** Notify the community that the deck is available through public notices, fact sheets, and a mailing to the facility mailing list.

When to Use

An observation deck may be used:

- When community interest or concern is high;
- When the community's understanding of facility operations will be enhanced by direct observation;
- When there will be sufficient activity at the site to promote the community's interest;

- When staff are available to supervise public use of the deck and answer questions;
- When it is physically possible to set up an observation deck in a place where there is no danger to the public;
- When a corrective action is being implemented; and
- When a new technology is being tested or implemented.

Accompanying Activities

An observation deck could complement periodic **facility tours** or an **on-scene information office**. Citizens can initially be informed about operations or corrective actions during the tours, then can monitor the progress of these activities at their convenience from the observation deck. **Fact sheets** or an informative **exhibit** placed near the deck also could further aid in explaining facility activities.

Advantages and Limitations

An observation deck allows citizens and media representatives to observe site activities without hindering the activities.

Constructing and occupying an observation deck is expensive and needs to be supplemented with an informational/interpretive program, so that citizens understand what they see. Further, health and safety issues must thoroughly be considered so that any visitor to the observation deck is not endangered by activities at the facility.

Checklist for Observation Decks

- ___ Determine need for an observation deck
  - ___ Coordinate with facility
- ___ Identify staff available to supervise the observation deck and answer questions from interested citizens
- ___ Coordinate deck construction
- ___ Set hours of operation for the observation deck
- ___ Notify interested citizens of availability of observation deck
  - ___ Public notice
  - ___ Fact sheet
  - ___ Mailing to facility mailing list
- ___ Maintain observation deck

News Releases and Press Kits

Regulatory Requirements

None.

Description of Activity

News releases are statements that you or your organization send to the news media. You can use them to publicize progress or key milestones in the RCRA process. News releases can effectively and quickly disseminate information to large numbers of people. They also may be used to announce public meetings, report the results of public meetings or studies, and describe how citizen concerns were considered in the permit decision or corrective action.

Press kits consist of a packet of relevant information that your organization distributes to reporters. The press kit should summarize key information about the permitting process or corrective action activities. Typically a press kit is a folder with pockets for short summaries of the permitting process, technical studies, newsletters, press releases, and other background materials.

If your organization has public affairs personnel, you should coordinate with them to take on media contact responsibilities.

Level of Effort

News releases generally take eight hours to write, review, and distribute to the media.

How to Conduct the Activity

To prepare news releases and press kits:

1. **Consult with external affairs personnel who regularly work with the local media.** External affairs personnel will assure that you adhere to organization policy on media relations. They will assist in drafting the news release and can provide other helpful suggestions about the release and the materials for the press kit.

2. **Identify the relevant regional and local newspapers and broadcast media, and learn their deadlines.** Get to know the editor and environmental reporter who might cover the issue. Determine what sorts of information will be useful to them.

3. **Contact related organizations to ensure coordination.** For instance, permitting agencies should contact other regulatory agencies on the federal, state, and local levels to ensure that all facts and procedures are coordinated and correct before releasing any statement

or other materials. If your organization is local, you should coordinate with national or state-wide chapters. You may want to consider discussing the news release with other interested stakeholders (e.g., through a **briefing**). However, draft news releases should not be shared -- they are internal documents.

4. **Select the information to be communicated.** For the press release, place the most important and newsworthy elements up front and present additional information in descending order of importance. Use supporting paragraphs to elaborate on other pertinent information. Mention opportunities for public participation (i.e., public meetings, etc.) and contact persons and cite factors that might contribute to earlier implementation or delays in the corrective action or permit processing. Note the location of the information repository (if applicable) or other sources for relevant documents. If you are presenting study findings or other technical information, present it in layman's terms along with any important qualifying information (e.g., reliability of numbers or risk factors).

   The press kit should contain materials that elaborate on the information in the press release. Basic summaries of the RCRA program, the permitting process, and public participation activities are helpful materials. Background reports or studies may also be useful. Enclose the name and phone number of a contact person and invite the reporter to call him or her with any questions.

5. **The news release should be brief.** Limit it to essential facts and issues.

6. **Use simple language.** Avoid the use of professional jargon, overly technical words, and acronyms.

7. **Identify who is issuing the news release.** The top of the sheet should include:

   - Name and address of your organization;
   - Release time ("For Immediate Release" or "Please Observe Embargo Until") and date;
   - Name and phone number of the contact person for further information; and
   - Headline summarizing the activity of interest.

8. **In some cases, send copies of the release and the press kit to other stakeholders** at the same time you give them to the news media. Coordinate with the public affairs office to determine appropriateness.

When to Use

The press kit and the news release can be complementary activities, though you may choose to use either one separately. Some of the occasions when you may want to issue a news release or a press kit include:

- When significant findings are made at the site, during the process, or after a study;
- When program milestones are reached or when schedules are delayed;
- In response to growing public or media interest or after your organization takes a new policy stance;
- When you are trying to increase public interest in a facility;
- Before a public meeting to announce subject, time, place; and
- A news release should <u>not</u> be issued at times when it may be difficult to get in touch with responsible officials (e.g., Friday afternoons, or the day before a holiday).

Accompanying Activities

The press kit is useful as a complement to a news release. News releases and press kits can accompany any formal **public hearings** or **public meetings**. They commonly accompany **news conferences**. They should provide the name of the **contact person** whom interested reporters can contact if they want more information.

Advantages and Limitations

A news release to the local media can reach a large audience quickly and inexpensively. Press kits allow reporters to put the issue in context. If a reporter is trying to meet a deadline and cannot contact you, he or she can turn to the press kit as an authoritative source of information. If the name, address, and phone number of a contact person are included, reporters and possibly interested community members can raise questions about the information in the release.

Because news releases must be brief, they often exclude details in which the public may be interested. A news release should therefore be used in conjunction with other methods of communication that permit more attention to detail. A news release is not an appropriate vehicle for transmitting sensitive information. In some cases, a news release can call unwarranted attention to a situation; a mailing to selected individuals should be considered instead. Frequent use of news releases to announce smaller actions may reduce the impact of news releases concerning larger activities.

One potential drawback of a press kit is that reporters may ignore it or use the information incorrectly when writing a story.

News releases and press kits cannot be used in lieu of a public notice. Certain activities, such as the preparation of a draft permit, are subject to public notice requirements. See the section on "Public Notices" earlier in this Chapter for more details.

Checklist for News Releases and Press Kits

- ___ Coordinate with public affairs staff
- ___ Determine purpose of news release and/or press kit
- ___ Coordinate writing and distribution of release or press kit with the public affairs staff
  - ___ Verify that media mailing list is up-to-date
  - ___ Request mailing labels
- ___ Write draft news release
  - ___ Type and double space news release
  - ___ Indicate the source of the news release (i.e., in the upper-left-hand corner, put the name and phone number of the person writing the release, along with the agency or department name and address)
  - ___ Provide release instructions (i.e., "For Immediate Release")
  - ___ Date the news release
  - ___ Write concisely; avoid technical terms and jargon
  - ___ Number pages; if more than one page is needed, put " -- more --" at the center bottom of the page that is to be continued; succeeding pages should be numbered and "slugged" with an identifying headline or reference (i.e., "EPA -- 2"); when you come to the end of the news release, indicate the end with one of the following: -- 30 --, ####, or -- END --.
- ___ Prepare materials for the press kit
  - ___ Collect short descriptions of the RCRA program, permitting, and public participation processes
  - ___ Include other pertinent information, such as reports, studies, and fact sheets
- ___ Coordinate internal review
- ___ Prepare final matierals based on review comments
- ___ Distribute news release and press kit to local media

News Conferences

Regulatory Requirements

None.

Description of Activity

News conferences are information sessions or briefings held for representatives of the news media and may be open to the general public. News conferences provide all interested local media and members of the public with accurate information concerning important developments during a RCRA-regulated process. If your organization has public outreach personnel, you will probably want to coordinate news conferences with them.

Level of Effort

Allow one to two days to prepare for, rehearse, and conduct a news conference.

How to Conduct the Activity

To conduct news conferences:

1. **Coordinate all media activity through your outreach staff.** Public outreach personnel will assure that you adhere to organization policy on news conferences. They will help arrange location and equipment, etc.

2. **Evaluate the need for a news conference.** Use this technique carefully because statements made during a news conference may be misinterpreted by the media. For reporting the results of site inspections, sampling, or other preliminary information other public involvement techniques (e.g., **fact sheets, news releases,** or **public meetings**) may be more appropriate. A news conference announcing preliminary results of technical studies may add unnecessarily to public concerns about the facility.

3. **Notify members of the local and regional media of the time, location, and topic of the news conference.** Local officials also may be invited to attend, either as observers or participants, depending upon their interest. Including local officials at a news conference will underscore your organization's commitment to a community's interests and concerns.

4. **Anticipate reporters' questions and have your answers ready.**

5. **Present a short, official statement, both written and spoken, about developments and findings.** Explain your organization's decisions by reviewing the situation and identifying the next steps. Use visual aids, if appropriate. Live conferences leave no room for mistakes, so

preparation and rehearsal is very important.

Open the conference to questions, to be answered by your staff, local officials, and any other experts present. Have technical staff on hand to answer any technical questions. Decide ahead of time who will answer certain types of questions.

When to Use

News conferences can be used:

- When time-sensitive information needs to reach the public, and a news release may not be able to address key issues for the community;
- When staff are well-prepared to answer questions; and
- During any phase of the permit application or corrective action.

Accompanying Activities

News conferences can be held before or after formal **public hearings** or **public meetings**. They are usually accompanied by **news releases**. **Exhibits, telephone contacts, briefings,** and **mailing lists** would contribute to the planning and effectiveness of a news conference.

Advantages and Limitations

News conferences provide a large public forum for announcing plans, findings, policies, and other developments. They also are an efficient way to reach a large audience. A written news release can help ensure that the facts are presented accurately to the media. During the question and answer period, your spokesperson(s) can demonstrate knowledge of the facility and may be able to improve media relations by providing thorough, informative answers to all questions.

A news conference can focus considerable attention on the situation, potentially causing unnecessary local concern. Residents may not welcome the increased attention that such media coverage is apt to bring. News releases or lower-profile means of disseminating information should be considered as alternatives.

A risk inherent in news conferences is that the media can take comments out of context and create false impressions. This risk is heightened when staff are unprepared or when the conference is not properly structured or unanticipated questions are asked.

Checklist for News Conferences

- ___ Coordinate news conference with public affairs staff
- ___ Determine purpose of news conference
- ___ Identify staff to make presentations/answer questions at news conference
- ___ Prepare visual materials (i.e., exhibits) and handout materials (i.e., fact sheets)
- ___ Prepare responses to "anticipated" questions from the media
- ___ Coordinate a rehearsal of all presenters
- ___ Determine date, time, location, and equipment needs of news conference
  - ___ Is the location large enough to accommodate the media?
- ___ Notify local media of news conference in advance of news conference
- ___ Call the local media the day before the news conference as a reminder
- ___ Conduct the news conference
  - ___ Set up room with a speakers table, chairs for the audience
  - ___ Have handout materials available when media arrive

Community Interviews

Regulatory Requirements

None.

Description of Activity

Community interviews are informal, face-to-face or telephone interviews held with local residents, elected officials, community groups, and other individuals to acquire information on citizen concerns and attitudes about a facility. The interviews may be conducted by facility staff, the permitting agency, or public interest groups as part of the community assessment. Chapter 2 provides more information on community assessments in the section titled "Assessing the Situation."

Community interviews can play an important role in the community assessment, which usually takes place at the beginning of the permitting process, or before major modifications and significant corrective actions. Community interviews will not be necessary in every community. For instance, in routine or non-controversial situations, there may be no need for community interviews. However, if a facility is controversial or has the potential to receive high levels of public interest, then EPA recommends a broad range of community interviews. Permitting situations that fall between the preceding cases may require some interviews, beginning with a survey of community representatives and group leaders (see "Assessing the Situation" in Chapter 2).

Community interviews allow agencies, facility owners, and public interest groups to tailor regulatory requirements and additional activities to fit the needs of particular communities. Information obtained through these interviews is typically used to assess the community's concerns and information needs and to prepare a **public participation plan**, which outlines a community-specific strategy for responding to the concerns identified in the interview process.

Level of Effort

Community interviews are a time-intensive activity because of the large amount of organization required and time needed for interviews. While level of effort will vary, interviewers should schedule at least one hour per interview for research and preparation, the interview itself, and follow-up activities. If time and/or resources are limited, interviewers may want to conduct interviews by phone and focus on community leaders.

How to Conduct the Activity

Permitting agencies, facility owners, and public interest groups who plan to conduct community interviews should follow the steps below, adjusting

them as necessary to suit the situation at hand:

1. **Identify potential people to interview.** If a mailing list is not available, begin by reviewing available files and other documents (e.g., newspaper articles) to identify local residents, key state and local officials, and citizen organizations that have been involved with or expressed concern about the facility. Agency staff or other groups in the community (e.g., existing facility owners and operators, public interest organizations, civic groups, local government agencies) may also be able to suggest individuals or groups to interview. Develop a list of individuals and groups that provides the greatest variety of perspectives. Make sure to include individuals who tend to be less vocal to balance the views of those who are more outspoken. Your contact list may include:

   - state agency staff, such as officials from health, environmental, or natural resources departments;
   - local agency staff and elected officials, such as county health department officials, county commissioners, mayor or township administrator, and officials on environmental commissions, advisory committees, and planning boards;
   - representatives of citizens' groups organized to address issues at the facility or in the area;
   - non-affiliated area residents and individuals;
   - local business representatives (e.g., from the Chamber of Commerce or Council of Governments);
   - local civic groups, neighborhood associations, educational and religious organizations;
   - local chapters of public interest groups (e.g., environmental organizations); and
   - nearby landowners and businesses.

2. **Determine how many interviews to conduct.** Conduct interviews with the goal of obtaining a broad range of perspectives and gathering sufficient information to develop an effective public participation plan. However, the actual number of interviews is likely to depend on available time and resources as well as the community's level of interest and concern about the facility. It is generally desirable to conduct more extensive interviews in communities where the level of concern is high. Alternatively, where the level of interest is low or there has already been significant interaction with community, fewer interviews may be appropriate.

3. **Prepare for the interviews.** Before conducting the interviews, learn as much as possible about the community and community concerns regarding the facility. Review any available news clippings, documents, letters, and other sources of information relevant to the facility. Determine whether the community has any particular language, geographic, or economic characteristics that should be addressed. Prepare a list of questions that can serve as a general guide when speaking with residents and local officials. Questions should be asked in a way that stimulates discussion on a variety of topics, including:

   - General knowledge of the facility. Find out what sort of information the community has received about the facility and if what level of involvement the community has had with the facility.

   - Specific concerns about the technical and regulatory aspects of activities at the facility. Determine what the community's concerns are and what types of information would be most appropriate to address these concerns.

   - Recommended methods of communicating with the community and receiving community input. Determine which communications tools are likely to be most effective -- e.g., mailings, meetings, broadcast media -- and what public participation events could best serve the community. Learn about special information needs that the community may have (e.g., the level of literacy, the percentage of non-English speakers).

   - The best public meeting facilities, most relied-upon media outlets, and the best times to schedule activities.

   - Other groups or individuals to contact for more information.

4. **Arrange the interviews.** Telephone prospective interviewees and arrange a convenient time and place to meet. Ideally, the meeting place should promote candid discussions. While government and media representatives are likely to prefer meeting in their offices during business hours, local residents and community groups may be available only in non-business hours. Meetings at their homes may be most convenient.

During the interviews:

1. **Provide background information.** Briefly describe the permitting activity or corrective action at hand.

2. **Assure interviewees that their specific comments will remain**

confidential. At the beginning of each interview, *explain the purpose* of the interviews -- to gather information to assess community concerns and develop an appropriate public participation strategy. Explain that while the public participation plan will be part of the administrative record, the plan will not attribute specific statements or information to any individual. Ask interviewees if they would like their names, addresses, and phone numbers on the mailing list.

3. **If community members do not feel comfortable with interviewers from your organization, consider using a third-party.** Some citizens may not be entirely forthcoming with their concerns or issues if they are uncomfortable with the interview. If sufficient resources are available, inciter hiring a contractor to perform interviews. Some civic or community organizations may be willing to help in the interview process. If these options are not available, then consider distributing anonymous **surveys** or convening **focus groups**, where a number of citizens can give their input together.

4. **Identify other potential contacts**. During the discussions, ask for names and telephone numbers of other persons who are interested in activities at the facility.

5. **Gather information on past citizen participation activities.** Determine the interviewee's perceptions of past outreach activities by your organization.

6. **Identify citizens' concerns about the facility**. When identifying concerns, consider the following factors:

   - Threat to health -- Do community residents believe their health is or has been affected by activities at the facility?

   - Economic concerns -- How does the facility affect the local economy and the economic well-being of community residents?

   - Agency/Facility/Interest Group credibility -- Does the public have confidence in the capabilities of the agency? What are the public's opinions of the facility owner/operator and involved environmental/public interest organizations

   - Involvement -- What groups or organizations in the community have shown an interest in the facility? Is there a leader who has gained substantial local following? How have interested groups worked with the agency or facility in the past? Have community concerns been considered in the past?

   - Media -- Have events at the facility received substantial coverage by local, state, or national media? Do local residents believe that media coverage accurately reflects the nature and

intensity of their concerns?

- Number affected -- How many households or businesses perceive themselves as affected by the facility (adversely or positively)?

7. **Assess how citizens would like to be involved in the RCRA permitting or corrective action process.** Briefly explain the RCRA public participation process and ask the interviewees how they would like to be involved and informed of progress made and future developments at the facility. Ask what is the best way to stay in contact with the interviewee. Ask the interviewee to recommend convenient locations for setting up the information repository or holding public meetings. Keep a list of those who wish to be kept informed.

When to Use

Community interviews should be conducted:

- As part of a community assessment by facility owners who are applying for a permit, seeking a major permit modification, or beginning significant corrective action.
- By the permitting agency to find out about community concerns at the outset of a major permitting or corrective action process.
- Before revising a public participation strategy, because months, or perhaps years, may have elapsed since the first round of interviews, and community concerns may have changed.

As the level of community concern increases, so does the need to conduct more extensive assessments. If there has been a lot of interaction with the community and interested parties, information on citizen concerns may be current and active. In such situations, it may be acceptable to conduct only a few informal discussions in person or by telephone with selected, informed individuals who clearly represent the community to verify, update, or round out the information already available.

Accompanying Activities

As stated above, community interviews are conducted to gather information to develop an appropriate **public participation plan** for the facility. A **mailing list** may or may not be in place at the time interviews are conducted. If there is one, it can be used to identify individuals to interview. If one has not yet been established, the interviews themselves can provide the basis for the list.

Advantages and Limitations

Community interviews can be a valuable source of opinions, expectations, and concerns regarding RCRA facilities and often provide insights and views that are not presented in the media. In addition, these interviews

may lead to additional information sources. The one-on-one dialogue that takes place during community interviews provides the basis for building a good working relationship, based on mutual trust, between the community and other stakeholders. Therefore, although its primary purpose is to gather information, the community interview also serves as an important public outreach technique.

The major disadvantages of community interviews are that they may be time-consuming and resource-intensive for your staff; they could cause unnecessary fear of the situation among the public; and, they are not very useful if you do not talk with the right people -- the people who have not identified themselves as well as the more vocal ones who have.

Checklist for Community Interviews

- ___ Determine number of interviews to be conducted: _____
- ___ Determine dates for interviews: _____
- ___ Identify team to conduct interviews:

  _____

  _____

- ___ Identify individuals to interview
  - ___ Review facility background files for names of people who have expressed interest
  - ___ Identify community leaders to contact
  - ___ Identify city/state/county officials to contact
- ___ Prepare interview questions
- ___ Review background information available about the facility and community
- ___ Set up interviews
  - ___ Confirm interviews by mail or phone
- ___ Conduct interviews
  - ___ Ask for additional people to contact
  - ___ Gather information using prepared interview questions
- ___ Follow-Up
  - ___ Follow-up interview with a thank you letter
  - ___ Notify the interviewee when the public participation strategy is available in the repository

Focus Groups

Regulatory Requirements

None.

Description of Activity

Some organizations use focus groups as a way of gathering information on community opinion. The advertizing industry developed focus groups as an alternative to expensive market research (which relies heavily on polling). Focus groups are small discussion groups selected either to be random or to approximate the demographics of the community. The group is usually led by a trained moderator who draws out people's reactions to an issue.

Facility owners may want to consider focus groups as a complement to interviews during the community assessment or at important activities during the life of a facility. The permitting agency may want to consider focus groups to gauge public opinion before controversial permitting activities or corrective actions.

Level of Effort

Focus groups can be resource-intensive, depending on the number of groups you convene. This method will be more expensive if you need to provide for a moderator, meeting space, or transportation.

How to Conduct the Activity

To prepare for focus groups:

1. **Determine whether or not a focus group can help the process.** Community interviews serve much the same purpose as focus groups. Will gathering members of the community together provide more comfort? Will it be a more effective means of gauging public opinion?

2. **Select your focus groups.** Contact other stakeholders and community leaders to get input on who to include in your focus groups.

3. **Use community interview techniques to get input from the focus group.** You can follow the guidance in "Community Interviews" above in this Chapter to learn about the types of questions to ask your focus groups.

4. **Use the information in forming a public participation plan.**

When to Use

Facility owners may want to use focus groups as a complement to community interviews; permitting agencies may want to consider focus

groups in situations where there is a high degree of public interest in a permitting activity. Focus groups provide a quick means of feedback from a representative group and can be a good supplementary activity, especially if such group discussions will make some members of the public feel more comfortable.

Accompanying Activities

Use focus groups as a complement to **community interviews**. You may want to hold a **presentation** or provide the groups with information such as **fact sheets**.

Advantages and Limitations

Focus groups allow you to get an in-depth reaction to permitting issues. They can help to outline a public participation plan and give an indication of how the public will react to certain issues.

The reactions of a focus group cannot, in all cases, be counted on to represent the greater community. Some people may perceive focus groups as an effort to manipulate the public.

Checklist for Focus Groups

- ___ Determine number of focus groups to be conducted: _____
- ___ Determine dates for focus groups: _____
- ___ Identify moderator to conduct focus groups:

  _____

- ___ Identify individuals for focus groups
  - ___ Review facility background files for names of people who have expressed interest
  - ___ Identify community leaders to contact
  - ___ Identify city/state/county officials to contact
- ___ Prepare discussion questions
- ___ Review background information available about the facility and community
- ___ Set up focus groups
  - ___ Confirm participation by mail or phone
- ___ Conduct focus groups
  - ___ Ask for additional people to contact
  - ___ Gather information using prepared interview questions
- ___ Follow-Up
  - ___ Follow-up interview with a thank you letter
  - ___ Notify the interviewee when the public participation plan is available

Door-to-Door Canvassing

Regulatory Requirements

None.

Description of Activity

Door-to-door canvassing is a way to collect and distribute information by calling on community members individually and directly. Public interest groups have long used such techniques, and they may also be useful for facility owners as a way to gauge public interest during the community assessment stage. The permitting agency may consider using this technique to interact with the community in situations where public interest is very high, such as emergency cleanups, or in other situations where direct contact with citizens is essential. See the section on "When to Use" below for more details.

During these interactions, canvassers can field questions about the permitting activity, discuss concerns, and provide fact sheets or other materials. Some citizens may want to find out more about the activity by signing up for mailing lists or by attending an upcoming event.

Level of Effort

Door-to-door canvassing is a very time-intensive activity because of the number of staff needed to conduct the canvassing and the amount of time you will need to plan for the canvassing. Canvassers should travel in pairs in areas where there may be a lot of contention or in high crime areas. Planning for the door-to-door canvassing will require at least a day. This includes identifying the area to be canvassed, determining the amount of staff needed, and notifying area residents. The amount of time spent canvassing will depend on the size of the area to be canvassed.

How to Conduct the Activity

A door-to-door canvass involves training staff to gather information, answer questions, and to communicate with a possibly irate or suspicious public.

Procedures to follow in preparing a door-to-door canvass include:

1. **Identify the area where canvassing is necessary or desirable.** Determine the area where special information must be given or collected. This area may range from just a few streets to several neighborhoods. Determine if there is a need for a translator or materials in languages other than English. Also determine when it is likely that people will be at home; the canvassing may have to be conducted in the evening.

2. **If time permits, notify residents** (e.g., by distributing a flyer) that canvassers will be calling door-to-door in the area. Tell residents what time the canvassers will be in the neighborhood and explain the purpose of the canvassing program. Advance notice will reduce the suspicions of residents and encourage their cooperation. Also, notify local officials so they are aware of the door-to-door canvassing.

3. **Provide canvassers with the information they will need** to respond to questions. Residents will want to know what is happening at the facility and may have questions about possible health effects associated with various activities. If appropriate, you should distinguish between the types of questions that a canvasser may answer (i.e., questions concerning the schedule of activity) and the types of questions that should be referred to technical staff (e.g., highly technical questions concerning hazardous waste or agency policies). Provide canvassers with fact sheets or other written materials for distribution.

4. **Canvass the designated area.** Note the name, address, and telephone number of residents requesting more information. Note also the names of those who were especially helpful in giving information. Be prepared to tell residents when they will next be contacted and how (i.e., by telephone, by letter, or in person). All canvassers should have an official badge to identify themselves to residents.

5. **Send a thank-you letter** after the canvass to all residents in the canvassed area. If possible, provide information concerning recent developments and any results or pertinent information gathered by the canvass. Respond to special requests for information either in the thank-you letter or by telephone.

When to Use

Door-to-door canvassing may be used:

- When there is a high level of concern about the site, but meetings cannot be scheduled;
- When there is a need to notify citizens about a certain event or an upcoming permitting issue;
- When you need to reach a specific group of people for a specific purpose, such as getting signatures to allow access to properties adjacent to the facility;
- When the community has a low literacy rate and written materials aren't useful;

- When the area consists of a population whose primary language is not English, but it is important to pass information to the area; and

- When there is an emergency situation that the community needs to know about.

Accompanying Activities

Telephone contacts and **community interviews** may help to identify appropriate areas for canvassing efforts. Canvassers should add to the **mailing list** names of individuals who either requested additional information or provided particularly useful information.

Advantages and Limitations

This activity involves face-to-face contact, thereby ensuring that citizens' questions can be directly and individually answered. Canvassing demonstrates a commitment to public participation, and is a very effective means of gathering accurate, detailed information, while determining the level of public concern.

This technique is very time-consuming and costly, even in a small area. Furthermore, trained people that can answer questions at the necessary level of detail are often not available for this activity. This activity is not recommended for the dissemination of information except in an emergency. This high level of direct contact can raise more concerns rather than allay them.

The safety and security of the canvassers also should be taken into account when planning this activity. Additional staff may be need so that people can work in teams to two or three; in extreme situations, security staff may be necessary .

Checklist for Door-to-Door Canvassing

- ___ Identify area where canvassing will be conducted
  - ___ Prepare maps for each team of canvassers
  - ___ Send a letter to residents announcing canvassing
    - ___ Prepare mailing list using the city directory (section listing residences by street address)
    - ___ Prepare letter; coordinate internal review
  - ___ Determine security needs of canvassing team
- ___ Prepare any information (i.e., fact sheets) that canvassing team may provide to interested residents
- ___ Identify staff to conduct canvassing and have official badges made to identify them
- ___ Brief staff on canvassing effort
  - ___ Provide staff with a copy of letter sent to residents
  - ___ Tell staff what kinds of questions they may answer and provide them with information (i.e., questions concerning the schedule of activity)
  - ___ Tell staff what kinds of questions they should refer to a specialist (i.e., technical questions)
  - ___ Provide staff with prepared maps
- ___ Canvass designated areas
  - ___ Note the name, address, and telephone number of residents requesting more information
- ___ Send thank you letter to all residents in the canvassed area

Public Comment Periods

Regulatory Requirements

Public comment periods are required whenever the permitting agency issues a draft permit or an intent to deny a permit (§ 124.10). Comment periods are also mandatory on requests for Class 2 and 3 permit modifications under § 270.42, for agency-initiated modifications under § 270.41, and during closure and post-closure for interim status facilities under §§ 265.112(d)(4) and 265.118(f).

Description of Activity

A public comment period is a designated time period in which citizens can formally review and comment on the agency's or facility's proposed course of action or decision. Comment periods for RCRA permits must be at least 45 days.

Level of Effort

There is no specific level of effort for a public comment period. Estimates of the time required to conduct activities associated with the public comment period (public notice, public hearing, etc.) are found elsewhere in this chapter. The time required to receive, organize, and determine how to respond to comments will vary depending on the number of comments received and the complexity of the proposed action (see the section on "Response to Comments" earlier in this chapter).

How to Conduct the Activity

Announce the public comment period in a local newspaper of general circulation and on local radio stations. Public notices must provide the beginning and ending dates of the public comment period and specify where interested parties should send their comments and/or requests for a public hearing. Refer to the section about "Public Notices" earlier in this chapter for further information.

When to Use

A minimum 45-day public comment period is required for RCRA permits, including modifications to permits initiated by the agency as well as Class 2 and 3 modifications requested by the facility.

Accompanying Activities

Public comment periods cannot begin until notice of the permitting activity is given. RCRA requires that the agency conduct a **public hearing** if requested by a member of the public during the public comment period. Announce the hearing through a public notice and through a fact sheet, if one is prepared in advance. Public comment periods cannot begin until notice is given.

Comments received during the public comment period must be discussed in a written **response to comments**.

Advantages and Limitations

Public comment periods allow citizens to comment on agency and facility proposals and to have their comments incorporated into the formal public record.

However, public comment periods provide only indirect communication between citizens and agency officials because, in some cases, the formal responses to the comments may not be prepared for some time. Also, in some cases, the agency may not individually respond to every comment. A public participation program should provide other activities that allow dialogue between agency officials and the community.

Checklist for Public Comment Periods

- ___ Determine dates of public comment period (minimum of 45 days)

  Dates: _____

- ___ Determine contact person within the agency who will answer citizens' questions regarding the public comment period

- ___ Announce public comment period through a public notice

- ___ If requested by a member of the public during the comment period, schedule a public hearing

- ___ Document with a memo to the file any comments that were not received in written form

Unsolicited Information and Office Visits

Regulatory Requirements

None.

Description of Activity

EPA encourages permitting agencies, public interest groups, and facility owners/operators to seek input from interested citizens and other stakeholders. At times, this information may arrive in the form of phone calls, letters, and meetings. While this type of information is not always asked for, it can be helpful.

Citizens or stakeholders from other groups may want to visit the agency's office or the facility. In this situation, the visiting stakeholders will want to meet with the person who works most directly with their concerns.

Level of Effort

Depends entirely on the type of unsolicited information provided by the public. Office visits will also command varying amounts of time.

How to Conduct the Activity

Members of the public will come to the agency, the facility, or another organization with information and requests. Public outreach staff should be available for discussion and information when visitors come.

Unsolicited information can be very helpful. First, it can provide an idea of the level of public concern over a facility. Second, members of the public often provide information that is essential to making good technical, economic, and policy decisions. Local citizens often have the most knowledge and insight about the conditions of the land and the people surrounding a facility.

If interested people come to the office, they should be received by a staff member who can relate well with the public and knows the overall mission of your organization. If feasible, he or she should introduce the visitors to members of the staff who can discuss specific issues. Staff people should listen to the citizens' concerns and provide feedback where possible. They should be candid when they do not know the answer to a question. They should also be cordial, avoid jargon and overly technical language, and try to solve the visitor's problem. (See the section on "Informal Meetings With Other Stakeholders" in this Chapter for more information).

If citizens send a letter or call by phone, the receiving organization should respond as soon as possible. If the response will be delayed, a representative of the organization should write a letter or call to explain.

The receiving organization should consider all relevant comments as informal input into the permitting process and let citizens know how they can submit formal comments.

When to Use

Unsolicited information is a constant in community participation. You can improve (or maintain) the credibility of your organization by giving due weight to citizens' concerns and by replying promptly to citizen input.

Accompanying Activities

Fact sheets, project reports, and other mailings can answer questions or reply to citizen inquiries. Offer to put concerned citizens on the **mailing list**. Consider holding an **availability session, open house**, or **informal meetings** if you detect a high level of public interest.

Advantages and Limitations

A good outreach program can increase your organization's credibility. Unsolicited information can alert you to issues of high public concern and allow you to identify involved groups in the community. Visitors to your organization can get to know the staff, while the staff gains a better understanding of the visitors' concerns.

Unsolicited information is, at best, a supplement to more formal information-gathering. It may be misleading since it does not always reflect the overall level of public concern. Good handling of unsolicited information takes good communication and cooperation within your organization.

Checklist for Unsolicited Information and Office Visits

For office visits:

- ___ Appoint a member of your staff to act as a liaison for public visits
- ___ The liaison should answer questions and introduce stakeholders to members of your organization who are involved in the issue
- ___ Invite visitors to put their names on your mailing list
- ___ Follow up quickly on any questions that you could not answer during the visit

For phone calls and written requests:

- ___ Keep a log of calls and letters from other stakeholders
- ___ Respond quickly to questions; inform the questioner if your response will not be timely

Surveys and Telephone Polls

Regulatory Requirements

None.

Description of Activity

If public participation is to be a dialogue, citizens need ways to provide feedback to facilities, public interest organizations, and permitting agencies. Surveys and polls are designed to solicit specific types of feedback from a targeted audience, such as public opinion about a permitting activity, the effectiveness of public participation activities, or what could be done to improve distributed materials. Surveys may be either oral or written; used in person or by mail; and distributed either to specific segments of the community or to representative samples. We discuss telephone polls in this section, but you may want to consider door-to-door polling or other methods.

Facility owners may want to consider using surveys and polls during the community assessment to gauge public sentiment about constructing or expanding a facility, or as a complement to direct community interviews. The permitting agency can use surveys and polls in a similar fashion, especially during major projects and at facilities that raise controversy. The agency, public interest groups, and the facility owner may also want to use surveys and polls to find out if citizens are receiving enough information about the RCRA activity and are being reached by public notices or other outreach methods.

Level of Effort

On-paper surveys distributed at meetings or by mail are relatively easy and inexpensive, aside from postage. Surveys done in person or by telephone can be very time-consuming.

How to Conduct the Activity

To prepare for surveys or telephone polls:

1. **Specify the information that you need to gather.** Construct specific questions to include in the survey or poll. For written surveys, consider which questions should be multiple choice or "check one box" -- formats that people are more likely to answer. Ensure that oral questions are not too long or confusing and be wary of the factors that can bias your surveying method (e.g., the wording of the question).

   Survey questions do not have to be highly detailed in every case. You may use surveys to allow people to submit general impressions after a meeting or a hearing.

2. **Design the survey or poll.** For written surveys, you should leave plenty of room for people to write. Give clear instructions and explain how you will be using the information. Always include the name and number of a contact person. Provide multi-lingual surveys where appropriate. Follow these same guidelines for oral surveys and polls. For oral surveys, you may want to provide a business card to the interviewee when your discussion is over

3. **Distribute the surveys and questionnaires.** As we mentioned earlier, you may distribute written surveys in person or via mail. You may also leave them for people to pick up after a meeting; or you may decide to distribute them by hand to peoples' homes. If people will need to mail the survey, consider including pre-stamped, pre-addressed envelopes.

   If you are seeking out specific information, you may want to distribute the surveys to a representative sample of the community. In some cases, you may want to do a "blanket" distribution to all homes and businesses within a certain distance of the facility.

   If you choose to do an oral survey, follow the information in the section on "Community Interviews" earlier in this Chapter.

   For telephone polls, you will have to decide whom to call and whether you will address the poll to a random sample, a representative sample, or a targeted segment of the community. If you are attempting one of the latter two options, you may want to contact community leaders and local officials to determine the demographics of the area.

When to Use

Use surveys and telephone polls when:

- you are seeking specific information from a targeted community or audience; or
- you are trying to provide people with a means of giving anonymous feedback during the permitting process.

Accompanying Activities

Always include the name and number of a **contact person** on a survey or a questionnaire. Surveys and questionnaires can be useful for gathering general impressions about specific permitting activities or public participation events, such as **availability sessions** or **public hearings**. They may also complement **community interviews** by allowing people, who may have been uncomfortable or pressured during the interview, to submit anonymous thoughts and comments.

Advantages and

Written surveys and questionnaires are relatively inexpensive and simple

Limitations

ways to solicit information. They can provide feedback loops for many permitting activities and some people may be more comfortable with the anonymity that written surveys can ensure. Oral surveys and polls allow you to interact directly with members of the public and to solicit their immediate feedback on permitting issues.

Surveys conducted in-person can be very time-consuming and expensive. Written surveys may not present viewpoints that are representative of the community because people who fill out the surveys tend to have stronger feelings in favor, or against, the proposed activity. Surveys conducted by mail have the additional weaknesses of undependable response rates and questionable response quality.

Checklist for Surveys and Telephone Polls

_ Determine what type of information is needed

_ Determine what format will work best for gathering the information

Written surveys:

_ Determine if you will need to provide the survey in a multilingual format or you will need to provide for other special communication needs in the community (e.g., persons who are illiterate)

_ Prepare interview questions

_ Design the survey sheet; leave adequate writing room and make sure the instructions are clear and easy to understand

_ Provide the name of a contact person on the survey

_ Decide how you will distribute the survey, based on the public participation plan, community interviews, and background information on the facility and the community

Telephone polls or an oral surveys:

_ Identify a team to conduct the survey or the telephone poll

_____

_____

_ Identify how you will target the polling group

_ Consult a polling firm or a consultant if you are conducting your survey with a representative sample

_ Determine if you need to conduct a multilingual poll or survey and whether there are other special communication needs in the community (e.g., persons who are hearing impaired)

_ Prepare the questions for the poll or survey

_ Write a script you can use to give background information to people before the questions

_ When you conduct the survey, provide the name of a contact person, either over the phone, or by handing out business cards in person

Contact Persons/Offices

Regulatory Requirements

EPA regulations require the permitting agency to designate a contact office in most public notices. This requirement applies to draft permits, notices of intent to deny a permit, and modifications initiated by the permitting agency (§§ 124.10(d) and 270.41), as well as to the notice of application submittal (§ 124.32(b)). In these cases, the permitting agency will also provide a contact for the permit applicant. When a permit applicant holds a pre-application meeting under § 124.31, the applicant must provide public notice that includes a contact person for the facility. Similarly, the facility must provide public notice, including a contact at the agency and the facility, when requesting a Class 2 or 3 permit modification (§ 270.42 (b) and (c)). Permitting agencies must also provide contacts and telephone numbers (for the facility and the agency) during the trial burn stage at permitted and interim status combustion facilities (§ 270.62(b) and (d); 270.66(d)(3) and (g)).

Description of Activity

The contact person is a designated staff member who is responsible for responding to questions and inquiries from the public and the media. Some organizations may want to consider distributing lists of contact persons who are responsible for answering questions in certain topic areas.

Level of Effort

The amount of time that the contact person spends responding to citizen concerns and questions will depend on the level of community interest in a facility's permit or corrective action activities. A contact person may spend a few hours a day responding to citizen inquiries if there is high to moderate interest in the facility's RCRA activities.

How to Conduct the Activity

For each permit or corrective action, designate a contact who will respond to citizens' requests for information, answer their questions, and address their concerns on any aspect of the permit or cleanup process. Although permitting agencies are only required to designate a contact office, specifying a person and keeping the same person as the contact throughout the process may engender more public trust and confidence.

When a contact person is assigned:

1. **Send out a news release** announcing the contact person to all local newspapers, radio stations, and television stations. Include the contact person's telephone number and mailing address in all news releases, fact sheets, and mailings. Include in publications a self-mailer, which can be a separate flyer or a designated cut-a-way section of the fact sheet that is addressed to the contact person and

leaves room for interested people to request more information or write their comments.

2. **Give the name, address, and phone number of the contact person to all involved staff in your organization and other stakeholders.** Let staff members know that the contact person may be approached for information and that your staff should coordinate the release of information with the contact person. Inform other stakeholders that the contact person will be available for questions and information-sharing.

3. **Keep a log book** of all citizen requests and comments received by the contact person, and how each one was handled. This will help to assure that incoming requests are not filed and forgotten. This log book also provides another record of issues and concerns.

When to Use

A contact person should be designated for every facility at the outset of the RCRA process.

Accompanying Activities

Designation of the contact person should be announced in **news releases** and **fact sheets**, and **public notices**. The contact person also should be responsible for making sure that the facility's **information repository**, if required, is kept up-to-date.

Advantages and Limitations

A contact person can assure citizens that your organization is actively listening to their concerns and can provide the community with consistent information from a reliable source.

The contact person may not have the authority to resolve all of the concerns raised by citizens and other stakeholders; his or her role may be limited to providing information and facilitating communication between your staff, citizens, and other stakeholders. If, for any reason, the identity of the contact person changes, it is important to inform the community, media contacts, and other stakeholders about this change quickly. You should designate a replacement as soon as possible.

Checklist for Contact Persons

- ___ Designate a contact person for the facility:

  _____

- ___ Notify media of the name, mailing address, and phone number of the contact person
- ___ Inform your staff and other stakeholders who are involved with the facility
- ___ Have contact person maintain a log book of all stakeholder requests and comments received

Telephone Contacts

Regulatory Requirements

None.

Description of Activity

Telephone contacts can be used to gather information about the community and to update State and local officials and other interested parties on the status of permitting or corrective action activities. See the section on "Surveys and Telephone Polls" earlier in this Chapter for related activities.

Level of Effort

Telephone contacts can be a time-intensive activity, depending on the nature of the call. Allow several hours per call when gathering information.

How to Conduct the Activity

In making telephone contacts:

1. **Know exactly what information to request or give out.** Plan carefully what you want to say or what information you would like to obtain from these individuals. Refer to the section on "Community Interviews" earlier in this chapter for information on how to conduct these interviews.

2. **Conduct telephone calls and take notes for your files.**

When to Use

Telephone contacts may be used:

- In the early stages of the RCRA actions to identify key officials, citizens, and other stakeholders who have a high interest in the facility;
- To gather information when face-to-face community interviews are not possible;
- When new and time-sensitive material becomes available; and
- When there is a high level of community interest in the facility, and it is important to keep key players informed.

Accompanying Activities

Telephone contacts are usually made to arrange or conduct community interviews, develop **mailing lists** and arrange for other public participation activities such as **news briefings**, **informal meetings**, and **presentations**.

Advantages and Limitations

Telephone calls can be an inexpensive and expedient method of acquiring initial information about the facility. Once the initial information has been gathered, telephone contacts are a quick means of informing key people about facility activities and for monitoring any shifts in community concerns.

Residents initially may feel uncomfortable discussing their concerns and perceptions over the telephone with a stranger. Once residents have met your staff in person, however, they may be more open and willing to discuss their concerns during follow-up telephone calls.

Checklist for Telephone Contacts

Initial telephone contacts:

- ___ Identify individuals to contact:
  - ___ State officials
  - ___ Local officials
  - ___ Regulatory agency officials
  - ___ Concerned citizens
  - ___ Media
  - ___ Environmental groups, civic organizations, public interest groups
- ___ Prepare information to discuss on telephone
  - ___ Prepare questions for individuals to answer
  - ___ Prepare information that you can give them
- ___ Keep a log book of information received/given

On-going contacts:

- ___ Maintain up-to-date telephone contact list
- ___ Prepare information to discuss on telephone before each set of calls

Telephone Hotlines

Regulatory Requirements

None.

Description of Activity

A hotline is a toll-free (or local) telephone number people can call to ask questions and obtain information promptly about RCRA activities. Some hotlines allow people to order documents.

Level of Effort

The amount of time spent on the telephone hotline responding to citizen concerns and questions will depend on the level of concern the community has regarding the facility's permit or corrective action activities. You may spend several hours a day responding to inquiries if there is high to moderate interest in the facility's RCRA activities.

How to Conduct the Activity

To install a telephone hotline, either as a semi-permanent fixture (available throughout the permit review or corrective action process) or as a temporary measure (installed at the time of major community feedback, such as the public comment period):

1. **Assign one or more staff members** to handle the hotline calls. Consider installing more than one line to minimize busy signals. If staff are not available throughout the day, install an answering machine directing people to leave their name, number, and brief statement of concern, and informing them that someone in your organization will return their call promptly. If a voice mail system is available, provide information on commonly requested information such as meeting dates and locations and the permit status. Check the answering machine for messages at least once a day. If the level of concern is high, check for messages more frequently.

2. **Announce the telephone hotline** in news releases to local newspapers, radio stations, and television stations, and in fact sheets, publications, and public notices.

3. **Keep a record of each question**, when it was received, from whom, and how and when it was answered. All questions and inquiries should be responded to promptly (within 24 hours) if an answer cannot be given immediately. Be diligent in following up requests for information and tracking down accurate, direct responses.

When to Use

A telephone hotline may be used:

- When community interest or concern is moderate to high;

- When emergencies or unexpected events occur, or when a situation is changing rapidly;
- When there is a high potential for complaints (e.g., about dust or noise);
- Where literacy rates are low and written information must be supplemented; and
- Where the community is isolated and has little opportunity for face-to-face contact with project staff (e.g., rural areas, areas far from Regional offices).

Accompanying Activities

The hotline can supplement all other public participation activities.

Advantages and Limitations

A hotline can provide interested people with a relatively quick means of expressing their concerns directly to your organization and getting their questions answered. This quick response can help reassure callers that their concerns are heard. A telephone hotline also can help monitor community concerns. A sudden increase in calls could indicate that additional public participation efforts may be warranted.

You must respond quickly to questions or concerns; otherwise callers may become frustrated. If the number of calls is large, responding quickly to each inquiry could prove burdensome to your staff. Furthermore, dialing a hotline number and receiving a recorded message could irritate or alienate some members of the public.

Checklist for Telephone Hotlines

- ___ Determine need for telephone hotline
- ___ Identify staff responsible for answering calls
  - ___ Have staff maintain a log of all calls and responses
- ___ Install telephone hotlines/answering machines
- ___ Notify interested people about the hotline
  - ___ Public notice
  - ___ Fact sheet
  - ___ Mailing to facility mailing list
- ___ Coordinate staffing of hotline
- ___ Follow-up on calls to hotline

On-Scene Information Offices

Regulatory Requirements

None.

Description of Activity

An on-scene information office is a trailer, small building, or office space on or near the facility site, depending on what is more convenient and accessible for the affected community. The office is staffed by a full-time or part-time person(s) who responds to inquiries and prepares information releases.

Level of Effort

An on-scene information office is a time-intensive activity. You may have staff in the office up to 40 hours a week. Short Cut: Hire a contractor to staff the office; however, always ensure that a representative is there for some specified period during the week.

How to Conduct the Activity

To provide an on-scene information office:

1. **Establish the office.** You may have to rent a trailer, arrange with the owner of the facility to designate space in the facility, or rent office space in a town to be used as an office and launching area. If you will be establishing the office off-site, then you should find an area in the vicinity of the facility or in the nearest town or village.

2. **Install a telephone** and an answering machine to respond to inquiries and publicize the number in local newspapers and your public participation publications.

3. **Assign someone to staff the office.** Establish **regular** hours, including some during the weekend and weekday evenings. Publicize the trailer's hours and the services it offers.

4. **Equip the office with the same materials normally contained in an information repository, if possible.** At a minimum, include key documents and summaries of other documents that are not available. Provide a copy machine so that the public can make copies of documents in the information repository.

When to Use

An on-scene information office may be used:

- When community interest or concern is high;

- During corrective actions;
- When cleanup involves complex technologies or processes;
- When the community perceives a high level of risk to health;
- When activities may disrupt the area surrounding the facility (e.g., traffic patterns); and
- When the area near the facility is densely populated.

Accompanying Activities

The on-scene staff person can conduct **meetings** and **question and answer sessions** to inform citizens about the status of the corrective actions or other facility operations. Staff may also prepare and distribute **fact sheets** and **newsletters** to local residents, conduct **facility tours**, and support the **telephone hotline**. With the **telephone contacts** they make, they can add to and update **mailing lists** and revise **public participation plans**. An on-scene information office may also be a good location for the **information repository**.

Individuals staffing an on-scene information office for an extended period of time will necessarily have a special role in the community. Involvement in other public participation activities may represent a large part of their function. In addition to distributing information to local residents, on-site staff may be responsible for maintaining data bases of residents' addresses, the status of access to property, and a daily log of inquiries. It is important that on-site staff monitor public perceptions and concerns daily. On-scene staff often can make useful recommendations regarding stakeholder concerns. Finally and perhaps most importantly, on-site staff members will frequently serve as a liaison with the public.

Advantages and Limitations

An on-scene information office can be an effective activity for ensuring that other stakeholders are adequately informed about permitting activities and that their concerns are addressed immediately.

An information office can be very expensive since it requires, at a minimum, a part-time staff person and a telephone. Hence, it should be used only when community concerns are currently high or may be high in the future.

Checklist for On-Scene Information Offices

- ___ Determine need for an on-scene information office
- ___ Identify staff to work in information office
- ___ Rent a trailer or office space for the information office
- ___ Equip the office with a telephone, office equipment (i.e., copier), and all materials contained in an information repository.
- ___ Notify interested people of availability of on-scene information office
  - ___ Public Notice
  - ___ Fact sheet
  - ___ Mailing to facility mailing list
- ___ Maintain on-scene information office
  - ___ Have staff conduct the following:
    - ___ Maintain the mailing list
    - ___ Review media coverage
    - ___ Respond to calls from citizens and stakeholder groups

Question and Answer Sessions

Regulatory Requirements

None.

Description of Activity

A question and answer session makes knowledgeable staff available to stakeholders to discuss permitting and corrective action issues. Question and answer sessions typically accompany a presentation, briefing, or meeting. Anyone at the event who needs more information will have the opportunity to speak with officials after the event. These sessions can be informal or formal.

Level of Effort

Answering questions will add a small amount of staff time to other public participation activities.

How to Conduct the Activity

To conduct a question and answer session:

1. **Announce that someone will be available for questions after the event.** Pick an area where people can meet a knowledgeable staff person for questions and answers.

2. **Be responsive, candid, and clear.** Ensure that all questions are answered. If staff cannot answer the question on the spot, they should not be afraid to say "I don't know" and offer to answer the question after getting more information. The staffer should write down the question, discuss it with other staff, and respond -- as soon as possible -- by phone or letter. Try to avoid using jargon that people will not understand.

3. **Consider brainstorming ahead of time to develop potential questions and to prepare responses.**

When to Use

Question and answer sessions are appropriate whenever people at an event need more information or the presenting organization needs more feedback. Question and answer sessions are also appropriate when people may feel more comfortable asking questions in a one-on-one situation. If a particular issue, raised by one person at a meeting, is preventing other issues from making the floor at a meeting, you may want to offer to discuss the issue one-on-one after the meeting.

Accompanying Activities

Hold question and answer sessions after **exhibits, presentations, meetings, facility tours**, or on **observation decks**. Some events, such as **open**

houses, have built-in question and answer sessions. In responding to inquiries, you may want to provide written information, such as **fact sheets**, or refer the questioner to a **contact person**.

Advantages and Limitations

Question and answer sessions provide direct communication between your organization and citizens. They are a useful, easy, and inexpensive way of providing one-on-one explanations in an informal setting. One-on-one discussions may attract people who are intimidated from raising issues during a meeting. Such interactions may also increase public comfort and trust in your organization.

Citizens may not be pleased if you cannot answer a question on the spot; they will certainly not be pleased if your response is slow. Be sure to respond to all unanswered questions as soon as you can.

Checklist for Question and Answer Sessions

- ___ Brainstorm potential questions and prepare responses
- ___ If you are planning a Q&A session after a meeting or other event, let people know where it will be held by mentioning it during the meeting
- ___ Be candid and avoid jargon in your answers. If you cannot answer a question, take the questioner's phone number or address and respond to the question as soon as you can.

Information Tables

Regulatory Requirements

None.

Description of Activity

Information tables are simple public participation tools that you can use to interact with interested stakeholders. An information table consists of a table or booth set up at a meeting, hearing, or other event (e.g., a community fair or civic gathering). It is staffed by at least one member of your organization who is available to answer questions. Pamphlets, fact sheets, and brochures are available on the table, along with a sign-up sheet for interested people to add their names to the facility mailing list.

Level of Effort

This activity is time-intensive, with at least one staff person staying at the table during the entire event. The information table is less of a drain on other resources since the materials should already be available.

How to Conduct the Activity

To prepare for an information table:

1. **Learn from community interviews which local events are most frequented by citizens during the year.**

2. **Decide whether the table will be sufficient to address community concerns.** The information table may not be effective in highly-charged environments.

3. **Set up the table.** Include important fact sheets, answers to common questions, general descriptions of the RCRA program, contact names, and hotline numbers. Allow people to sign up for the facility mailing list. Use **exhibits** if appropriate.

When to Use

Use information tables when:

- You need to provide a feedback loop after a public event;
- The RCRA activity has raised significant public interest or technical issues may raise many questions among the public;
- You are gathering names for the facility mailing list;
- A local event, where tables are available, will attract a significant portion of the community.

Information tables may be useful in connection with a **public hearing** or

Accompanying Activities

meeting. EPA recommends using information tables as part of **availability sessions** and **open houses**. **Fact sheets, newsletters, project reports** and other information should be available at the table. People who come to the table should have the opportunity to sign up for the **mailing list**. **Exhibits** and diagrams can be helpful for explaining the process or technical issues. Provide the name of a **contact person** (or a list of contact people) for interested people to take with them. Information tables provide a good opportunity to distribute questionnaires and **surveys**.

Advantages and Limitations

An information table can provide a feedback loop that complements other events in the permitting process. Information tables at availability sessions and open houses can provide a comfortable way for people to approach project staff and ask questions. At county fairs or other events, they allow project staff to interact with the community and spread information about important permitting activities.

People who approach the information table may ask questions that staff cannot answer. To avoid any negative reactions, staff should record the question and contact the person with an answer by a certain date.

Checklist for Information Tables

(As appropriate):

- ___ Determine a location for the information table
  - ___ Facility name, location _____
  - ___ Contact person at location _____
- ___ Confirm availability of location for information tables
- ___ Discuss guidelines for information tables with the event planner
- ___ Assign staff to cover the information table
- ___ Collect materials for the information table
  - ___ Table and chairs
  - ___ Table skirt
  - ___ A sign that identifies your organization
  - ___ Exhibits, time-lines, surveys
  - ___ Mailing list sign-up sheet
  - ___ Name tags for your staff
  - ___ Pens and notepads
  - ___ Fact sheets, reports, pamphlets, and other documents that people can take
  - ___ Business cards with the name of a contact person at your organization
  - ___ Reference documents for your use
- ___ Keep a record of comments and questions for your files

Informal Meetings with Other Stakeholders

Regulatory Requirements

None. (This type of informal meeting is distinct from the pre-application meeting required under § 124.31 (and discussed under "Public Meetings" in this Chapter) which EPA has stated should be an informal discussion open to the public).

Description of Activity

Informal meetings are meetings your organization holds with individual stakeholder groups that have particular interest in a permitting activity. These meetings are held in an informal setting, such as a resident's home or a local meeting place. Informal meetings allow interested citizens and local officials to discuss issues and concerns. Staff responsible for the facility receive first-hand information from interested community members, special interest groups, and elected officials, while citizens have the opportunity to ask questions and explore topics of interest regarding the facility in question.

Public meetings, which are distinct from **public hearings**, are a special form of informal meetings where the entire community can participate. Public meetings allow all interested parties to discuss issues regarding the facility with each other as well as the regulatory agency. Public meetings can be especially useful for allowing discussion before a public hearing and can be scheduled immediately before the hearing. Comments made during a public meeting do not become part of the official administrative record as they do during a hearing. (See the sections on "Public Meetings" and "Public Hearings" in this Chapter for more details.)

Level of Effort

An informal meeting will take two to three days to plan and conduct. This includes about three hours to set up and schedule the meeting, five hours for preparation, four hours to conduct the meeting, and four hours to follow up on any issues raised during the meeting.

How to Conduct the Activity

To conduct informal meetings:

1. **Identify interested citizens and officials.** Contact each group and local agency that is directly affected by the facility, or contact individuals who have expressed concern regarding the facility. Interested citizen/public interest groups may also want to contact the agency or the facility to set up a meeting. Offer to discuss the permit or corrective action plans at a convenient time, taking into consideration the following elements that will affect levels of community interest and concern: for facilities at which emergency

actions are required, schedule the meeting after the agency has accurate information to share with the participants; for a corrective action, determine first when community concerns may be highest and schedule meetings accordingly. For instance, it may be appropriate to hold an informal meeting when the risk assessment report is released. Holding informal meetings early in the permit process can help prevent potentially volatile situations from developing by providing citizens with one-on-one attention.

2. **Limit attendance.** To increase effectiveness, restrict attendance to between five and 20 individuals or specify attendance by invitation only. The larger the group, the less likely it is that some people will candidly express their concerns. It is difficult to establish rapport with individuals in a large group. If a greater number of stakeholders are interested, you should schedule additional small meetings. If a greater number of participants appears than are expected at an informal meeting, divide the group into smaller groups to allow more one-on-one discussion to take place.

3. **Select a meeting date, time, and place convenient to attendants.** The meeting place should have chairs that can be arranged into a circle, or some other informal setting conducive to two-way communication. A private home, public library meeting room, community center, or church hall may be more likely to promote an exchange of ideas than a large or formal public hall. When scheduling the meeting, make sure that the date and time do not conflict with other public meetings that citizens may want to attend, such as town council meetings, or with holidays or other special occasions. Permitting agencies should be sure that the meeting location does not conflict with state "sunshine laws." In selecting a public meeting place, be attentive to the special needs of handicapped individuals (e.g., access ramps or elevators). Be aware that meetings will frequently have to be scheduled during evening hours to accommodate work schedules.

4. **Begin the meeting with a brief overview.** This short presentation should include a summary of the permit review schedule and how stakeholders can be involved in the decision. These opening remarks should be kept brief and informal (no more than a few minutes) to allow maximum opportunity for open discussion with meeting attenders. Cover whatever topics the public is interested in discussing, these may include:

   - Extent of the activity;
   - Safety and health implications;
   - Factors that might speed up or delay the regulatory and technical process; and

- How community concerns are considered in making decisions on permits and corrective actions.

5. **Identify the regulatory decision-makers** (major agencies and individuals responsible for enacting and enforcing RCRA regulations.) Citizens and other stakeholders will then know where to direct further questions or voice new ideas or suggestions.

6. **Gear the discussion to the audience.** Be sensitive to the level of familiarity that the citizens have with the more technical aspects of the activities discussed.

7. **Listen and take notes.** Find out what the meeting attendees want done. Some concerns may be addressed by making minor changes in a proposed action. Discuss the possibility for accommodating these concerns or explain the reasons why citizen requests appear to be unworkable or conflict with program or legal requirements.

8. **Promptly follow-up on any major concerns.** Stay in touch with the groups and contact any new groups that have formed, so that new or increasing concerns can be dealt with before problems develop.

9. **Write up brief minutes for your files.**

When to Use

Informal meetings can be used:

- When there is widely varying level of knowledge among community members;
- When the level of tension is high and large meetings may not be appropriate;
- When the community needs more personal contact to have trust in your organization or the process;
- When groups want to discuss specific issues in which the community as a whole isn't interested.

Accompanying Activities

Community interviews or calls to **telephone contacts** usually precede these meetings, since it is during these interviews that concerned citizens groups are identified and contacted. Possible meeting locations also can be identified during the community interviews.

Distributing **fact sheets** at these meetings also may be appropriate, depending on when they are held.

Advantages and

The primary benefit of informal meetings is that they allow two-way

Limitations

interaction between citizens, local officials, the permitting agency, and the facility. Not only will citizens be informed about the developments, but the facility owner/operator and officials responsible for the site can learn how citizens view the site.

Informal meetings also add a personal dimension to what might otherwise be treated as a purely technical problem. Informal meetings offer citizens, facility staff, and officials a chance to increase their familiarity with how the process works, increase awareness of each other's point of view, and actively promote public participation. Informal meetings also may diffuse any tension between stakeholders.

Some groups may perceive your efforts to restrict the number of attenders as a "divide and conquer" tactic to prevent large groups from exerting influence on potential actions and to exclude certain individuals or groups. One way to prevent this perception is to hold informal meetings with those organizations who express concern about being left out of the process.

Irate groups or individuals also may accuse your staff of telling different stories to different groups at these small meetings. You can avoid this criticism by inviting a cross-section of interests to each small meeting or by having a large public meeting. Alternatively, you can keep a written record of the informal discussions and make it available upon request or include it in the information repository. A record of discussions is required for any legally-required meetings held during the public comment period.

Checklist for Informal Meetings with Other Stakeholders

- ___ Determine purpose of meeting
  - ___ Determine number of attenders: _____
- ___ Determine location(s) for meeting (complete for each available facility)
  - ___ Facility name, location _____
  - ___ Contact person at facility _____
  - ___ Phone number _____
  - ___ Occupancy size _____
  - ___ Handicap accessibility _____
  - ___ Features:
    - ___Restrooms
    - ___Public telephones
    - ___Adequate parking
- ___ Determine date, time of meeting:

  Date:_____

  Time:_____
- ___ Identify interested citizens and officials
  - ___ Contact citizen groups, invite a representative to the meeting
- ___ Prepare meeting agenda
  - ___ Overview of project
  - ___ Identify decision-makers
  - ___ Allow time for discussion, question/answers
- ___ Follow-up

Public Meetings

Regulatory Requirements

The pre-application meeting that a permit applicant is required to conduct under § 124.31 is a type of public meeting, though it need not be restricted to the type of meetings described in this section. In some cases, different meeting formats will fulfill the requirements (see "The Pre-Application Meeting" in Chapter 3). Permit holders are also required to hold public meetings when requesting a class 2 or 3 permit modification under § 270.42(b) or (c).

Description of Activity

Public meetings are not public hearings. **Public hearings** are regulatory requirements that provide a formal opportunity for the public to present comments and oral testimony on a proposed agency action. Public meetings, on the other hand, are less formal: anyone can attend, there are no formal time limits on statements, and the permitting agency and/or the facility usually answers questions. The purpose of the meeting is to share information and discuss issues, not to make decisions. Due to their openness and flexibility, public meetings are preferable to hearings as a forum for discussing complex or detailed issues.

Public meetings sometimes complement public hearings. Public meetings can be especially useful for allowing discussion before a public hearing and can be scheduled immediately before the hearing (**workshops**, see below, can also fulfill this need). Comments made during a public meeting do <u>not</u> become part of the official administrative record as they do during a hearing. Public meetings provide two-way communication, with community members asking questions and the permitting agency providing responses. Unlike the activity in the section above ("Informal Meetings with Other Stakeholders"), public meetings are open to everyone.

While public meetings are usually called and conducted by the permitting agency (e.g., before public hearings) or the facility (e.g., during permit modification procedures), it is common for civic, environmental, and community organizations to hold public meetings where ideas can be discussed freely.

EPA's regulations require several specific public meetings. Section 124.31 calls on prospective permit applicants to announce and hold an informal public meeting prior to submitting a permit application. The permitting agency is not required to attend the meeting. See Chapter 3 for more information about the pre-application meeting. Permittees are required to hold public meetings when requesting a class 2 or 3 modification under § 270.42.

Level of Effort

While a public meeting should require less planning than a public hearing,

it may take several days to a week to arrange the location and logistics. See the "Public Notice" section above in this chapter to determine the resources you will need to announce the meeting. Other activities include preparing and copying materials for distribution. You may be able to distribute some of the same materials at the meeting and the public hearing (if applicable).

How to Conduct the Activity

To hold a public meeting, you will follow many of the same steps as for a public hearing (see Chapter 3 for specific guidance regarding pre-application meetings under § 124.31):

1. **Anticipate the audience and the issues of concern.** Identify the audience's objectives, expectations, and desired results. With this information you will know what topics to spend time on and what materials and exhibits to provide. If a part of your audience does not speak English, arrange for a translator.

2. **Schedule the meeting location and time** so that citizens (particularly handicapped individuals) have easy access. Ensure the availability of sufficient seating, microphones, lighting, and recorders. Hold the meeting at a time and place that will accommodate the majority of concerned citizens.

3. **Announce the meeting** at least 30 days before the meeting date. Provide notice of the hearing in local newspapers, broadcast media, signs, and mailings to interested citizens (you can find requirements for pre-application meetings in § 124.31(d)). Choose communication methods that will give all segments of the community an equal opportunity to participate. Use multilingual notices where appropriate. Make follow-up phone calls to interested parties to ensure that the notice has been received. Provide the name of a contact person.

4. **Make relevant documents available for public review.** If you are a permittee requesting a class 2 or 3 permit modification, you must place a copy of the modification request and supporting documents in a location that is publicly accessible and in the vicinity of the facility (see § 270.42(b)(3) and (c)(3)). Announce the location in the public notice for the meeting. For other public meetings, you should consider making important documents available prior to the meeting.

5. **Provide an opportunity for people to submit written questions and comments.** Not all individuals will want, or be able, to attend the meeting. Announce in public notices and mailings that written comments and questions can be submitted to the contact person. You may want to raise some of these written comments and questions at the public meeting.

6. **Post a sign-up sheet** so that attendees can *voluntarily provide their* names and addresses. If you are a permit applicant holding a pre-application meeting under § 124.31, you can use this sheet to produce and submit an attendee list as part of your part B application (as required under § 124.31© and § 270.14(b)(22)). The permitting agency will use the attendee list to help generate the facility mailing list.

7. **Take notes** about the major issues of concern and **prepare a summary of all oral and written comments.** If you are a permit applicant holding a pre-application meeting under § 124.31, you must submit a summary of the meeting as part of your part B permit application (as required under § 124.31© and § 270.14(b)(22)). For other public meetings, you should make a summary available for public review and announce where it is available.

When to Use

Some permitting agencies have had success in holding public meetings prior to a public hearing. Public hearings are often "staged" events with little opportunity for new input or discussion. Some participants have criticized them as opportunities for grandstanding. Public meetings, on the other hand, allow interested parties to ask questions and raise issues in an informal setting. A public meeting can provide a useful means of two-way communication at any significant stage during the permitting or corrective action process.

If you are a permit applicant required to hold a pre-application meeting under § 124.31, the public meeting format is one option you can use. Refer to the discussion in Chapter 3 for more information.

Accompanying Activities

Provide **public notice** of the meeting and designate a **contact person. Fact sheets** and **exhibits** can inform people about permitting issues at public meetings. You may also consider establishing an **information table** where people who may feel uneasy speaking during the meeting can ask questions and pick up materials. Another option is to make your staff available after in the meeting, in the same manner as an **availability session** or an **open house. Information repositories** can complement the meeting by making important documents available for public review.

Advantages and Limitations

A public meeting provides a forum where interested people can ask questions and discuss issues outside of the formality of a public hearing. They are flexible tools that are open to everyone.

Some citizens may be reluctant to speak up at public meetings. You can address this concern by providing one-on-one access to your staff via an information table or an open house, or by scheduling informal meetings. Public meetings, like public hearings, could become adversarial.

Checklist for Public Meetings

(As applicable):

__ Determine location for public meeting

- __ Facility name, location _____
- __ Contact person at location _____
- __ Phone number _____
- __ Occupancy size _____
- __ Handicap accessibility _____
- __ Features:
  - __ Restrooms
  - __ Public telephones
  - __ Adequate parking
  - __ Security

__ Determine date, time of public meeting:

Date: _____

Time: _____

__ Confirm availability at location (if location is not available, determine new location or new date)

__ Announce the public meeting. (Pre-application meetings under § 124.31 must be announced through a display advertizement in a newspaper of general circulation, over a broadcast medium, and through a sign posted on or near the site of the facility or proposed facility).

- __ Contact local officials
- __ Notify key agencies and other stakeholder groups

__ Provide an opportunity, in the notice, for people to submit written comments

__ Determine whether a translator is needed

__ Determine presentation requirements (depending upon the specific requirements of your presentation, some of these items may be optional)

- __ Electrical outlets
- __ Extension cords

Checklist for Public Meetings (continued)

- ___ Accessible lighting control panel
- ___ Podium
- ___ Stage
- ___ Table(s) and chairs for panel
- ___ Table skirt
- ___ Sign-up sheet for the mailing list. (If you are conducting a pre-application meeting under § 124.31, you are required to provide a sign-up sheet or another means for people to add their names to the facility mailing list. You must provide the sheet to the permitting agency as a component of your part B permit application).
- ___ Water pitcher and glasses
- ___ Sound system
- ___ Microphones (stand, tabletop)
- ___ Cables
- ___ Speakers
- ___ Technician/engineers available for hearing
- ___ Visual aids
- ___ Slides
- ___ Slide projector
- ___ Extra projector bulbs
- ___ Flip chart
- ___ Flip chart markers
- ___ Overhead transparencies
- ___ Overhead machine
- ___ VCR and monitor
- ___ Screen
- ___ Table for projection equipment

Checklist for Public Meetings (continued)

- ___ Security personnel (if necessary)
- ___ Table for meeting recorder (who will produce a meeting transcript or summary)
- ___ Registration table
- ___ Registration cards
- ___ Writing pens
- ___ Signs
- ___ Miscellaneous supplies:
- ___ Scissors
- ___ Tape (masking, transparent)
- ___ Thumbtacks
- ___ Public information materials (fact sheets, etc.)

___ Prepare meeting agenda. (Facility owners/operators conducting a pre-application meeting under § 124.31 should refer to chapter 3 of this manual for information on the subjects they should cover during the meeting).

___ Arrange contingency planning. Decide what to do if:
- more people show up than capacity
- equipment malfunctions

___ Prepare the meeting summary/transcript and make it available to the public. (Facility owners/operators conducting a pre-application meeting under § 124.31 must provide the summary to the permitting agency as a component of the part B application).

Public Hearings

Regulatory Requirements

Public hearings are required if requested (§ 124.11) by the public during the draft permit stage, during an agency-initiated modification under § 270.41, or a Class 3 permit modification under § 270.42(c)(6). The agency will also hold a public hearing at the draft permit stage when there is a high level of public interest (based on requests), or when the agency thinks that the hearing might clarify relevant issues (§ 124.12). The agency will also hold a hearing if these conditions apply during closure or post-closure at interim status facilities (§§ 265.112(d)(4) and 265.118(f)).

Description of Activity

Public hearings provide an opportunity for the public to provide formal comments and oral testimony on proposed agency actions. Occasionally the agency will present introductory information prior to receiving comments. All testimony received becomes part of the public record.

In contrast to a public hearing, a **public meeting** (see above in this Chapter) is intended to provide two-way discussion and is not always recorded for the public record.

Permittees and facility staff have no official role during a hearing. The hearing is a regulatory requirement of the permitting agency.

Level of Effort

Several days to a week may be required to arrange for a public hearing, including the location, hearing logistics, and agenda preparation. Other activities include preparing the notice for the hearing, conducting a dry-run of the hearing, and preparing and copying materials.

How to Conduct the Activity

To conduct public hearings:

1. **Anticipate the audience and the issues of concern.** Identify the audience's objectives, expectations, and desired results. With this information you can determine whether the hearing is likely to be confrontational, or if the audience will need more detailed information about a permit or corrective action. If a part of your audience does not speak English, arrange for a translator.

2. **Schedule the hearing location and time** so that citizens (particularly handicapped individuals) have easy access. Identify and follow any procedures established by the local and state governments for public hearings. Ensure the availability of sufficient seating, microphones, lighting, and recorders. Hold the hearing at a time and place that will accommodate the majority of concerned citizens.

3. **Arrange for a court reporter** to record and prepare a transcript of

the hearing.

4. **Announce the public hearing** at least 30 days before the hearing date. Provide notice of the hearing in local newspapers and mailings to interested citizens. Under § 124.10(b), you may combine the hearing notice with the draft permit notice. Make follow-up phone calls to interested parties to ensure that the notice has been received.

5. **Provide an opportunity for people to submit written comments.** Not all individuals will want to provide oral testimony. Publicize where written comments can be submitted and how they will be reviewed.

6. **Prepare a transcript of all oral and written comments.** Announce where the transcript will be available for public review.

The following are general tips on conducting public hearings:

Be clear and up front with meeting format and logistics. Public hearings are very limited in the amount of information that is exchanged and the extent to which responses are given. Participants should not expect the question and answer format found in public meetings.

Establish meeting format. Public hearings should be managed by a hearings officer or moderator, whose responsibility it is to ensure that all comments are taken for the public record.

- Establish a speakers list. A moderator should develop a list of speakers from the list of respondents to public notices (e.g., those responding to a notice saying, "those wishing to be placed on the list of commenters should contact ...") and/or by asking those wishing to speak to identify themselves on a sign-up list on the way into the hearing. While limiting commenters to a pre-developed list may be inappropriate, such lists serve as valuable management tools in bringing forward commenters in an orderly and expeditious manner.

- Establish time limits for commenters. A moderator should establish a set time limit for an individual to make comments. Typically the limit is five minutes or less. Those wishing to make more detailed comments should be encouraged to submit their comments in writing.

- Establish time limits (if any) for the hearing. Based on your speakers list, and assuming a limited speaking time for individual commenters, the moderator may establish time limits (if any) on the hearing. Most hearings last between two and five hours. However, for very controversial topics, public hearings have been known to extend over a period of days.

- Interacting with commenters. Because comments become part of the

public record, the moderator should ask all commenters to give their names and addresses. If there is doubt about spelling, the moderator should ask the commenters to spell names or street names. In cases where there may be litigation, it is common practice to further request that anyone legally representing any party as part of the permit process or decision identify that fact.

When giving the floor to a commenter, the moderator should also note the person's name, so that he/she can thank the commenters by name at the conclusion of the comment (e.g., "Thank you for those comments, Ms. Smith.").

- Speakers from the permitting agency. There are no set rules for who should participate or speak at a public hearing. In the spirit of the law, the participants from the agency should be those who will be most involved with making the actual decision -- that is, the permit writer, and senior staff who will weigh all information, including these public comments, prior to reaching a final decision. Speakers from the agency should be limited to explaining briefly the decision being made (e.g., "We are here to discuss a proposed modification to the facilities permit to conduct the following activities...").

When to Use

- When requested by a member of the public during a public comment period on a permit, closure, or corrective action. Once requested, hearings require a minimum 30-day advance notice.
- Public hearings are usually conducted during the public comment period following the issuance of a draft permit, major permit modification, or at the selection of a proposed corrective measure.
- Public hearings may be appropriate at other times during the process, especially if the level of community concern warrants a formal record of communication.

Accompanying Activities

Public notices distributed to the **mailing list** and published in local newspapers are used to announce hearings to the public. If a hearing is held to solicit comments on either a draft permit decision or proposed corrective measure, the agency must prepare a **response to comments**. The response to comments documents all submitted public comments and includes the agency's responses. An educational **workshop** or **public meeting** may be useful shortly before the public hearing to explain key issues of the proposed decision or corrective measure and respond to citizen concerns.

Advantages and Limitations

A hearing provides a record of communication so citizens can be sure that their concerns and ideas reach the permitting agency. Public hearings generally should not serve as the only forum for citizen input. They occur at

the end of a process that should have provided earlier public access to information and opportunities for involvement. Earlier opportunities should answer most questions and arguments that are based on curiosity, emotion, sensationalism, or a lack of knowledge about the situation, thereby freeing the hearing for factually-based questions. Meet citizens' needs for information before a formal hearing with techniques such as fact sheets, small-group meetings, and one-on-one briefings.

The formality of a public hearing often creates an atmosphere of "us versus them." There may be little opportunity to interact with citizens. This may be frustrating to some; however, informal gatherings and question and answer sessions are often effective ways to interact with the public on an interpersonal level. A variety of informal techniques, ranging from talking to citizens groups to holding workshops, are discussed throughout this chapter.

Public hearings can easily become adversarial. One way to avoid hostility or confrontation is to make sure the community has had an opportunity to express concerns in a less formal setting prior to the hearing. More frequent contact with concerned citizens before a formal public hearing will reduce the likelihood of a confrontation.

Checklist for Public Hearings

(As appropriate):

__ Determine location(s) for public hearing

- __ Facility name, location _____
- __ Contact person at facility _____
- __ Phone number _____
- __ Occupancy size _____
- __ Handicap accessibility _____
- __ Features:
  - __ Restrooms
  - __ Public telephones
  - __ Adequate parking
  - __ Security

__ Determine date, time of public hearing:

Date: _____

Time: _____

__ Confirm hearing facility availability (if facility not available, determine new facility or new hearing date)

__ Announce the public hearing through a public notice in at least one newspaper 30 days prior to the hearing

- __ Contact local officials
- __ Notify key agencies

__ Determine presentation requirements (depending upon the specific requirements of your presentation, some of these items may be optional)

- __ Electrical outlets
- __ Extension cords
- __ Accessible lighting control panel

Checklist for Public Hearings (continued)

- ___ Podium
- ___ Stage
- ___ Table(s) and chairs for panel
- ___ Table skirt
- ___ Water pitcher and glasses
- ___ Sound system
- ___ Microphones (stand, tabletop)
- ___ Cables
- ___ Speakers
- ___ Technician/engineers available for hearing
- ___ Visual aids
- ___ Slides
- ___ Slide projector
- ___ Extra projector bulbs
- ___ Flip chart
- ___ Flip chart markers
- ___ Overhead transparencies
- ___ Overhead machine
- ___ VCR and monitor
- ___ Screen
- ___ Table for projection equipment
- ___ Security personnel

Checklist for Public Hearings (continued)

- ___ Table for court reporter
- ___ Registration table
- ___ Registration cards
- ___ Writing pens
- ___ Signs
- ___ Miscellaneous supplies:
- ___ Scissors
- ___ Tape (masking, transparent)
- ___ Thumbtacks
- ___ Public information materials (fact sheets, etc.)

___ Prepare meeting agenda

___ Determine hearing participants/speakers

_____

_____

_____

_____

___ Prepare opening comments for hearing officer

___ Arrange contingency planning, decide what to do if:
- more people show up than capacity
- the crowd becomes disruptive

___ Coordinate with public involvement coordinator on notification of the media

___ Set date and time for debriefing following the hearing

Availability Sessions/Open Houses

Regulatory Requirements

None. (In some cases, an availability session or an open house may fulfill the pre-application meeting requirement under § 124.31, as long as the meeting achieves the standards of that section. See "The Pre-Application Meeting" in Chapter 3 for more detail.)

Description of Activity

Availability sessions/open houses are informal meetings in a public location where people can talk to involved officials on a one-to-one basis. The meetings allow citizens to ask questions and express their concerns directly to project staff. This type of gathering is helpful in accommodating individual schedules.

Availability sessions and open houses can be set up to allow citizens to talk with representatives from all interested organizations. Citizens can find out more about all sides of a permitting issue through conversations with agency officials, facility staff, and representatives of involved interest groups and civic organizations.

Level of Effort

An availability session/open house may take two to three days to plan and conduct. Allow sufficient time to select a date, time, and location for the meeting, plan for the session, prepare supporting materials, and meet with and brief your staff who will attend the meeting. You should plan for about five hours for the actual session.

How to Conduct the Activity

To conduct an availability session/open house:

1. **Select a date, time, and location for the availability session/open house that encourages attendance.** Evening hours usually are preferable. The location should be in an easily accessible building familiar to residents (such as a public library, school, or local meeting room).

2. **Anticipate the number of attenders and plan accordingly.** If a large number of people is expected, consider the possibility of holding two availability session/open houses to enable staff to meet and talk with each attender. Alternatively, you can increase the number of staff or the length of the availability session/open house. As a general rule, planning for one staff member per 15-20 attenders should foster an informal atmosphere for conversation, and thereby avoid the situation where a staff member has to speak to a "crowd."

3. **Develop or gather together appropriate explanatory materials.** These materials may include poster boards, handouts, or fact sheets.

4. **Publicize the availability session/open house at least two weeks ahead of time, if possible.** Send announcements to newspapers, television and radio stations, citizens on the mailing list, and any interested community organizations that publish newsletters.

5. **Ensure that appropriate staff attend,** so that citizens can meet those who will be responsible for facility activities. The staff present should be able to answer both technical and policy questions.

6. **Meet with and brief staff and rehearse for the session.** Anticipate questions that may be asked during the session and prepare answers.

When to Use

An availability session/open house is most appropriate:

- When scheduling of meetings is difficult because of community members' schedules;
- When new information is available on several different technical or regulatory issues that would make explaining it in its entirety would be too long for a more formal meeting;
- When community members have widely varying interests or levels of knowledge;
- When an informal setting is appropriate to enhance your credibility with the community;
- When staff is available;
- When larger crowds will make it difficult for certain members of the public to raise questions; and
- In some cases, to fulfill the pre-application meeting requirements in § 124.31 (see "Regulatory Requirements" above in this section).

Accompanying Activities

Exhibits and **fact sheets** can provide background information that enables citizens to ask more informed questions about the facility during the availability session/open house.

Advantages and Limitations

The one-to-one conversations during an availability session/open house can help build trust and establish a rapport between citizens and project staff. An informal, neutral setting will keep officials and the public relaxed and make communications smoother. Citizens can find out more about all

viewpoints concerning a permitting action if public interest groups, civic organizations, agency officials, and facility staff are present at the session.

Planning and conducting an availability session/open house can require a significant amount of staff time. A low turnout may not justify the effort. Hence, community interest in the site should be significant before an availability session/open house is planned.

Checklist for Availability Sessions/Open Houses

(* If you are conducting this activity to fulfill the requirements of § 124.31, the activity must meet the standards of that section. See Chapter 3 for more information).

(As appropriate):

- __ Determine location(s) for meeting (complete for each available facility)
  - __ Facility name, location _____
  - __ Contact person at facility_____
  - __ Phone number_____
  - __ Occupancy size_____
  - __ Handicap accessibility_____
  - __ Features:
    - __ Restrooms
    - __ Public telephones
    - __ Adequate parking
- __ Determine date, time of meeting:

  Date: _____

  Time: _____
- __ Prepare draft notice (public notice, flier)
- __ Coordinate internal review of notice
- __ Prepare final notice
- __ Determine what officials will attend availability session/open house
- __ If applicable, coordinate with other organizations that will be available at the session
- __ Notify citizens of availability session/open house
  - __ Direct mailing to citizens on facility mailing list
  - __ Verify that mailing list is up-to-date
  - __ Request mailing labels
  - __ Public notice in local newspaper(s)
- __ Prepare handouts, other informational material for availability session/open house

Workshops

Regulatory Requirements

None.

Description of Activity

Workshops are seminars or gatherings of small groups of people (usually between 10 and 30), led by a small number of specialists with technical expertise in a specific area. In workshops, participants typically discuss hazardous waste issues where citizens comment on proposed response actions and receive information on the technical issues associated with the permitting process and the RCRA program in general. Experts may be invited to explain the problems associated with releases of hazardous substances and possible remedies for these problems. Workshops may help to improve public understanding of permit conditions or hazardous waste problems at a facility and to prevent or correct misconceptions. Workshops also may identify citizen concerns and encourage public input.

Level of Effort

A one-day workshop may take about three days to a week to plan and execute. Another day will probably be required to follow up on any issues that arise during the workshop.

How to Conduct the Activity

To conduct a workshop:

1. **Determine the focus of the workshop.** Decide what topic or topics will be covered in either one or more workshops. Suggested topics include: purpose of RCRA; description of the permit process or corrective action program; proposed remedies; risk assessment; identified health or environmental problems; and/or method and format for receiving citizen comments on the proposed or ongoing actions. Determine what staff will be needed at each workshop and whether any outside experts will be needed.

2. **Plan the workshop.** Decide ahead of time on a minimum and maximum number of participants. If there are too few, consider holding an informal meeting and postpone the workshop until additional interest develops. Identify a convenient location and time for the workshop, and set a date that does not conflict with other important meetings or interests (for example, town council meetings, high school sporting events).

3. **Announce the workshop** by publishing a notice well in advance (at least 3 weeks) in the local newspapers. Send a notice of workshops with mailings to all citizens on the facility mailing list and distribute posters around town. Send out invitations and registration forms to

concerned citizens. Provide for multiple registrations on each form to accommodate friends who also might be interested in the workshop. Emphasize that the number of participants is limited, and provide a deadline for registration.

When to Use

Workshops are appropriate:

- When the RCRA process needs to be explained to community members interested in participating in the process;
- When specific topics needs to be discussed in detail, especially health or risk assessment issues; and
- When technical material needs to be explained and feedback from the community is important to make sure that citizens understand the material.

Accompanying Activities

Workshops can be conducted before formal **public hearings** or during **public comment periods** to give citizens some ideas on developing and presenting testimony. **Fact sheets** and **exhibits** can complement the workshop.

Advantages and Limitations

Workshops provide more information to the public than is possible through fact sheets or other written materials. Workshops have proven successful in familiarizing citizens with key technical terms and concepts before a formal public meeting. Workshops also allow two-way communication, making them particularly good for reaching opinion leaders, interest group leaders, and the affected public.

If only a limited number are held, workshops can reach only a small segment of the affected population.

When planning a workshop, you should make sure that it is announced in local newspapers, to help ensure that it will be well-attended. In addition, it may be helpful to specifically invite all residents who have expressed an interest in the site.

Checklist for Workshops

(As appropriate):

- ___ Determine purpose of workshop _____
  - ___ Determine number of attenders _____
- ___ Plan the workshop
  - ___ Identify topics to be presented
  - ___ Identify agency officials to present topics, handle registration
  - ___ Prepare handouts, other informational materials
- ___ Determine location(s) for workshop (complete for each available facility)
  - ___ Facility name, location _____
  - ___ Contact person at facility _____
  - ___ Phone number _____
  - ___ Occupancy size _____
  - ___ Handicap accessibility _____
  - ___ Features:
    - ___ Restrooms
    - ___ Public telephones
    - ___ Adequate parking
- ___ Determine date, time of workshop:

  Date: _____

  Time: _____
- ___ Prepare draft notice announcing workshop (public notice, flier)
- ___ Coordinate internal review of notice
- ___ Prepare final notice

Checklist for Workshops (continued)

- ___ Notify citizens of workshop
  - ___ Direct mailing to citizens on facility mailing list
  - ___ Verify that mailing list is up-to-date
  - ___ Request mailing labels
  - ___ Public notice in local newspaper(s)
- ___ Determine presentation requirements
  - ___ Electrical outlets
  - ___ Extension cords
  - ___ Accessible lighting control panel
  - ___ Window covers
  - ___ Podium
  - ___ Stage
  - ___ Table(s) and chairs for panel
  - ___ Water pitcher and glasses
  - ___ Sound system
  - ___ Microphones (stand, tabletop, lavaliere)
  - ___ Cables
  - ___ Speakers
  - ___ Technician/engineers available for hearing
  - ___ Visual aids
  - ___ Slides
  - ___ Slide projector

Checklist for Workshops (continued)

- ___ Extra projector bulbs
- ___ Flip chart
- ___ Flip chart markers
- ___ Overhead transparencies
- ___ Overhead machine
- ___ VCR and monitor
- ___ Screen
- ___ Table for projection equipment
- ___ Registration table
- ___ Registration cards
- ___ Writing pens
- ___ Signs
- ___ Miscellaneous supplies:
- ___ Scissors
- ___ Tape (masking, transparent)
- ___ Thumbtacks
- ___ Public information materials (fact sheets, etc.)

___ Arrange and conduct at least one rehearsal

Attending Other Stakeholder Meetings and Functions

Regulatory Requirements

None. (The permitting agency may need to attend public meetings held by the permittee under § 270.42 in order to respond to public comments on the modification request. Agencies may also want to attend the applicant's pre-application meeting held under § 124.31. See the section on the "Pre-Application meeting" in Chapter 3 for more detail.)

Description of Activity

Permitting agencies, facilities, local governments, environmental organizations, religious and civic groups may all hold meetings or other gatherings during the permitting process. Some may be required by regulation and others may be informational meetings or discussions of important issues. As an involved stakeholder, you can learn more about the views of other stakeholders by attending their meetings. You can join in important discussions and provide information. Some groups may invite you to give a **presentation** or a **briefing**.

Level of Effort

The time you commit to attending other stakeholder meetings or functions will depend on the level of your participation. Meetings can vary in length; your resource commitment will be more substantial if you agree to give a **briefing** or a **presentation** (see those sections of this chapter for more information). You will need a few hours to prepare notes for your file after the meeting.

How to Conduct the Activity

If you decide to attend a meeting, you may want to inform the host organization that you plan to attend the meeting. If you choose to identify yourself at the meeting, be prepared to answer questions. You may want to bring fact sheets or other information you can provide upon request. In any case, be prepared to listen to the discussion and prepare notes for your files.

The host organization may ask you to provide a **briefing** or a **presentation**. See those sections of this chapter for more information.

When to Use

You may want to attend other stakeholders' meetings when the meetings are open and you want to learn more about the views held by other stakeholders. In some cases, a group may invite your organization to attend a meeting to provide input or answer questions. In such cases, you should be prepared to answer questions or present the views of your organization.

Accompanying Activities

If appropriate, you may want to make **fact sheets** available upon request at the meeting. Provide the name of a **contact person**. If you are representing the permitting agency, let participants know about how to put their names on the facility **mailing list**.

Advantages and Limitations

Attending meetings or functions held by other stakeholders can provide useful insight to other opinions and concerns. This information can help you plan other public participation events and complement data you gather from community interviews.

This activity should not be used in place of informal meetings or other activities that may be more appropriate. If your attendance has the potential to cause problems, make sure to contact the host before the meeting.

Citizen Advisory Groups

Regulatory Requirements

None.

Description of Activity

A Citizen Advisory Group (CAG) provides a public forum for representatives of diverse community interests to present and discuss their needs and concerns with government and/or the facility. Although CAGs may come in many different forms and have different responsibilities and roles, they are generally composed of a board of stakeholders that meets routinely to discuss issues involving a particular facility. The purpose of a CAG is usually to advise a facility owner/operator or the permitting agency on permitting or corrective action activities.

CAGs can be a good way to increase active community participation in environmental decision-making and provide a voice for affected community members and groups. They promote direct, two-way communication among the community, the permitting agency, and the facility.

The make-up and mission of a CAG may vary -- there is no set formula governing the make-up or responsibilities of the group. The best type of CAG to use will depend on the situation. For instance, a citizen organization may create a CAG of affected community members to provide an official voice from the community. Facility owner/operators may create a CAG of affected community members to provide informal or formal advice. A permitting agency may form a CAG that includes stakeholders from the facility, the community, and the agency.

In establishing a CAG, it is important to bear in mind that the size of a group can often have an impact on its effectiveness -- for example, too large of a group can inhibit how efficiently it can work and come to consensus on issues, and too small of a group may not be adequate to represent diverse community concerns.

Forming a CAG does not necessarily mean that there will be universal agreement about permitting or corrective action issues. Nor does having a CAG mean there will be no controversy during the process. However, when decisions made by the facility or the permitting agency differ from the stated preferences of a CAG, the facility or the agency should accept the responsibility of explaining its decision to CAG members.

RCRA regulations do not require the use of advisory groups; however, EPA regulations do contain standards for advisory groups if EPA decides to require them under 40 CFR. These standards are located in 40 CFR

25.7. Although these standards may not apply to all types of advisory groups used in conjunction with RCRA permitting, they provide useful guidance for agencies, facilities, and public interest groups who may want to use advisory groups. A copy of the part 25 regulations is available Appendix F.

EPA's Office of Emergency and Remedial Response has issued guidance on the use of CAGs at Superfund sites (see Appendix E). Although there are many differences between the Superfund and RCRA programs (most notably that Superfund often deals with abandoned sites while RCRA typically deals with existing or potential facilities), a large part of the Superfund CAG guidance discusses CAG development, membership, and training that may be applicable to some RCRA CAGs. Superfund terminology and process aside, the guidance contains some very useful, concise advice on various aspects of CAGs.

Although CAGs are a useful tool in many situations, they may not always be appropriate. See the section "When to Use" below for a list of factors you should consider before forming a CAG.

Level of Effort

CAGs can be a time-consuming and expensive endeavor. Membership selection, meeting preparation and follow-up, information dissemination, and training all take a lot of resources. Unlike the Superfund program, agencies that implement RCRA cannot provide Technical Assistance Grants (TAGs) to help defray the costs of CAGs.

How to Conduct the Activity

See EPA's *Guidance for Community Advisory Groups at Superfund Sites* and 40 CFR § 25.7 (in Appendices E and F) for information on how to set up CAGs. Keep in mind that CAGs under the RCRA program will differ from CAGs under Superfund. You may want to obtain a copy of the reference list of public participation and risk communication literature (available through the RCRA Hotline or the RCRA Information Center in Docket Number F-95-PPCF-FFFFF) to look for additional information sources on this topic.

When to Use

A CAG can be formed at any point in the permitting or corrective action process, and may be most effective in the early stages. Generally, the earlier a CAG is formed, the more members can participate in and impact decision-making.

CAGs may not be appropriate in every situation. If you are considering use of a CAG, you should consider the following factors:

- the level of community interest and concern;
- community interest in forming a CAG;

- the existence of groups with competing agendas in the community;
- environmental justice issues or concerns regarding the facility;
- the history of community involvement with the facility, or with environmental issues in general; and
- the working relationship between the facility, the community, and the permitting agency.

Accompanying Activities

Depending on the make-up and the purpose of the CAG, you may want to provide **public notice**, hold a **public meeting**, and issue a **news release** before forming the CAG. The CAG may choose to provide public participation activities (such as **meetings**, **newsletters**, or **availability sessions**) as part of its mission.

Advantages and Limitations

CAGs can increase active community participation in environmental decision-making and provide a voice for affected community members and groups. They promote direct, two-way communication among the community, the permitting agency, and the facility and can highlight your organization's commitment to inclusive stakeholder input.

CAGs can be time- and resource-intensive. CAGs that do not accurately reflect or account for public concerns may lose support in the community. In addition, uncertainty about the group's charter may cause conflict and hard feelings. If you plan to use a CAG, the mission and responsibilities of the CAG must be made clear from the start. Finally, CAGs can spend so much time agreeing on procedures that they drive away people who are concerned with substance. The need for elaborate procedures can be sharply reduced if an advisory group agrees to work on a consensus basis rather than by majority vote.

APPENDICES

APPENDIX A -- LIST OF EPA CONTACTS

EPA Headquarters

401 M Street, SW
Washington, DC 20460

Directory Assistance	(202) 260-2090 (TDD 260-3658)
Office of Solid Waste and Emergency Response	(202) 260-4610
Office of Solid Waste	(202) 260-4627
Office of Enforcement and Compliance Assurance	(202) 260-4134
RCRA Hotline	(800) 424-9346 (TDD 553-7672)
(Washington, DC Metro Area)	(703) 412-9810 (TDD 412-3323)
Hazardous Waste Ombudsman	(800) 262-7937
(Washington, DC Metro Area)	(202) 260-9361
Office of Environmental Justice	(800) 962-6215
(Washington, DC Metro Area)	(202) 260-6359
Pollution Prevention Information Clearinghouse	(202) 260-1023
Public Information Center	(202) 260-2080
RCRA Information Center	(703) 603-9230 (see brochure)

EPA Regional Offices

Region 1 (CT, ME, MA, NH, RI, VT)	JFK Federal Building Boston, MA 02203-0001 (617) 565-3420
Region 2 (NJ, NY, PR, VI)	290 Broadway New York, NY 10007-1866 (212) 637-3000
Region 3 (DE, DC, MD, PA, VA, WV)	841 Chestnut Building Philadelphia, PA 19107 (215) 597-9800
Region 4 (AL, FL, GA, KY, MS, NC, SC, TN)	345 Courtland St., NE Atlanta, GA 30365 (404) 347-4727
Region 5 (IL, IN, MI, MN, OH, WI)	77 West Jackson Blvd. Chicago, IL 60604-3507 (312) 353-2000
Region 6 (AR, LA, NM, OK, TX)	Fountain Place 12th Fl., Suite 1200 1445 Ross Avenue Dallas, TX 75702-2733 (214) 665-6444
Region 7 (IA, KS, MO, NE)	726 Minnesota Avenue Kansas City, KS 66101 (913) 551-7000

Region 8 (CO, MT, ND, SD, UT, WY)	999 18th Street, Suite 500 Denver, CO 80202-2466 (303) 293-1603
Region 9 (AZ, CA, HI, NV, AS, GU)	75 Hawthorne St. San Francisco, CA 94105 (415) 744-1305
Region 10 (AK, ID, OR, WA)	1200 Sixth Avenue Seattle, WA 98101 (206) 553-1200

organization, telephone number, and an explanation of what they need. Questions are usually answered within one business day.

Underground Storage Tank Docket

Telephone Number: 703 603-9231
Hours: Monday to Friday, 9:00 a.m. to 4:00 p.m. EST

Provides documents and regulatory information pertinent to RCRA's Subtitle I (the Underground Storage Tank program).

Superfund Docket

Telephone Number: 703 603-9232
Hours: Monday to Friday, 9:00 a.m. to 4:00 p.m. EST

Provides rulemaking material pertinent to the Superfund Program and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Hazardous Waste Ombudsman Program

Telephone Numbers: 800 262-7937, 202 260-9361
Contact: Robert Martin

Assists private citizens and organizations that have been unable to voice a complaint or resolve problems through normal channels in coping with the complexities of hazardous waste and Superfund legislation. Each region has an ombudsman representative. For more information, call the RCRA/Superfund/EPCRA Hotline or the contact cited above.

Small Business Ombudsman Hotline

Telephone Numbers: 800 368-5888, 703 305-5938
Hours: Monday to Friday, 8:30 a.m. to 5:00 p.m. EST

Helps small businesses comply with environmental laws and EPA regulations.

Pollution Prevention Information Clearinghouse (PPIC)

Telephone Number: 202 260-1023

A center for dissemination of pollution prevention information. PPIC's services include document distribution, access to a circulating and periodicals collection, and outreach.

Public Information Center (PIC)

Telephone Number: 202 260-2080
Hours: Monday to Friday, 8:00 a.m. to 5:30 p.m. EST for phone calls, 10:00 a.m. to 4:00 p.m. EST for walk-in visitors

Provides general, nontechnical environmental information through its brochures, booklets, and pamphlets.

EPA Headquarters Library

Reference Desk: 202 260-5921
Interlibrary Loan Desk: 202 260-5933
Hours: Monday to Friday, 9:00 a.m. to 5:00 p.m. EST for phone calls, 10:00 a.m. to 2:00 p.m. EST for walk-in visitors

The Headquarters Library is the reference library for the Agency. It offers a broad range of sources of environmental information including reports from various EPA offices and trade and environmental journals. The collection also features departments such as the "Water Collection," the "Hazardous Waste Collection," and "Infoterra," which accommodates foreign patrons' requests.

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United States Environmental Protection Agency
EPA530-F-96-001
January 1996
Solid Waste and Emergency Response (5305W)

EPA How To Access the RCRA Information Center

A STOREHOUSE OF INFORMATION
RIC

Congress passed the Resource Conservation and Recovery Act (RCRA) in 1976 to create a framework for the proper management of hazardous and nonhazardous solid waste. The Act is continuously evolving as Congress amends it to reflect the nation's changing solid waste needs.

For each modification to the Act, EPA develops regulations that spell out how the statute's broad policies are to be carried out. The RCRA Information Center (RIC) was formed to house both documents used in writing these regulations as well as EPA publications produced for public guidance on solid waste issues.

The documents stored in the RIC are divided into two basic categories: (1) documents involved in various stages of rulemaking; and (2) general documents discussing the various aspects of recycling, treatment, and disposal of hazardous and solid waste.

Rulemaking Dockets

- Docket files generated from RCRA-related rulings. Each file is composed of two sections: (1) technical support documents that were used by EPA in the development of the particular rule; and (2) comments from companies, individuals, environmental organizations, and various levels of government.
- Reprints of *Federal Registers* containing RCRA-related issues.
- Administrative Records, which are rulemaking dockets that have undergone litigation.

General Documents/Collections

- *Catalog of Hazardous and Solid Waste Publications*, which lists the RIC's most popular documents. The catalog is updated periodically.
- Guidance documents, which provide directions for implementing the regulations for disposal and treatment of hazardous and solid wastes.
- Brochures, booklets, and executive summaries of reports concerning waste reduction and disposal issues surrounding solid and hazardous wastes.
- A historical collection of Office of Solid Waste documents.
- Selected Office of Solid Waste correspondence written by EPA officials in response to questions from organizations and individuals concerning hazardous and solid waste regulations.
- Health and Environmental Effects Profiles (HEEPs) and Health and Environmental Effects Documents (HEEDs).

Hours and Location

- The RIC is open to the public from 9:00 a.m. to 4:00 p.m., Monday through Friday.
- The RIC is located at:

  Crystal Gateway I, First Floor
  1235 Jefferson Davis Highway
  Arlington, VA

- It is recommended that visitors make an appointment so that the material they wish to view is ready when they arrive.
- Patrons may call for assistance at 703 603-9230, send a fax to 703 603-9234, or send an e-mail to rcra-docket@epamail.epa.gov.
- Patrons may write to the following address:

  RCRA Information Center (5305W)
  U.S. Environmental Protection Agency
  401 M Street, SW
  Washington, DC 20460

  (Please note that this address is for mailing purposes only.)

Photocopying and Microfilming

Many documents are available only in the original and, therefore, must be photocopied. Patrons are allowed 100 free photocopies. Thereafter they are charged 15 cents per page. When necessary, an invoice stating how many copies were made, the cost of the order, and where to send a check will be issued to the patron.

Documents also are available on microfilm. The RIC staff help patrons locate needed documents and operate the microfilm machines. The billing fee for printing microfilm documents is the same as for photocopying documents.

Patrons who are outside of the metropolitan Washington, DC, area can request documents by telephone. The photocopying and microfilming fee is the same as for walk-in patrons. If an invoice is necessary, RIC staff can mail one with the order.

Additional EPA Sources of Hazardous and Solid Waste Information

The RCRA/Superfund/EPCRA Hotline

Telephone Numbers: 800 424-9346
TDD: 800 553-7672 (hearing impaired)
For Washington, DC, and outside the United States: 703 412-9810
TDD: 703 412-3323 (hearing impaired)
Hours: Monday to Friday, 9:00 a.m. to 6:00 p.m. EST

The Hotline answers questions concerning technical aspects of RCRA. It also provides clarifications of sections of the *Code of Federal Regulations* that pertain to RCRA. The Hotline also takes requests and makes referrals for obtaining OSW publications.

OSW Methods Information Communication Exchange (MICE)

Telephone Number: 703 821-4690

A telephone service implemented by the EPA Office of Solid Waste to answer technical questions on test methods used on organic and inorganic chemicals. These tests are discussed in the EPA document *Test Methods for Evaluating Solid Waste: Physical/Chemical Methods* (Document Number: SW-846).

Patrons can call MICE 24 hours a day and are requested to leave a message stating their name,

APPENDIX B -- LIST OF STATE RCRA CONTACTS

Alabama Department of Environmental Management
1751 Cong. Wm. L. Dickinson Drive
Montgomery, AL 36130
(205) 271-7730

Alaska Department of Environmental Conservation
410 Willoughby Avenue, Suite 105
Juneau, AK 99801-1795
(907) 465-5150

For American Samoa, contact:
U.S. EPA Region 9
Hazardous Waste Management Division
75 Hawthorne Street
San Francisco, CA 98101
(415) 744-2098

Arizona Department of Environmental Quality
3303 N. Central Avenue
Phoenix, AZ 85012
(602) 207-4146

Arkansas Department of Pollution Control and Ecology
8001 National Drive
PO Box 8913
Little Rock, AR 72219-8913
(501) 562-7444

California Department of Toxic Substances Control
10151 Croydon Way, Suite 3
Sacramento, CA 95827
(916) 255-3618

Colorado Department of Health
4300 Cherry Creek Drive So.
HMWMD
Denver, CO 80222-1530
(303) 692-3300

Connecticut Department of Environmental Protection
State Office Building
165 Capitol Avenue
Hartford, CT 06106
(203) 566-4869

Delaware Department of Natural Resources and Environmental Control
PO Box 1401, 89 Kings Highway
Dover, DE 19903
(302) 739-3689

District of Columbia Department of Consumer and Regulatory Affairs
Environmental Regulation Administration
2100 Martin Luther King Jr. Ave., SE
Washington, DC 20020
(202) 404-1167

Florida Department of Environmental Regulation
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32399-2400
(904) 488-0300

Georgia Department of Natural Resources
1154 East Tower
205 Butler Street, SE
Atlanta, GA 30334
(404) 656-7802

Guam Environmental Protection Agency
Harmon Plaza, Complex Unit B-107
103 Orjas Street
Harmon, Guam 96911

Hawaii Department of Health
Five Waterfront Plaza, Suite 250
500 Ala Moana Boulevard
Honolulu, HI 96813

Idaho Department of Environmental Quality
1410 N. Hilton, Third Floor
Boise, ID 83706
(208) 334-5879

Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, IL 62706
(217) 785-8452

Indiana Department of Environmental Management
105 S. Meridian Street
PO Box 6015
Indianapolis, IN 46225

For Iowa, contact:
U.S. EPA Region 7
RCRA Branch
726 Minnesota Ave.
Kansas City, KS 66101
(913) 551-7646

Kansas Department of Health and Environment
Forbes Field, Building 740
Topeka, KS 66620
(913) 296-1600

Kentucky Department of Environmental Protection
Fort Boone Plaza, Building No. 2
14 Reilly Road
Frankfort, KY 40601
(502) 564-6716

Louisiana Department of Environmental Quality
PO Box 82178
Baton Rouge, LA 70884-2178
(504) 765-0332

Maine Department of Environmental Protection
State House Station #17
Augusta, ME 04333
(207) 289-2651

Maryland Department of the Environment
2500 Broening Highway
Baltimore, MD 21224
(410) 631-3343

Massachusetts Department of Environmental Protection
One Winter Street, 5th Floor
Boston, MA 02108
(617) 292-5851

Michigan Department of Natural Resources
Box 30241
Lansing, MI 48909
(517) 373-2730

Minnesota Pollution Control Agency
520 Lafayette Road, North
St. Paul, MN 55155
(612) 297-8330

Mississippi Department of Environmental Quality
PO Box 10385
Jackson, MI 39289-0385
(601) 961-5171

Missouri Department of Natural Resources
Jefferson Building
205 Jefferson Street (13/14 Floor)
PO Box 176
Jefferson City, MO 65102
(314) 751-3176

Montana Department of Health and Environmental Sciences
Cogswell Building
Helena, MT 59620
(406) 444-1430

Nebraska Department of Environmental Quality
State House Station
PO Box 98922
Lincoln, NE 68509-8922
(402) 471-2186

Nevada Division of Environmental Protection
333 West Lye Lane
Carson City, NV 89710
(702) 687-5872

New Hampshire Department of Health and Welfare
Health and Welfare Building
6 Hazen Drive
Concord, NH 03301
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APPENDIX D -- ENVIRONMENTAL JUSTICE PUBLIC PARTICIPATION CHECKLIST

Introduction:

The environmental justice movement has sparked a lot of discussion on ways to improve communications and working relations among agencies, industries, and communities. The InterAgency Working Group on Environmental Justice, led by EPA, developed a Public Participation Checklist that lays out ways to identify, inform, and involve stakeholders (e.g., environmental organizations, business and trade associations, civic/public interest groups, grassroots/community-based organizations, tribal governments, and industry). It reflects a combination of: guiding principles for setting up and conducting activities, such as public meetings; specific activities for ensuring widespread and meaningful involvement; and recommendations on how to effectively carry out those activities.

Although the checklist was initially developed in the context of environmental justice, to help federal agencies prepare for the first public meeting to discuss their EJ strategies, it embodies sound principles that apply to public participation for all communities.

Revised 1/13/95

ENVIRONMENTAL JUSTICE
PUBLIC PARTICIPATION CHECKLIST

1. Ensure that Agency's public participation policies are consistent with the requirements of the Freedom of Information Act, the Emergency Planning and Community Right to Know Act and the National Environmental Policy Act.

2. Obtain Senior Management Support to ensure that the Agency's policies and activities are modified to ensure early, effective and meaningful public participation, especially with regard to Environmental Justice stakeholders. Identify internal stakeholders and establish partnering relationships.

3. Use following Guiding Principles in setting up all public meetings:
   - Maintain honesty and integrity throughout the process.
   - Recognize community\indigenous knowledge.
   - Encourage active community participation.
   - Utilize cross-cultural formats and exchanges.

4. Identify external Environmental Justice stakeholders and provide opportunities to offer input into decisions that may impact their health, property values and lifestyles. Consider at a minimum individuals from the following organization as appropriate:

Environmental Organizations
Business and Trade Organizations
Civic / Public Interest Groups
Grassroots \ Community-based Organizations
Congress
Federal Agencies
Homeowner and Resident Organizations
International Organizations
Labor Unions
Local and State Government
Media \ Press
Indigenous People
Tribal Governments
Industry
White House
Religious Groups
Universities and Schools

5. Identify key individuals who can represent various stakeholder interests. Learn as much as

possible about stakeholders and their concerns through personal consultation, phone, or written contacts. Ensure that information gathering techniques include modifications for minority and low -income communities, for example, consider language \ cultural barriers, technical background, literacy, access to respondent, privacy issues and preferred types of communications.

6. Solicit stakeholder involvement early in the policymaking process, beginning in the planning and development stages and continuing through implementation and oversight.

7. Develop co-sponsoring/co-planning relationships with community organizations, providing resources for their needs.

8. Establish a central point of contact within the Federal agency to assist in information dissemination, resolve problems and to serve as a visible and accessible advocate of the public's right to know about issues that affect health or environment.

9. Regionalize materials to insure cultural sensitivity and relevance. Make information readily accessible (handicap access, Braille, etc.) and understandable. Unabridged documents should be placed in repositories. Executive summaries/fact sheets should be prepared in layman's language. Whenever practicable and appropriate, translate targeted documents for limited English-speaking populations.

10. Make information available in a timely manner. Environmental Justice stakeholders should be viewed as full partners and Agency customers. They should be provided with information at the same time it is submitted for formal review to state, tribal and/or Federal regulatory agencies.

11. Ensure that personnel at all levels in the Agency clearly understand policies for transmitting information to Environmental Justice stakeholders in a timely, accessible and understandable fashion.

12. Establish site-specific community advisory boards where there is sufficient and sustained interest. To determine whether there is sufficient and sustained interest, at a minimum, review correspondence files, review media coverage, conduct interviews with local community members and advertise in local newspapers. Ensure that the community representation includes all aspects and diversity of the population. Organize a member selection panel. Solicit nominations from the community. Consider providing administrative and technical support to the community advisory board.

13. Schedule meetings and/or public hearings to make them accessible and user-friendly for Environmental Justice stakeholders. Consider time frames that don't conflict with work schedules, rush hours, dinner hours and other community commitments that may decrease attendance. Consider locations and facilities that are local, convenient and which represent

neutral turf. Ensure that facility meets American with Disabilities Act Statements for equal access. Provide assistance for hearing impaired individuals. Whenever practical and appropriate provide translators for limited-English speaking communities. Advertise the meeting and its proposed agenda in a timely manner in the print and electronic media. Provide a phone number and/or address for communities to find out about pending meetings, issues, enter concerns or to seek participation or alter meeting agenda.

Create an atmosphere of equal participation (avoid a "panel of experts" or "head table"). A two day meeting is suggested with the first day reserved for community planning and education. Organize meetings to provide an open exchange of ideas and enough time to consider issues of community concern. Consider the use of a neutral facilitator who is sensitive and trained in environmental justice issues. Ensure that minutes of the meetings are publically available. Develop a mechanism to provide communities with feedback after meetings occur on actions being considered.

14. Consider other vehicles to increase participation of Environmental Justice stakeholders including:

Posters and Exhibits
Participation in Civic and Community Activities
Public Database and Bulletin Boards
Surveys
Telephone Hotlines
Training and Education Programs, Workshops and Materials

15. Be sure that trainers have a good understanding of the subject matter both technical and administrative. The trainers are the Ambassadors of this program. If they don't understand - no one will.

16. Diversity in the workplace: whenever practical be sure that those individuals that are the decision makers reflect the intent of the Executive Order and come from diverse backgrounds, especially those of a community the agency will have extensive interaction with.

17. After holding a public forum in a community establish a procedure to follow up with concrete actions to address the communities' concerns. This will help to establish credibility for your agency as having an active role in the federal government.

18. Promote interagency coordination to ensure that the most far reaching aspects of environmental justice are sufficiently addressed in a timely manner. Environmental problems do not occur along departmental lines. Therefore, solutions require many agencies and other stakeholders to work together efficiently and effectively.

19. Educate stakeholders about all aspects of environmental justice (functions, roles, jurisdiction, structure and enforcement).

20. Ensure that research projects identify environmental justice issues and needs in communities, and how to meet those needs through the responsible agencies.

21. Establish interagency working groups (at all levels) to address and coordinate issues of environmental justice.

22. Provide information to communities about the government's role as it pertains to short term and long term economic and environmental needs and health effects.

23. Train staff to support inter and intra agency coordination, and make them aware of the resources needed for such coordination.

25. Provide agency staff who are trained in cultural, linguistic and community outreach techniques.

26. Provide effective outreach, education and communications. Findings should be shared with community members with an emphasis on being sensitive and respectful to race, ethnicity, gender, language, and culture.

27. Design and implement education efforts tailored to specific communities and problems. Increase the involvement of ethnic caucuses, religious groups, the press, and legislative staff in resolution of Environmental Justice issues.

28. Assure active participation of affected communities in the decisionmaking process for outreach, education, training and communities programs -- including representation on advisory councils and review committees.

29. Encourage federal and state governments to "reinvent government" -- overhaul the bureaucratic in favor of community responsive.

30. Link environmental issues to local economic issues to increase level of interest.

31. Use local businesses for environmental cleanup or other related activities.

32. Utilize, as appropriate, historically Black Colleges and Universities (HBCU) and Minority

Institutes (MI), Hispanic Serving Colleges and Universities (HSCU) and Indian Centers to network and form community links that they can provide.

33. Utilize, as appropriate, local expertise for technical and science reviews.

34. Previous to conducting the first agency meeting, form an agenda with the assistance of community and agency representatives.

35. Provide "open microphone" format during meetings to allow community members to ask questions and identify issues from the community.

Bibliography:

"Interim report of the Federal Facilities Environmental Restoration Dialogue Committee," February 1993, Environmental Protection Agency and the Keystone Center

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OSD/DUSD/ES/OR/Ann Davlin/703/695-3329/28 September 94

APPENDIX E -- GUIDANCE FOR COMMUNITY ADVISORY GROUPS AT SUPERFUND SITES

United States
Environmental Protection
Agency

Emergency and
Remedial Response
(5201G)

OSWER Directive 9230.0-28
PB94-963293
EPA 540-K-96-001
December 1995

EPA

Guidance for Community Advisory Groups at Superfund Sites

Printed on Recycled Paper

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— Diana Hammer (OERR), Project Manager

Notice

The policies set out in this memorandum are intended solely as guidance. They are not intended, nor can they be relied upon, to create any rights enforceable by any party in litigation with the United States. EPA officials may decide to follow the guidance provided in this memorandum, or to act at variance with the guidance, based on an analysis of specific site circumstances. The Agency also reserves the right to change this guidance at any time without public notice.

For More Information on CAGs

Contact your Regional Community Involvement Manager or a staff member of the Community Involvement and Outreach Center at EPA Headquarters. (See the list of contacts in Appendix E.)

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1. Background

- > **Environmental Justice Task Force**
- > **Purpose of this Guidance**
- > **Selecting Sites**

The United States Environmental Protection Agency (EPA) is committed to involving the public in the Superfund cleanup process. In fact, there are many examples throughout the Superfund program where community involvement has enhanced, rather than impeded the Superfund cleanup decision-making process. While recognizing that providing additional opportunities for community involvement may require additional time and slow the cleanup process down initially, EPA believes this is time well spent, and that early and effective community involvement will actually save time in the long run.

EPA is committed to early, direct, and meaningful public involvement and provides numerous opportunities for the public to participate in site cleanup decisions. One of these opportunities for community involvement, is the EPA's Technical Assistance Grants (TAGs) program. EPA awards TAGs to eligible community groups so they can hire their own, independent Technical Advisor, enabling community members to participate more effectively in the decision-making process at Superfund sites. For more information on the TAG program, see the "Superfund Technical Assistance Grants" quick reference fact sheet (EPA 540-K-93-001; PB93-963301).

Community Advisory Groups (CAGs) are another mechanism designed to enhance community involvement in the Superfund process. CAGs respond to a growing awareness within EPA and throughout the Federal government that particular populations who are at special risk from environmental threats—such as minority and low-income populations—may have been overlooked in past efforts to encourage public participation. CAGs are an effective mechanism to facilitate the participation of community members, particularly those from low-income and minority groups, in the decision-making process at Superfund sites.

1.1 Environmental Justice Task Force

The Office of Solid Waste and Emergency Response (OSWER) Environmental Justice (EJ) Task Force was established in 1993 to analyze environmental justice issues specific to waste programs and develop recommendations to address these issues. The EJ Task Force advised that the creation of Community Advisory Groups would enhance public involvement in the Superfund cleanup process. Specifically in its April 1994 report, titled OSWER Environmental Justice Task Force Draft Final Report (EPA 540-R-94-004), the Task Force recommended implementing a program involving CAGs at a minimum of ten sites nationwide by the end of FY94 and providing guidance to support the CAG activities.

1.2 Purpose of this Guidance

As lead Agency at a Superfund site, EPA has an important role to play in encouraging the use of Community Advisory Groups (see Section 10.3, under "Roles and Responsibilities"). This guidance document is designed to assist EPA staff [primarily Community Involvement Coordinators (CICs) and Site Managers, such as Remedial Project Managers, On-Scene Coordinators, and Site Assessment Managers] in working with CAGs at Superfund sites (this includes remedial and appropriate removal sites).

This guidance addresses the objectives, functions, membership, and scope of authority for CAGs. It emphasizes practical approaches and activities, and is designed to be flexible enough to meet the unique needs of individual local communities. The guidance is based on the Agency's experience in carrying out community involvement activities pursuant to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), the Superfund Amendments and Reauthorization Act of 1986 (SARA), and policy documents issued by EPA and other Federal agencies. It also draws on concepts articulated in the President's Executive Order on Environmental Justice 12898, EPA/OSWER's Environmental Justice Task Force report, the "Restoration Advisory Board Implementation Guidelines" developed by the EPA and the Department of Defense (9/94), and the "Interim Guidance for Implementing Restoration Advisory Boards" drafted by the California Environmental Protection Agency (11/93).

This guidance provides a number of considerations to assist Community Involvement Coordinators (CICs) and Site Managers in working with a successful CAG. **CAGs need not conform to all aspects of this guidance.** Consequently, this guidance is intended to provide a starting point or frame of reference to help groups organize and begin meeting. A CAG's structure and operation, however, should reflect the unique needs of its community.

EPA will not establish or control CAGs; however, the Agency will assist interested communities in CAG activities. Further, EPA anticipates that the CAGs will serve primarily as a means to foster interaction among interested members of an affected community, to exchange facts and information, and to express individual views of CAG participants while attempting to provide, if possible, consensus recommendations from the CAG to EPA.

1.3 Selecting Sites

While EPA is initially focusing the CAG concept and guidance on Superfund sites with environmental justice concerns, the methods and principles are intended to be applied broadly and to include other Superfund sites as well. In some cases, the sites selected for a CAG may already have some form of community advisory group and EPA could help formalize the group, recognizing it as being representative of the community. In other cases, sites may be selected where a community advisory group doesn't yet exist, but where a CAG would be useful to encourage full community participation in site cleanup activities. See Section 2.2, "Determining the Need for a CAG" for more information on appropriate sites for a CAG.

2. Community Advisory Group (CAG) Development

- **CAG Scope of Authority**
- **Determining the Need for a CAG**
- **Preparation for the CAG Information Meeting**
- **CAG Information Meeting**

Community Advisory Groups are important tools for enhancing community involvement in the Superfund process. Through CAGs, EPA seeks to achieve direct, regular, and meaningful consultation with all interested parties throughout all stages of a response action.

2.1 CAG Scope of Authority

A CAG should serve as a public forum for representatives of diverse community interests to present and discuss their needs and concerns related to the Superfund decision-making process with appropriate Federal and State/Tribal/local governments. The CAG is designed as a mechanism for all affected and interested parties in a community to have a voice and actively participate in the Superfund process. However, it is important to remember that the CAG is not the only mechanism for community involvement at a site; as the lead Agency, EPA continues to have the obligation to inform and involve the entire community through regular as well as innovative community involvement activities.

EPA cannot, by law, abrogate its responsibility to make the final decisions at a site; however, by providing the perspective of the local community, the CAG can assist EPA in making better decisions. A CAG that is broadly representative of the affected community offers EPA a unique opportunity to hear—and seriously consider —community preferences for site cleanup and remediation. It is particularly important that in instances where an EPA decision and/or response differs from a stated CAG preference regarding site cleanup, EPA accepts the responsibility of explaining its decision and/or response to CAG members.

A CAG allows the Agency to exchange information with members of the affected community and encourages CAG members to discuss site issues and activities among themselves. The CAG also can provide a public service to the rest of the affected community by representing the community in discussions regarding the site and by relaying information from these discussions back to the rest of the community. CAGs thus can be a valuable tool for both the Agency and communities throughout the cleanup process.

2.2 Determining the Need for a CAG

The CIC should consult with other site team members (for example, the Site Manager and Attorney) in selecting an appropriate site for a CAG. The team may consider a number of factors during the selection process, including: Generally, what is the level of community interest and concern about the site?

- Might that level of community interest and concern warrant a CAG?
- Has the community expressed an interest in , forming a CAG?
- Does a group similar to a CAG exist?
- Do groups with competing agendas exist at the site?
- Are there any environmental justice issues or concerns regarding the site?
- What is the history of community involvement at the site?
- What is the likelihood of long-term cleanup activity at the site?

Depending on the status of the cleanup process at the site, substantial information may exist about the community. For example, if the site is in the RI/FS phase, the Community Relations Plan, developed based on interviews with community members, is a good information source.

A community with a high level of interest and concern about site activities should be a strong candidate for a CAG. In addition, a site in the

early stages of a long-term cleanup without an existing community group may be a strong candidate site for an effective CAG. Communities at removal sites, particularly non-time critical removal sites, also may benefit from a CAG (keeping in mind, however, the time necessary to begin CAG operations when considering a CAG for removal sites).

If a group exists which is representative of the local community (for example, a local environmental group that has been active at the site or a TAG recipient group), a CAG may not be appropriate—if the existing group can fulfill the role of a CAG. If competing groups exist at a site, however, their disparate interests and agendas can undermine even the best efforts of agencies, elected officials, and concerned citizens to forge a CAG. This situation should be given serious consideration in making the decision to promote CAGs at such sites.

A CAG can be formed at any point in the cleanup process but may be most effective early in the cleanup process. Generally, the earlier a CAG is formed, the more CAG members can participate in and impact site activities and cleanup decisions.

2.3 Preparation for the CAG Information Meeting

The CAG Information Meeting is the setting for introducing the CAG concept to the community. Before the CAG Information Meeting, the CIC may begin the process of informing and educating the community about the purposes of the CAG and opportunities for membership and participation. This is especially important at Superfund sites where the community may have had relatively limited participation in the Superfund process. This section offers suggestions, concerns, and methods that EPA (in conjunction with others such as State/Tribal/local governments) may use to notify a community about the formation of a CAG. These are not the only options—techniques will necessarily vary from site to site and from community to community. In many instances, it may be useful to target multiple newspapers as well as alternative media (for example, public service announcements on the radio, public access channels on cable television, free circulation newspapers) to more effectively reach out to communities. Other outreach options include flyers, announcements in local churches, etc. Remember also, that another important and effective method to "spread the word" about the CAG is through the personal relationships that Agency representatives have established in the community. No matter what method or media is used, EPA (in conjunction with others such as State/Tribal/local governments) must provide the information in a manner readily understandable to community members.

2.3.1 Fact Sheet

EPA (in conjunction with others such as State/Tribal/local governments) may prepare and distribute a brief fact sheet describing the CAG prior to the CAG Information Meeting. A sample CAG fact sheet is included as Appendix A. In preparing the fact sheet, EPA may consult with the State/Tribal/local government. EPA may wish to expand existing networks used in distributing information about public involvement activities for the distribution of CAG-related fact sheets and other materials.

Community interviews conducted prior to development of the Community Relations Plan for the site, as well as the plan itself, are potential sources of information to identify effective methods for distributing the CAG fact sheet.

Depending on the status of the response action, the interviews and plan may not have been completed for all sites. If this is the case, EPA staff may conduct limited community interviews with local officials and community leaders, making special effort to contact those leaders with ties to the environmental justice and other site-related concerns of the community. For example, these sources could include churches and community organizations in minority and low-income neighborhoods. This will ensure that credible information sources identified by members of the community are used to supplement and reinforce direct mailing of the fact sheet. In addition, copies of the fact sheet should be available in the information repositories and at the CAG Information Meeting.

The fact sheet is designed to describe the purpose of the CAG and membership opportunities and delineate the role of CAG members. If a significant segment of the community is non-English speaking or visually impaired, EPA (in conjunction with others such as State/Tribal/local governments) should translate the fact sheet for distribution to these members of the community.

2.3.2 Public Notice

EPA (in conjunction with others such as State/Tribal/local governments) may prepare a public notice or display ad to advertise the CAG Information Meeting in general circulation newspapers serving the affected communities around the site. To ensure that all segments of the affected population are notified, notices in newspapers that serve low-income, minority, and non-English speaking audiences in the community also should be considered.

The notice should be published approximately two weeks in advance of the CAG Information Meeting and should include the following information:

- Time and location of the meeting;
- CAG purpose and membership opportunities;
- The roles and responsibilities of CAG members;
- A statement that the meeting is open for public attendance and participation;
- Topics for consideration at the CAG Information Meeting; and
- Name and phone number of contact person(s) to obtain more information.

The public notice should appear in a prominent section of the newspapers, where it is likely to be read by the majority of community members. A sample CAG public notice is included as Appendix B.

2.3.3 News Release

EPA personnel (in conjunction with others such as State/Tribal/local governments) may prepare and distribute to the local media a news release to explain the purpose of the CAG and announce the time and location of the initial information meeting. Depending on local media coverage of Superfund and other environmental issues related to the site, it may be appropriate to prepare a more extensive media packet of information to update the local media on public involvement activities and overall response plans and progress.

2.3.4 Agenda

EPA, in consultation with the State/Tribal/local governments and residents, may develop an initial agenda for the CAG Information Meeting. The agenda should reflect important

community concerns raised in relation to the Superfund response. Again, the results of community interviews conducted in the process of developing Community Relations Plans and other community involvement activities may provide a source of information and background on community concerns. Demonstrating an awareness of and sensitivity to concerns expressed by the community is an important element in maximizing the potential benefits of CAGs.

2.4 CAG Information Meeting

EPA may sponsor the CAG Information Meeting and may consult with the State/Tribal/local government in its preparation. EPA (in conjunction with others such as State/Tribal/local governments) should attempt to hold the CAG Information Meeting as early as possible in the cleanup process.

EPA personnel (and/or others such as State/Tribal/local governments) may facilitate the CAG Information Meeting; however, for this and subsequent meetings, it may be preferable to have someone from the community with facilitation experience or a professional meeting facilitator serve as facilitator. A neutral facilitator is particularly effective at sites where some controversy is anticipated. Facilitation may produce a better sense of fairness and independence, helping to ensure more productive discussions.

The Information Meeting should serve to introduce the CAG concept to the community. The following topics may be appropriate to discuss at the meeting:

- Purpose and overview of the CAG;
- Goal of representing diverse community interests;
- Interface between the CAG and other community involvement activities;
- Membership opportunities;
- Suggested member selection process and timetable;
- Examples of a CAG Mission Statement and operating procedures (including community leadership);
- Suggested member responsibilities;
- Overview of site cleanup plans and progress; and
- Open discussion/question and answer period.

The Information Meeting and subsequent CAG meetings should be held in a central location and at a convenient time for community members. In addition, EPA (and/or others such as State/Tribal/local governments) should consider requirements of the Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1994 in choosing a location (for example, accessibility by wheelchairs and availability of signers and readers, as necessary, to assist hearing and visually impaired participants).

Resources permitting, EPA (and/or others such as the State/Tribal/local governments) may provide appropriate administrative and logistical support for arranging the meeting and documenting its proceedings. Preparation of a concise and easy-to-read summary of the meeting also should be considered. Such a summary will help facilitate effective communication with local community members. The summary should be translated for interested members of the community who are non-English speaking or visually impaired. The summary should be made available for public review in the information repositories and through other dissemination methods no later than one month

after the Information Meeting. Copies of the summary also may be mailed to all community members who attend the initial meeting and to those who are on mailing lists used for other community involvement activities related to the site.

3. CAG Startup

The time period between the CAG Information Meeting and the implementation of a fully functional CAG may vary from site to site. EPA should encourage CAGs to be in full operation within six months after the information meeting, in order to maximize their effectiveness in the Superfund cleanup decision-making process. There are several key activities that should be completed during this time period to ensure successful CAG operation. These activities are described in the following sections.

4. CAG Membership

- **Size of the CAG**
- **Membership Composition**
- **Roles and Responsibilities of CAG Members**
- **Membership Solicitation**
- **Membership Selection Models**

4.1 Size of the CAG

The number of members in the CAG may vary from site to site depending on the composition and needs of the affected community. The CAG should determine the size of its membership; when doing so, the CAG should consider the following factors:

- Diversity of the community;
- CAG workload; and
- Effective group discussion and decision-making (i.e., pros/cons of larger vs. smaller groups).

Federal Facility Environmental Restoration Advisory Boards, groups similar to CAGs, generally average around 20 members. While it often is difficult to ensure that everyone has an opportunity to participate and to achieve closure on discussions in larger groups, the CAG should be large enough to adequately reflect the diversity of community interests regarding site cleanup and reuse.

4.2 Membership Composition

To the extent possible, membership in the CAG should reflect the composition of the community near the site and the diversity of local interests, including the racial, ethnic, and economic diversity present in the community—the CAG should be as inclusive as possible. At least half of the members of the CAG should be local community members (sometimes referred to as "near neighbors").

CAG membership should be drawn from the following groups:

- Residents or owners of residential property near the site and those who may be affected directly by site releases;
- Those who potentially may be affected by releases from the site, even if they do not live or own property near the site;

- Local medical professionals practicing in the community;
- Native American tribes and communities;
- Representatives of minority and low-income groups;
- Citizens, environmental, or public interest group members living in the community;
- TAG recipients, if a TAG has been awarded at the site;
- Local government, including pertinent city or county governments, and governmental units that regulate land use in the vicinity of the site;
- Representatives of the local labor community;
- Facility owners and other significant PRPs;
- The local business community; and
- Other local, interested individuals.

Clearly, persons with an obvious conflict of interest at the site should not be members of the CAG, e.g., remedy vendors, lawyers involved in pending site litigation, non-local representatives of national groups, and others without a direct, personal interest in the site.

In order to prevent the PRP (or another interest group) from dominating CAG discussions, the community shall have the authority to limit the number of these representatives or designate them as ex-officio members.

4.3 Roles and Responsibilities of CAG Members

Generally, CAG members will be expected to participate in CAG meetings, provide data and information to EPA on site issues, and share information with their fellow community members. EPA (along with State/Tribal/local governments, as appropriate) should help the CAG clearly define and maintain these roles and responsibilities (see Section 10.2, under "Roles and Responsibilities").

4.4 Membership Solicitation

For the CAG concept to be successful, the membership of each CAG should reflect the diverse interests of the community in which the Superfund site is located. It is also important that each community have the lead role in determining the membership appropriate for its CAG. This will help encourage participation in and support for the CAG. EPA should not select or approve/disapprove individual CAG members but must certify that the CAG is representative of the diverse interests of the community.

EPA, in coordination with the State/Tribal/local governments, should inform the community about the purposes of the CAG and opportunities for membership and participation. This public outreach effort needs to be tailored to the individual community in which the CAG is to be formed. This is especially important at sites which are in the early stages of the Superfund cleanup process, sites at which opportunities for community participation have been limited, and/or sites where there has been relatively little community or media interest.

EPA (in coordination with others such as the State/Tribal/local governments) should make every effort to ensure that all individuals and groups representing community interests are informed about the CAG and the potential for membership so that each has the opportunity to participate in the CAG. For example, EPA

may begin the public outreach effort regarding CAG membership before the CAG Information Meeting by distributing the CAG fact sheet and publishing public notices and news releases.

Depending on the results of community-wide efforts to solicit nominations for CAG membership, it may be necessary to refine and further focus efforts for specific groups. These efforts may be reinforced with a letter to individuals and groups representing diverse community interests. A sample letter regarding CAG membership is included as Appendix C. CAG information also can be mailed to those expressing interest generally in the site and/or specifically in the CAG. CAG information also should be made available through the local information repositories. The information also may be reformatted and posted in other visible locations such as information kiosks and community centers.

If there is not enough community interest to form a CAG after all solicitation efforts have been exhausted, EPA (in conjunction with others such as State/Tribal/local governments) may issue a public notice through all available outlets to announce that efforts to form a CAG have been unsuccessful. A sample of such a public notice is included as Appendix D.

4.5 Membership Selection Models

The selection of CAG members should be accomplished in a fair and open manner in order to maintain the level of trust needed for successful CAG operation. The members of the CAG should reflect the composition of the community and represent the diversity of local interests. In designing the method for developing a CAG that is most appropriate for the affected community, it may be useful for EPA (in conjunction with others such as State/Tribal/local governments) to offer some type of facilitation.

The following Membership Selection models are examples that may be used and adapted to best meet the particular needs of a community. Of course, each community is unique and no one model will work in all instances; in fact, it may be appropriate to develop an entirely different model for selecting CAG members. Similarly, formal membership selection models, such as those described in this section, may not always be necessary. For example, selecting a group may be as simple as widely advertising the opportunity to join the CAG and then recognizing the CAG as consisting of the respondents. The key is that the CAG represent the interests of the community and that the CAG be able to function as a group. The exact selection process is secondary, as long as the process is fair and open.

4.5.1 Screening Panel Model

Under this model, EPA, consulting with and involving the State/Tribal/local government, could assist the community in organizing a short-term Screening Panel to review nominations for membership on the CAG prior to final member selection. After the opportunity to form a CAG has been announced, the local community should identify (using a fair and open manner) CAG members who represent the diverse interests of the community. The panel should, to the extent practical, reflect the diversity of interests in the community since the panel would be expected to choose CAG members who are equally representative. The panel may select a chairperson from among its members.

The Screening panel should consider establishing and publicizing the following:

- Procedures for nominating members for the CAG, including the way members of the community can nominate themselves to be CAG members (panel members also may nominate themselves to be CAG members.);
- The process for screening nominations and making recommendations for membership;
- The criteria to be used in screening nominations and determining membership recommendations; and
- A list of any recommended nominees for membership on the CAG.

The Screening Panel Chairperson may forward the panel's recommended list of nominees to the appropriate EPA Regional Administrator for review and comment (not for approval/disapproval of individuals) with regard to its ability to represent the interests of the community.

4.5.2 Existing Group Model

Under this model, an existing group in the community—such as a group with a history of involvement at the Superfund site—may be selected as the CAG for that community, if, in fact, it does represent the diverse interests in the community. If the group does not appear representative of the community, EPA may ask the group to expand its membership to include any community interests not represented.

4.5.3 Core Group Model

Under this model, EPA, consulting with and involving the State/Tribal/local governments, could select a Core Group that represents the diverse interests of the community. EPA (in conjunction with others such as State/Tribal/local governments) may remind the community that a person may nominate himself or herself through the application process. For example, members of the Core Group could include seven members representing the following interests: two local residents, local government, environmental, civic, labor, and business. The members of this Core Group then would select the remaining members of the CAG in a fair and open manner.

4.5.4 Self-Selecting Group Model

Under this model, after EPA (in conjunction with others such as State/Tribal/local governments) announces the opportunity to form a CAG, the local community identifies (in a fair and open manner) CAG members who they believe represent the diverse interests of their community. Realistically, it may take some communities a significant amount of time to fully select the CAG members.

4.5.5 Local Government Group Model

Under this model, the local government would select, in a fair and open manner, members of the community to serve on the CAG. This model may be appropriate at sites where a positive working relationship and established communication channels exist between the local government and the community.

5. CAG Member Training

Many of those selected as members of the CAG may require some initial training to enable them to perform their duties. EPA may work with the State/Tribal agencies, the local government(s), local universities, the PRP(s), and others, to provide training and prepare

briefing materials for CAG members. EPA also may work with these organizations and appropriate local groups to develop a method for quickly informing and educating new CAG members about cleanup issues, plans, and progress. Every effort should be made to tailor the training to the specific needs of the CAG members. For example, some CAG members may require more extensive training than others; similarly, some may need training materials in alternative formats, such as in a language other than English. It is extremely important for the success of the CAG process that all members have an adequate opportunity to understand the Superfund process and the cleanup issues related to their respective sites. It also is important that the CAG function as a group, meaning some CAGs may need training on how to function effectively as a group.

Training may be accomplished at regular CAG meetings and/or through activities such as the following:

- Formal training sessions;
- Briefing books, fact sheets, and maps; and
- Site tours.

Every effort should be made to provide CAG members with appropriate and necessary training, subject to available resources.

Technical staff from local, State/Tribal, and Federal agencies involved in site cleanup may attend CAG meetings. They may serve as technical resources and provide information about their respective areas of expertise to CAG members.

6. Administrative Support for the CAG

EPA, together with State/Tribal governments, the local government(s), local universities, the PRP(s), and others may assist the CAG with administrative support on issues relevant to the Superfund site cleanup and decision-making process.

Resources permitting, EPA also may expand existing site contractor support work assignments, for example, to provide administrative support and translate documents with EPA staff oversight.

Administrative support for the CAG may include the following:

- Arranging for meeting space in a central location;
- Preparing and distributing meeting notices and agenda;
- Taking notes during meetings and preparing meeting summaries;
- Duplicating site-related documents for CAG review;
- Duplicating and distributing CAG review comments, fact sheets, and other materials;
- Providing mailing services and postage;
- Preparing and placing public notices in local newspapers;
- Maintaining CAG mailing lists;
- Translating or interpreting outreach materials and CAG meetings in cases where there is a

significant non-English speaking portion of the community; and

- Facilitating CAG meetings and special-focus sessions, if requested by the CAG.

After CAG members have been selected, EPA, in coordination with the State/Tribal agencies and the local government, may assist the CAG in developing a news release or fact sheet announcing the startup of the CAG and providing the names of CAG members. The news release or fact sheet also can be used as a vehicle for publicly thanking all members of the community who expressed an interest in CAG participation, encouraging their continued involvement through attendance at CAG meetings, and announcing the first CAG meeting.

7. CAG Operations

> **Chairperson**
> **Mission Statement and Operating Procedures**
> **Meetings**

7.1 Chairperson

CAG members may select a Chairperson from within their ranks and determine an appropriate term of office. It may be useful to advise that the Chairperson be committed to the CAG and willing to serve for an extended period of time (e.g., two years) to ensure continuity. Members have the right and responsibility to replace the Chairperson as they believe necessary. The processes for selecting and dismissing a Chairperson should be detailed in the CAG's operating procedures.

7.2 Mission Statement and Operating Procedures

Each CAG should develop a Mission Statement describing the CAG's specific purpose, scope, goals, and objectives. The mission statement and subsequent CAG activities should focus on actions related to Superfund site issues consistent with the purpose of a CAG.

Each CAG should develop its own letterhead. Each CAG also should develop a set of procedures to guide day-to-day operations. Topics to be addressed in these operating procedures include the following:

- How to fill membership vacancies;
- How often to hold meetings;
- The process for reviewing and commenting on documents and other materials;
- How to notify the community of CAG meetings;
- How the public can participate in and pose questions during CAG meetings; and
- How to determine when the CAG has fulfilled its role and how it will disband.

7.3 Meetings

All CAG meetings should be open to the public. The meetings should be announced publicly (via display ads in newspapers, flyers, etc.) well enough in advance (e.g., two weeks) to encourage maximum participation of CAG and community members.

EPA personnel (and/or others such as State/Tribal/local governments) may facilitate CAG meetings, however, it may be preferable to use

someone from the community with facilitation experience or a professional meeting facilitator. A neutral facilitator is particularly effective at sites where some controversy is anticipated. Facilitation may produce a better sense of fairness and independence, helping to ensure more productive discussions. If a facilitator is regularly used during CAG meetings, it may be helpful to further clarify both the Chairperson's and facilitator's roles to avoid direct conflict between the facilitator and Chairperson.

The intent of the CAG is to ensure ongoing community involvement in Superfund response actions. As such, regular attendance at CAG meetings by all CAG members should be anticipated. Even though they are not CAG members, the EPA Site Manager and the CIC may attend meetings and encourage representatives of other pertinent Federal agencies and State/Tribal/local governments to attend meetings as well. Governmental attendees should not be so numerous, however, as to inhibit meeting discussions. Consistent attendance, however, can demonstrate commitment to meaningful public participation in the cleanup process.

7.3.1 Meeting Frequency

CAG meetings should be scheduled on a regular basis. CAG members should determine the frequency of CAG meetings based on the needs at their particular site. Meetings should be held often enough to allow the CAG to respond to site issues within specified timeframes and allow for timely communication of CAG actions and site activities to the rest of the community. Frequency of meetings should be covered in the CAG's operating procedures.

7.3.2 Location

The CAG meetings should be held in a location agreed upon by CAG members. It is useful to consider a location convenient to CAG members, as well as central enough to encourage attendance by other interested members of the community. Meeting spaces such as local libraries, high schools, and senior centers may be acceptable locations. The location should meet requirements of the Americans with Disabilities Act and the Rehabilitation Act of 1994 (for example, accessibility for those in wheelchairs).

7.3.3 Meeting Format

The format for CAG meetings may vary depending on the needs of the CAG. A basic meeting format might include:

- Review of "old" business;
- Status update by the project technical staff and CAG member discussion;
- Discussion and question/answer session involving members of the public in attendance;
- Summary and discussion of "action items" for the CAG; and
- Discussion of the next meeting's agenda.

Prior to announcing each meeting, CAG members may wish to agree upon the meeting's purpose, agenda, and format. If necessary, arrangements should be made to provide a translator or interpreter and/or facilitator. EPA (in conjunction with others such as State/Tribal/local governments) may assist the CAG in making appropriate arrangements.

7.3.4 Special-Focus Sessions

The CAG also may consider holding special-focus sessions from time to time. These meetings would focus on a single topic and provide an opportunity for the CAG to solicit input, discuss, or gather information on a specific issue

requiring attention. If an expert cannot attend a special-focus session—travel and attendance in person may not always be possible—it may be useful for the CAG to schedule a conference call with that expert to discuss a particular issue. EPA (in conjunction with others such as State/Tribal/local governments) may provide support for special-focus sessions on issues relevant to the Superfund site cleanup and decision-making process.

7.3.5 Meeting Documentation

The CAG should prepare a concise summary of each meeting, highlighting the topics discussed, agreements reached, and action items identified. EPA and others such as the State/Tribal/local governments may provide support for this effort. The CAG may want to consider preparing a summary, rather than a verbatim transcript, to facilitate effective communication with local communities. If a significant segment of the affected population is non-English-speaking or visually impaired, they also should translate the summary, as appropriate, for these members of the community.

The meeting summary should be available for public review in the information repositories and through other dissemination methods within one month of the meeting. Copies of the summary also may be mailed to all community members who attended the meeting and to those who are on the CAG mailing list. If the CAG mailing list is larger than EPA's site mailing list, EPA may expand its mailing list to include interested community members from the CAG list.

8. CAG Response to Requests for Comments

EPA (in conjunction with others such as State/Tribal/local governments) should make every effort to involve the CAG during the early stages of developing documents—for example, during the scoping stage.

When EPA offers CAG members the opportunity to review and comment on documents, it may be helpful for EPA's technical staff (and from other appropriate agencies) to conduct a brief walk-through of each document prior to the CAG members' review. This overview may include explaining the goals and significance of each document in the cleanup process.

EPA should consider making all documents available to the CAG for the same length of time as to other groups—such as the State/Tribal and peer review groups. The duration of comment periods for some Superfund site-related documents, such as the Remedial Investigation/Feasibility Study (RI/FS) and the Proposed Plan and Records of Decision (RODs), are already established. CAG members, however, may be asked to review and comment on a variety of documents and other information for which comment period durations have not been established. EPA should explain to the CAG that, in some cases, time allotted for review of these materials may have to be less than 30 days. In those cases, the CAG should be ready to complete its review and provide comments in the shorter time period.

The CAG may determine the most efficient way to respond to requests for review and comment on key documents. The CAG

should choose, on a case-by-case basis, the most appropriate mechanism to ensure that comments are provided within specified time-frames. One option available for the CAG to gather input from its constituents is by holding a special-focus meeting. To assist in the process, EPA (in conjunction with others such as State/Tribal/local governments) should prepare executive summaries in plain language describing the document and its key points.

9. EPA Response to Comments from the CAG

Since EPA representatives may attend CAG meetings regularly, EPA may have the opportunity to respond to many CAG comments on key documents and other issues in the context of meeting discussions. These responses should be documented as part of the interchange during the CAG meeting and, unless otherwise stated, should not be considered part of the formal Agency "Response to Comments" (as required under Sections 113 and 117 of CERCLA and 40 CFR 300 of the National Contingency Plan). EPA should recognize the nature of the comments (whether statements of individual preferences or statements supported by all CAG members), and give the comments corresponding weight for consideration. In cases where there are numerous comments to address in a meeting context, EPA may respond to them in writing.

10. Roles and Responsibilities

- **CAG Chairperson**
- **CAG Members**
- **EPA (as Lead Agency)**
- **State/Tribal Regulatory Agency**
- **CAG - TAG Interface**

EPA is committed to early, direct, and meaningful public involvement. Through CAGs, community members have a direct line of communication with EPA (as well as with the State/Tribal/local governments, depending on their level of involvement) and many opportunities for expressing their opinions. As a representative public forum, CAG members are able to voice their views on cleanup issues and play an important role in cleanup decisions. This is especially important before key points in the cleanup process. For example, CAG members may express preferences for the type of remedy, cleanup levels, future land use, and interaction with the regulatory agencies. Since the CAG, by definition, is intended to be representative of the affected community, the regulatory agencies will give substantial weight to the preferences expressed by CAG members. This is particularly important if the preferences reflect the position of most CAG members or represent a consensus from the CAG. EPA must not only listen to views expressed by CAG members but address their views when making site decisions.

EPA, the State/Tribal/local governments, the CAG Chairperson, and CAG members each have an important role to play in the development and operation of the CAG and in contributing to its effectiveness as a forum for meaningful public participation in Superfund response actions.

The following list, while not comprehensive, includes some of the key functions of each player.

10.1 CAG Chairperson

1. Prepare and distribute an agenda prior to each CAG meeting.
2. Ensure that CAG meetings are conducted in a manner that encourages open and constructive participation by all members and invites participation by other interested parties in the community.
3. Ensure that all pertinent community issues and concerns related to the Superfund site response are raised for consideration and discussion.
4. Attempt, whenever possible, to reach consensus among CAG members by providing official comments or stating positions on relevant issues and key documents.
5. Facilitate dissemination of information on key issues to the community.

10.2 CAG Members

1. Serve as a direct and reliable conduit for information flow to and from the community. CAG members have a responsibility to share information with other members of the affected community—the people they represent. Their names should be publicized widely within the local community to ensure that community members and interest groups have ready access to CAG members. If CAG members do not wish to have their phone numbers listed publicly, an alternative contact system should be explored to ensure that the community has access to CAG members.
2. Represent not only their own personal views, but also the views of other community members while serving on the CAG. CAG members should honestly and fairly present information they receive from members of the community; tentative conclusions should be identified properly as such.
3. Review information concerning site cleanup plans, including technical documents, proposed and final plans, status reports, and consultants' reports and provide comments and other input at CAG meetings and other special-focus meetings.
4. Play an important role at key points in the cleanup decision-making process by expressing individual community preferences on site issues.
5. Attempt, whenever possible, to achieve consensus with their fellow members before providing official comments or stating positions on relevant issues and key documents.
6. Assist the Chairperson in disseminating information on key issues to the community.
7. Attend all CAG meetings.
8. Be committed to the CAG and willing to serve for an extended period of time (e.g., two years). Terms may be staggered for continuity.
9. Serve voluntarily and without compensation.

10.3 EPA (as Lead Agency)

1. Provide information on the opportunity to form the CAG.

2. Attend CAG meetings to provide information and technical expertise on Superfund site cleanup.

3. Facilitate discussion of issues and concerns relative to Superfund actions.

4. Listen and respond to views expressed by CAG members, giving them substantial consideration when making site decisions, especially when views are those of most or all CAG members.

5. Work with others, as appropriate, to support and participate in training to be provided to CAG members.

6. Assist the CAG with administrative and logistical support and meeting facilities.

10.4 State/Tribal Regulatory Agency

1. Attend all CAG meetings.

2. Serve as an information referral and resource bank for the CAG on State- or Tribal-related issues.

3. Support training to be provided to CAG members.

4. If the lead agency, assume responsibilities under Section 10.3.

10.5 CAG - TAG Interface

TAG recipients can use their TAG funds to hire their own independent Technical Advisor to help them better understand and more effectively participate in the decision-making process at Superfund sites.

If a TAG has been awarded to a community group for work at this particular site (with the CAG), the Region should encourage a representative of the TAG group to be a member of the CAG. The Regions also should encourage the TAG and CAG to work together toward common goals with respect to site remediation.

If no TAG currently exists for this site, community members are still eligible and are encouraged to apply for a TAG. *Having a CAG at a site in no way precludes an eligible group at that same site from receiving a TAG.*

Points to Keep in Mind Regarding Community Advisory Groups

- Consult with and involve appropriate State and Tribal Governments.
- Consult with and involve appropriate local governments.
- Involve communities EARLY in the Superfund process.
- Maintain open communication channels.
- Share information.
- Be sincere.

11. Appendices

COMMUNITY ADVISORY GROUP (CAG)
(*Name and Location of Site*)

The U.S. Environmental Protection Agency (EPA) believes it may be useful for the community (*communities*) of (*name of community or communities affected*) to establish a Community Advisory Group (CAG) to ensure that all segments of the community have an opportunity to participate in the decision-making process at (*name of the site*).

The Superfund program under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) covers the cleanup of sites involving the improper disposal of hazardous substances throughout the country. Community involvement is an important element of the Superfund process, and EPA encourages it. EPA's comprehensive Community Involvement Program for (*name of the site*) began in (*date*). (*Provide a brief description of accomplishments of the Community Involvement Program at this site, if possible.*)

EPA, in cooperation with (*name of the State/Tribal Regulatory Agency and any other parties to the cleanup agreement*), has begun work to cleanup (*name of the site*).

(*Provide a brief description of the site and the cleanup-related activities to date.*)

A Community Advisory Group (CAG) provides a setting in which representatives of the local community can get up-to-date information about the status of cleanup activities, as well as discuss community views and concerns about the cleanup process with EPA, the State/Tribal regulatory agency, and other parties involved in cleanup of the Superfund site. **The CAG is a public forum in which all affected and interested parties in a community can have a voice and actively participate in the Superfund process.**

Getting Involved. CAGs are made up of members of the community. CAG membership is voluntary and members should be willing to serve two-year terms. CAG members will meet regularly and review and comment on technical documents and plans related to the environmental studies and cleanup activities at (*name of site*). Members will help EPA and the community exchange information about site activities and community concerns. CAG members will meet with individuals and groups in the community to obtain their views and hear their concerns related to site cleanup. **All CAG meetings will be open to the public.** CAG members will be chosen from among nominations submitted by individuals and groups in the community. (*May provide more details about the specific membership selection model here.*) **The deadline for membership application is (*date*).**

For More Information Contact: (*local contact name, address, and telephone number*).

(*Name and Location of Site*)
Formation of Community Advisory Group

The U.S. Environmental Protection Agency (EPA) believes it may be useful for the community (*communities*) of (*name of community or communities affected*) to establish a Community Advisory Group (CAG) to ensure that all segments of the community have an opportunity to participate in the decision-making process at (*name of the site*).

The Superfund program involves cleaning up hazardous waste sites throughout the country. EPA encourages community involvement and considers it to be an important element of the Superfund process.

The CAG will provide a setting in which representatives of the local community can get up-to-date information about the status of cleanup activities, as well as discuss community views and concerns about the cleanup process with EPA, the State regulatory agency, and other parties involved in cleanup of the site. **The CAG will be a public forum in which all affected and interested parties in a community can have a voice and actively participate in the Superfund process.**

EPA will sponsor a meeting on (*date*) at (*time*) to discuss the purpose of the CAG, provide information on how CAG members should be chosen, and answer questions concerning cleanup plans and activities at the site. (*Provide a brief description of specific site-related issues to be discussed.*) The meeting will be held at (*meeting location address*).

The CAG will be made up of members of the community. CAG membership is voluntary and members serve without compensation. Members should be willing to serve two-year terms. The CAG will meet regularly to review and comment on technical documents and plans related to the environmental studies and cleanup activities at (name of site) and to relay community views and concerns related to the site. **All CAG meetings will be open to the public, and all members of the community are encouraged to participate.**

For more information about the CAG, contact: (*local contact name, address, and telephone number*).

APPENDIX C: Sample CAG Letter

Dear (*name of Community Member/Organization*):

The community (*communities*) of (*name of community or communities affected*) is establishing a Community Advisory Group (CAG) to ensure that all segments of the community have an opportunity to participate in the decision-making process at (*name of the site*).

The Superfund program involves cleaning up hazardous waste sites throughout the country. EPA encourages community involvement—an important element of the Superfund process.

The CAG will provide a setting in which representatives of the local community can get up-to-date information about the status of cleanup activities, as well as discuss community views and concerns about the cleanup process with EPA, the State/Tribal regulatory agency, and other parties involved in cleanup of the site.

The CAG will be made up of members of the community, and members should reflect the diverse interests in the community. CAG membership is voluntary and members serve without compensation. Members should be willing to serve two-year terms. The CAG will meet regularly to review and comment on technical documents and plans related to the environmental studies and cleanup activities at (*name of site*) and to relay information between EPA and the community about the ongoing activities at the site. They will be expected to meet often with individuals and groups in the community to obtain their views and hear their concerns related to site cleanup issues.

CAG membership offers an outstanding opportunity to represent the community and help ensure the most effective remediation of the (*name of site*).

If you have any questions about CAGs, please call _____ at _____.

Sincerely,

(name of EPA Regional CIC
and, if possible, a local community leader)

Enclosure

(*Name and Location of Site*) Insufficient Community Interest for Community Advisory Board (CAG)

The U.S. Environmental Protection Agency (EPA) believed it would be useful for the community (or communities) of (*name of community or communities affected*) to establish a Community Advisory Group (CAG) to ensure that all segments of the community have an opportunity to participate in the decision-making process at (*name of the site*).

The CAG would provide a setting in which representatives of the local community could get up-to-date information about the status of cleanup activities, as well as discuss community views and concerns about the cleanup process with EPA, the State/Tribal regulatory agency, and other parties involved in cleanup of the site. **The CAG would be a public forum in which all affected and interested parties in a community would have a voice and could participate actively in the Superfund process.**

Efforts to encourage members of the community to serve as CAG members began on (*date*). These efforts included direct communication with individuals and organizations in the community (*be specific in terms of the outreach effort*) as well as a public meeting in which the purpose of the CAG and the roles and responsibilities of CAG members were discussed.

Despite these efforts, members of the community have not expressed enough interest so far to ensure full participation by all segments of the community. Since these efforts to stimulate interest in a CAG in (*name of community*), have not been successful, EPA will not continue to encourage a CAG to form at (*name of site*). If in the future, community members express an interest in forming a CAG, EPA may reconsider this decision.

If You Have Any Questions Contact: (*local contact name, address, and telephone number*).

APPENDIX E: List of Community Involvement Managers Nationwide

Region 1
US EPA
John F. Kennedy Federal Bldg. Rm. RPS-74
Boston, MA 02203
Johanna Hunter
617-565-3425

Region 2
US EPA (26-OEP)
290 Broadway
26th Floor
New York, NY 10007
Lillian Johnson
212-637-3675

Region 3
US EPA (3EA21)
841 Chestnut Street
Philadelphia, PA 19107
Al Peterson
215-597-9905

Region 4
US EPA
Waste Management Division
345 Courtland St., NE
Atlanta, GA 30365
South Remedial Branch:
Betty Winter (AL, GA, MS)
404-347-2643 x6264
1-800-435-9234
Rose Jackson (South FL)
404-347-2643 x6272
Carleen Wakefield (North FL)
404-347-2643 x6256

North Remedial Branch:
Cynthia Peurifoy (SC)
404-347-7791 x2072
1-800-435-9233
Diane Barrett (NC)
404-347-7791 x2073
Cindy Gibson (SC, KY)
404-347-7791 x2036
Emergency Response Branch:
Michael Henderson (All Region 4 States)
404-347-3931 x6106
1-800-564-7577

Region 5
US EPA (PS19-J)
Metcalfe Federal Bldg.- 19th floor
77 W. Jackson Blvd.
Chicago, IL 60604
Toni Lesser
312-886-6685

Region 6
US EPA (6HMC)
First International Bank Tower & Fountain Place
1445 Ross Ave., 12th Floor
Dallas, TX 75270-2733
Verne McFarland
214-665-6617

Region 7
US EPA
726 Minnesota Ave.
Kansas City, KS 66101
Rowena Michaels
913-551-7003

Region 8
US EPA (80EA)
999 18th St.
Denver, CO 80202
Sonya Pennock
303-312-6600

Region 9
US EPA (H-1-1)
Office of Community Relations
75 Hawthorne Street
San Francisco, CA 94105
Dianna Young
415-744-2178

Region 10
US EPA (HW-117)
1200 6th Ave.
Seattle, WA 98101
Michelle Pirzadeh
206-553-1272

Headquarters
Community Involvement and Outreach Center
Office of Emergency and Remedial Response
US EPA (5203G)
401 M St., SW
Washington DC 20460
Suzanne Wells
703-603-8863

APPENDIX F -- PUBLIC PARTICIPATION REGULATIONS IN 40 CFR 25

order, to issue the order without change or to withdraw the order. The recommended decision shall be based on the administrative record. If the Presiding Officer finds that any contested relief provision in the order is not supported by a preponderance of the evidence in the record, the Presiding Officer shall recommend that the order be modified and issued on terms that are supported by the record, or withdrawn.

(b) At any time within twenty-one (21) days of service of the recommended decision on the parties, the parties may file comments on the recommended decision with the Clerk. The Clerk shall promptly transmit any such comments received to the Regional Administrator for his consideration in reaching a final decision.

Subpart D—Post-Hearing Procedures

§24.18 Final decision.

As soon as practicable after receipt of the recommended decision, the Regional Administrator will either sign or modify such recommended decision, and issue it as a final decision. If the Regional Administrator modifies the recommended decision, he shall insure that the final decision indicates the legal and factual basis for the decision as modified. The Regional Administrator's decision shall be based on the administrative record.

§24.19 Final order.

If the Regional Administrator does not adopt portions of the initial order, or finds that modification of the order is necessary, the signatory official on the initial administrative order shall modify the order in accordance with the terms of the final decision and file and serve a copy of the final administrative order. If the Regional Administrator finds the initial order appropriate as originally issued, the final decision shall declare the initial administrative order to be a final order, effective upon service of the final decision. If the Regional Administrator declares that the initial order must be withdrawn, the signatory official on the initial administrative order will file and serve a withdrawal of the initial administrative order. This may be done without prejudice.

§24.20 Final agency action.

The final decision and the final administrative order are final agency actions that are effective on filing and service. These actions are not appealable to the Administrator.

PART 25—PUBLIC PARTICIPATION IN PROGRAMS UNDER THE RESOURCE CONSERVATION AND RECOVERY ACT, THE SAFE DRINKING WATER ACT, AND THE CLEAN WATER ACT

Sec.
25.1 Introduction.
25.2 Scope.
25.3 Policy and objectives.
25.4 Information, notification, and consultation responsibilities.
25.5 Public hearings.
25.6 Public meetings.
25.7 Advisory groups.
25.8 Responsiveness summaries.
25.9 Permit enforcement.
25.10 Rulemaking.
25.11 Work elements in financial assistance agreements.
25.12 Assuring compliance with public participation requirements.
25.13 Coordination and non-duplication.
25.14 Termination of reporting requirements.

AUTHORITY: Sec. 101(e), Clean Water Act, as amended (33 U.S.C. 1251(e)); sec. 7004(b), Resource Conservation and Recovery Act (42 U.S.C. 6974(b)); sec. 1450(a)(1), Safe Drinking Water Act, as amended (42 U.S.C. 300j-9).

SOURCE: 44 FR 10292, Feb. 16, 1979, unless otherwise noted.

§25.1 Introduction.

This part sets forth minimum requirements and suggested program elements for public participation in activities under the Clean Water Act (Pub. L. 95-217), the Resource Conservation and Recovery Act (Pub. L. 94-580), and the Safe Drinking Water Act (Pub. L. 93-523). The applicability of the requirements of this part is as follows:

(a) Basic requirements and suggested program elements for public information, public notification, and public consultation are set forth in §25.4. These requirements are intended to

foster public awareness and open processes of government decisionmaking. They are applicable to all covered activities and programs described in §25.2(a).

(b) Requirements and suggested program elements which govern the structure of particular public participation mechanisms (for example, advisory groups and responsiveness summaries) are set forth in §§25.5, 25.6, 25.7, and 25.8. This part does not mandate the use of these public participation mechanisms. It does, however, set requirements which those responsible for implementing the mechanisms must follow if the mechanisms are required elsewhere in this chapter.

(c) Requirements which apply to Federal financial assistance programs (grants and cooperative agreements) under the three acts are set forth in §§25.10 and 25.12(a).

(d) Requirements for public involvement which apply to specific activities are set forth in §25.9 (Permit enforcement), §25.10 (Rulemaking), and §25.12 (Assuring compliance with requirements).

§25.2 Scope.

(a) The activities under the three Acts which are covered by this part are:

(1) EPA rulemaking, except non-policy rulemaking (for example publication of funding allotments under statutory formulas); and State rulemaking under the Clean Water Act and Resource Conservation and Recovery Act;

(2) EPA issuance and modification of permits, and enforcement of permits as delineated by §25.9;

(3) Development by EPA of major informational materials, such as citizen guides or handbooks, which are expected to be used over several years and which are intended to be widely distributed to the public;

(4) Development by EPA of strategy and policy guidance memoranda when a Deputy Assistant Administrator determines it to be appropriate;

(5) Development and implementation of plans, programs, standards, construction, and other activities supported with EPA financial assistance (grants and cooperative agreements) to State, interstate, regional and local agencies (herein after referred to as "State, interstate, and substate agencies");

(6) The process by which EPA makes a determination regarding approval of State administration of the Construction Grants program in lieu of Federal administration; and the administration of the Construction Grants Program by the State after EPA approval;

(7) The process by which EPA makes a determination regarding approval of State administration of the following programs in lieu of Federal administration: The State Hazardous Waste Program; the NPDES Permit Program; the Dredge and Fill Permit Program; and the Underground Injection Control Program;

(8) Other activities which the Assistant Administrator for Water and Waste Management, the Assistant Administrator for Enforcement, or any EPA Regional Administrator deems appropriate in view of the Agency's responsibility to involve the public in significant decisions.

(b) Activities which are not covered by this part, except as otherwise provided under (a)(8) or (c) of this section, are activities under Parts 33 (Subagreements), 39 (Loan Guarantees for Construction of Treatment Works), 40 (Research and Development Grants), 45 (Training Grants and Manpower Forecasting) and 46 (Fellowships) of this chapter.

(c) Some programs covered by these regulations contain further provisions concerning public participation. These are found elsewhere in this chapter in provisions which apply to the program of interest. Regulations which govern the use and release of public information are set forth in part 2 of this chapter.

(d) Specific provisions of court orders which conflict with requirements of this part, such as court-established timetables, shall take precedence over the provisions in this part.

(e) Where the State undertakes functions in the construction grants program, the State shall be responsible for meeting these requirements for public participation, and any applicable public participation requirements found elsewhere in this chapter, to the same extent as EPA.

(f) Where the State undertakes functions in those programs specifically cited in §25.2(a)(7), the State shall be responsible for meeting the requirements for public participation included in the applicable regulations governing those State programs. The requirements for public participation in State Hazardous Waste Programs, Dredge and Fill Permit programs, Underground Injection Control programs and NPDES permit programs are found in part 123 of this chapter. These regulations embody the substantive requirements of this part.

(g) These regulations apply to the activities of all agencies receiving EPA financial assistance which is awarded after [the effective date of final regulations], and to all other covered activities of EPA, State, interstate, and substate agencies which occur after that date. These regulations will apply to ongoing grants or other covered activities upon any significant change in the activity (for example, upon a significant proposed increase in project scope of a construction grant). Parts 105 (Public Participation in Water Pollution Control) and 249 (Public Participation in Solid Waste Management) will no longer appear in the Code of Federal Regulations; however, they will remain applicable, in uncodified form, to grants awarded prior to the effective date of this part and to all other ongoing activities.

§25.3 Policy and objectives.

(a) EPA, State, interstate, and substate agencies carrying out activities described in §25.2(a) shall provide for, encourage, and assist the participation of the public. The term, "the public" in the broadest sense means the people as a whole, the general populace. There are a number of identifiable "segments of the public" which may have a particular interest in a given program or decision. Interested and affected segments of the public may be affected directly by a decision, either beneficially or adversely; they may be affected indirectly; or they may have some other concern about the decision. In addition to private citizens, the public may include, among others, representatives of consumer, environmental, and minority associations; trade, industrial, agricultural, and labor organizations; public health, scientific, and professional societies; civic associations; public officials; and governmental and educational associations.

(b) Public participation is that part of the decision-making process through which responsible officials become aware of public attitudes by providing ample opportunity for interested and affected parties to communicate their views. Public participation includes providing access to the decision-making process, seeking input from and conducting dialogue with the public, assimilating public viewpoints and preferences, and demonstrating that those viewpoints and preferences have been considered by the decision-making official. Disagreement on significant issues is to be expected among government agencies and the diverse groups interested in and affected by public policy decisions. Public agencies should encourage full presentation of issues at an early stage so that they can be resolved and timely decisions can be made. In the course of this process, responsible officials should make special efforts to encourage and assist participation by citizens representing themselves and by others whose resources and access to decision-making may be relatively limited.

(c) The following are the objectives of EPA, State, interstate, and substate agencies in carrying out activities covered by this part:

(1) To assure that the public has the opportunity to understand official programs and proposed actions, and that the government fully considers the public's concerns;

(2) To assure that the government does not make any significant decision on any activity covered by this part without consulting interested and affected segments of the public;

(3) To assure that government action is as responsive as possible to public concerns;

(4) To encourage public involvement in implementing environmental laws;

(5) To keep the public informed about significant issues and proposed project or program changes as they arise;

(6) To foster a spirit of openness and mutual trust among EPA, States, substate agencies and the public; and

(7) To use all feasible means to create opportunities for public participation, and to stimulate and support participation.

§25.4 Information, notification, and consultation responsibilities.

(a) *General.* EPA, State, interstate, and substate agencies shall conduct a continuing program for public information and participation in the development and implementation of activities covered by this part. This program shall meet the following requirements:

(b) *Information and assistance requirements.* (1) Providing information to the public is a necessary prerequisite to meaningful, active public involvement. Agencies shall design informational activities to encourage and facilitate the public's participation in all significant decisions covered by §25.2(a), particularly where alternative courses of action are proposed.

(2) Each agency shall provide the public with continuing policy, program, and technical information and assistance beginning at the earliest practicable time. Informational materials shall highlight significant issues that will be the subject of decision-making. Whenever possible, consistent with applicable statutory requirements, the social, economic, and environmental consequences of proposed decisions shall be clearly stated in such material. Each agency shall identify segments of the public likely to be affected by agency decisions and should consider targeting informational materials toward them (in addition to the materials directed toward the general public). Lengthy documents and complex technical materials that relate to significant decisions should be summarized for public and media uses. Fact sheets, news releases, newsletters, and other similar publications may be used to provide notice that materials are available and to facilitate public understanding of more complex documents, but shall not be a substitute for public access to the full documents.

(3) Each agency shall provide one or more central collections of reports, studies, plans, and other documents relating to controversial issues or significant decisions in a convenient location or locations, for example, in public libraries. Examples of such documents are catalogs of documents available from the agency, grant applications, fact sheets on permits and permit applications, permits, effluent discharge information, and compliance schedule reports. Copying facilities at reasonable cost should be available at the depositories.

(4) Whenever possible, agencies shall provide copies of documents of interest to the public free of charge. Charges for copies should not exceed prevailing commercial copying costs. EPA requirements governing charges for information and documents provided to the public in response to requests made under the Freedom of Information Act are set forth in part 2 of this chapter. Consistent with the objectives of §25.3(b), agencies may reserve their supply of free copies for private citizens and others whose resources are limited.

(5) Each agency shall develop and maintain a list of persons and organizations who have expressed an interest in or may, by the nature of their purposes, activities or members, be affected by or have an interest in any covered activity. Generally, this list will be most useful where subdivided by area of interest or geographic area. Whenever possible, the list should include representatives of the several categories of interests listed under §25.3(a). Those on the list, or relevant portions if the list is subdivided, shall receive timely and periodic notification of the availability of materials under §25.4(b)(2).

(c) *Public notification.* Each agency shall notify interested and affected parties, including appropriate portions of the list required by paragraph (b)(5) of this section, and the media in advance of times at which major decisions not covered by notice requirements for public meetings or public hearings are being considered. Generally, notices should include the timetable in which a decision will be reached, the issues under consideration, any alternative courses of action or tentative determinations which the agency has made, a brief listing of the applicable laws or regulations, the location where relevant documents may be reviewed or obtained, identification

of any associated public participation opportunities such as workshops or meetings, the name of an individual to contact for additional information, and any other appropriate information. All advance notifications under this paragraph must be provided far enough in advance of agency action to permit time for public response; generally this should not be less than 30 days.

(d) *Public consultation.* For the purposes of this part, "public consultation" means an exchange of views between governmental agencies and interested or affected persons and organizations in order to meet the objectives set forth in § 25.3. Requirements for three common forms of public consultation (public hearings, public meetings, and advisory groups) are set forth in §§ 25.5, 25.6, and 25.7. Other less formal consultation mechanisms may include but are not limited to review groups, ad hoc committees, task forces, workshops, seminars and informal personal communications with individuals and groups. Public consultation must be preceded by timely distribution of information and must occur sufficiently in advance of decision-making to allow the agency to assimilate public views into agency action. EPA, State, interstate, and substate agencies shall provide for early and continuing public consultation in any significant action covered by this part. Merely conferring with the public after an agency decision does not meet this requirement. In addition to holding hearings and meetings as specifically required in this chapter, a hearing or meeting shall be held if EPA, the State, interstate, or substate agency determines that there is significant public interest or that a hearing or meeting would be useful.

(e) *Public information concerning legal proceedings.* EPA, State, interstate, and substate agencies shall provide full and open information on legal proceedings to the extent not inconsistent with court requirements, and where such disclosure would not prejudice the conduct of the litigation. EPA actions with regard to affording opportunities for public comment before the Department of Justice consents to a proposed judgment in an action to enjoin discharges of pollutants into the environment shall be consistent with the Statement of Policy issued by the Department of Justice (see Title 28, CFR, Chapter 1, § 50.7).

§ 25.5 Public hearings.

(a) *Applicability.* Any non-adjudicatory public hearing, whether mandatory or discretionary, under the three Acts shall meet the following minimum requirements. These requirements are subordinate to any more stringent requirements found elsewhere in this chapter or otherwise imposed by EPA, State, interstate, or substate agencies. Procedures developed for adjudicatory hearings required by this chapter shall be consistent with the public participation objectives of this part, to the extent practicable.

(b) *Notice.* A notice of each hearing shall be well publicized, and shall also be mailed to the appropriate portions of the list of interested and affected parties required by § 25.4(b)(5). Except as otherwise specifically provided elsewhere in this chapter, these actions must occur at least 45 days prior to the date of the hearing. However, where EPA determines that there are no substantial documents which must be reviewed for effective hearing participation and that there are no complex or controversial matters to be addressed by the hearing, the notice requirement may be reduced to no less than 30 days. EPA may further reduce or waive the hearing notice requirement in emergency situations where EPA determines that there is an imminent danger to public health. To the extent not duplicative, the agency holding the hearing shall also provide informal notice to all interested persons or organizations that request it. The notice shall identify the matters to be discussed at the hearing and shall include or be accompanied by a discussion of the agency's tentative determination on major issues (if any), information on the availability of a bibliography of relevant materials (if deemed appropriate), and procedures for obtaining further information. Reports, documents and data relevant to the discussion at the public hearing shall be available to the public at least 30 days before the hearing. Earlier availability of materials relevant to the hearing will further assist public participation and is encouraged where possible.

(c) *Locations and time.* Hearings must be held at times and places which, to the maximum extent feasible, facilitate attendance by the public. Accessibility of public transportation, and use of evening and weekend hearings, should be considered. In the case of actions with Statewide interest, holding more than one hearing should be considered.

(d) *Scheduling presentations.* The agency holding the hearing shall schedule witnesses in advance, when necessary, to ensure maximum participation and allotment of adequate time for all speakers. However, the agency shall reserve some time for unscheduled testimony and may consider reserving blocks of time for major categories of witnesses.

(e) *Conduct of hearing.* The agency holding the hearing shall inform the audience of the issues involved in the decision to be made, the considerations the agency will take into account, the agency's tentative determinations (if any), and the information which is particularly solicited from the public. The agency should consider allowing a question and answer period. Procedures shall not unduly inhibit free expression of views (for example, by onerous written statement requirements or qualification of witnesses beyond minimum identification).

(f) *Record.* The agency holding the hearing shall prepare a transcript, recording or other complete record of public hearing proceedings and make it available at no more than cost to anyone who requests it. A copy of the record shall be available for public review.

§ 25.6 Public meetings.

Public meetings are any assemblies or gathering, (such as conferences, informational sessions, seminars, workshops, or other activities) which the responsible agency intends to be open to anyone wishing to attend. Public meetings are less formal than public hearings. They do not require formal presentations, scheduling of presentations and a record of proceedings. The requirements of § 25.5 (b) and (c) are applicable to public meetings, except that the agency holding the meeting may reduce the notice to not less than 30 days if there is good reason that longer notice cannot be provided.

§ 25.7 Advisory groups.

(a) *Applicability.* The requirements of this section on advisory groups shall be met whenever provisions of this chapter require use of an advisory group by State, interstate, or substate agencies involved in activities supported by EPA financial assistance under any of the three Acts.

(b) *Role.* Primary responsibility for decision-making in environmental programs is vested by law in the elected and appointed officials who serve on public bodies and agencies at various levels of government. However, all segments of the public must have the opportunity to participate in environmental quality planning. Accordingly, where EPA identifies a need for continued attention of an informed core group of citizens in relation to activities conducted with EPA financial assistance, program regulations elsewhere in this chapter will require an advisory group to be appointed by the financially assisted agency. Such advisory groups will not be the sole mechanism for public participation, but will complement other mechanisms. They are intended to assist elected or appointed officials with final decision-making responsibility by making recommendations to such officials on important issues. In addition, advisory groups should foster a constructive interchange among the various interests present on the group and enhance the prospect of community acceptance of agency action.

(c) *Membership.* (1) The agency receiving financial assistance shall assure that the advisory group reflects a balance of interests in the affected area. In order to meet this requirement, the assisted agency shall take positive action, in accordance with paragraph (c)(3) of this section, to establish an advisory group which consists of substantially equivalent proportions of the following four groups:

(i) *Private citizens.* No person may be included in this portion of the advisory group who is likely to incur a financial gain or loss greater than that of an av-

erage homeowner, taxpayer or consumer as a result of any action likely to be taken by the assisted agency.

(ii) *Representatives of public interest groups.* A "public interest group" is an organization which reflects a general civic, social, recreational, environmental or public health perspective in the area and which does not directly reflect the economic interests of its membership.

(iii) Public officials.

(iv) Citizens or representatives of organizations with substantial economic interests in the plan or project.

(2) Generally, where the activity has a particular geographic focus, the advisory group shall be made up of persons who are residents of that geographic area.

(3) In order to meet the advisory group membership requirements of paragraph (c)(1) of this section, the assisted agency shall:

(i) Identify public interest groups, economic interests, and public officials who are interested in or affected by the assisted activity.

(ii) Make active efforts to inform citizens in the affected area, and the persons or groups identified under paragraph (c)(3)(i) of this section, of this opportunity for participation on the advisory group. This may include such actions as placing notices or announcements in the newspapers or other media, mailing written notices to interested parties, contacting organizations or individuals directly, requesting organizations to notify their members through meetings, newsletters, or other means.

(iii) Where the membership composition set forth in paragraph (c)(1) of this section is not met after the above actions, the assisted agency shall identify the causative problems and make additional efforts to overcome such problems. For example, the agency should make personal contact with prospective participants to invite their participation.

(iv) Where problems in meeting the membership composition arise, the agency should request advice and assistance from EPA.

(d) The assisted agency shall record the names and mailing addresses of each member of the advisory group, with the attributes of each in relation to the membership requirements set forth in paragraph (c)(1) of this section, provide a copy to EPA, and make the list available to the public. In the event that the membership requirements set forth in paragraph (c)(1) of this section are not met, the assisted agency shall append to the list a description of its efforts to comply with those requirements and an explanation of the problems which prevented compliance. EPA shall review the agency's efforts to comply and approve the advisory group composition or, if the agency's efforts were inadequate, require additional actions to achieve the required membership composition.

(e) *Responsibilities of the assisted agency.* (1) The assisted agency shall designate a staff contact who will be responsible for day-to-day coordination among the advisory group, the agency, and any agency contractors or consultants. The financial assistance agreement shall include a budget item for this staff contact. Where substantial portions of the assisted agency's responsibilities will be met under contract, the agency shall require a similar designation, and budget specification, of its contractor. In the latter event, the assisted agency does not have to designate a separate staff contact on its own staff, if the Regional Administrator determines that the contractor's designation will result in adequate coordination. The staff contact shall be located in the project area.

(2) The assisted agency has such responsibilities as providing the advisory group with information, identifying issues for the advisory group's consideration, consulting with the advisory group throughout the project, requesting the advisory group's recommendations prior to major decisions, transmitting advisory group recommendations to decision-making officials, and making written responses to any formal recommendation by the advisory group. The agency shall make any such written responses available to the public. To the maximum extent feasible, the assisted agency shall involve the advisory group in the development of the public participation program.

(3) The assisted agency shall identify professional and clerical staff time which the advisory group may depend upon for assistance, and provide the advisory group with an operating budget which may be used for technical assistance and other purposes agreed upon between the advisory group and the agency.

(4) The assisted agency shall establish a system to make costs of reasonable out-of-pocket expenses of advisory group participation available to group members. Time away from work need not be reimbursed; however, assisted agencies are encouraged to schedule meetings at times and places which will not require members to leave their jobs to attend.

(f) *Advisory group responsibilities and duties.* The advisory group may select its own chairperson, adopt its own rules of order, and schedule and conduct its own meetings. Advisory group meetings shall be announced well in advance and shall be open to the public. At all meetings, the advisory group shall provide opportunity for public comment. Any minutes of advisory group meetings and recommendations to the assisted agency shall be available to the public. The advisory group should monitor the progress of the project and become familiar with issues relevant to project development. In the event the assisted agency and the advisory group agree that the advisory group will assume public participation responsibilities, the group should undertake those responsibilities promptly. The advisory group should make written recommendations directly to the assisted agency and to responsible decision-making officials on major decisions (including approval of the public participation program) and respond to any requests from the agency or decision-making officials for recommendations. The advisory group should remain aware of community attitudes and responses to issues as they arise. As part of this effort, the advisory group may, within the limitations of available resources, conduct public participation activities in conjunction with the assisted agency; solicit outside advice; and establish, in conjunction with the assisted agency, subcommittees, ad hoc groups, or task forces to investigate and develop recommendations on particular issues as they arise. The advisory group should undertake its responsibilities fully and promptly in accordance with the policies and requirements of this part. Nothing shall preclude the right of the advisory group from requesting EPA to perform an evaluation of the assisted agency's compliance with the requirements of this part.

(g) *Training and assistance.* EPA will promptly provide appropriate written guidance and project information to the newly formed advisory group and may provide advice and assistance to the group throughout the life of the project. EPA will develop and, in conjunction with the State or assisted agency, carry out a program to provide a training session for the advisory group, and appropriate assisted agency representatives, promptly after the advisory group is formed. The assisted agency shall provide additional needed information or assistance to the advisory group.

§25.8 Responsiveness summaries.

Each agency which conducts any activities required under this part shall prepare a Responsiveness Summary at specific decision points as specified in program regulations or in the approved public participation work plan. Responsiveness Summaries are also required for rulemaking activities under §25.10. Each Responsiveness Summary shall identify the public participation activity conducted; describe the matters on which the public was consulted; summarize the public's views, significant comments, criticisms and suggestions; and set forth the agency's specific responses in terms of modifications of the proposed action or an explanation for rejection of proposals made by the public. Responsiveness Summaries prepared by agencies receiving EPA financial assistance shall also include evaluations by the agency of the effectiveness of the public participation program. Assisted agencies shall request such evaluations from any advisory group and provide an opportunity for other participating members of the public to contribute to the evaluation. (In the case of programs with multiple responsiveness summary

requirements, these analyses need only be prepared and submitted with the final summary required.) Responsiveness summaries shall be forwarded to the appropriate decision-making official and shall be made available to the public. Responsiveness Summaries shall be used as part of evaluations required under this part or elsewhere in this chapter.

§ 25.9 Permit enforcement.

Each agency administering a permit program shall develop internal procedures for receiving evidence submitted by citizens about permit violations and ensuring that it is properly considered. Public effort in reporting violations shall be encouraged, and the agency shall make available information on reporting procedures. The agency shall investigate alleged violations promptly.

§ 25.10 Rulemaking.

(a) EPA shall invite and consider written comments on proposed and interim regulations from any interested or affected persons and organizations. All such comments shall be part of the public record, and a copy of each comment shall be available for public inspection. EPA will maintain a docket of comments received and any Agency responses. Notices of proposed and interim rulemaking, as well as final rules and regulations, shall be distributed in accordance with § 25.4(c) to interested or affected persons promptly after publication. Each notice shall include information as to the availability of the full texts of rules and regulations (where these are not set forth in the notice itself) and places where copying facilities are available at reasonable cost to the public. Under Executive Order 12044 (March 23, 1978), further EPA guidance will be issued concerning public participation in EPA rulemaking. A Responsiveness Summary shall be published as part of the preamble to interim and final regulations. In addition to providing opportunity for written comments on proposed and interim regulations, EPA may choose to hold a public hearing.

(b) State rulemaking specified in § 25.2(a)(1) shall be in accord with the requirements of paragraph (a) of this section or with the State's administrative procedures act, if one exists. However, in the event of conflict between a provision of paragraph (a) of this section and a provision of a State's administrative procedures act, the State's law shall apply.

§ 25.11 Work elements in financial assistance agreements.

(a) This section is applicable to activities under § 25.2(a)(5) except as otherwise provided in parts 30 or 35.

(b) Each applicant for EPA financial assistance shall set forth in the application a public participation work plan or work element which reflects how public participation will be provided for, encouraged, and assisted in accordance with this part. This work plan or element shall cover the project period. At a minimum, the work plan or element shall include:

(1) Staff contacts and budget resources to be devoted to public participation by category;

(2) A proposed schedule for public participation activities to impact major decisions, including consultation points where responsiveness summaries will be prepared;

(3) An identification of consultation and information mechanisms to be used;

(4) The segments of the public targeted for involvement.

(c) All reasonable costs of public participation incurred by assisted agencies which are identified in an approved public participation work plan or element, or which are otherwise approved by EPA, shall be eligible for financial assistance.

(d) The work plan or element may be revised as necessary throughout the project period with approval of the Regional Administrator.

§ 25.12 Assuring compliance with public participation requirements.

(a) *Financial assistance programs*—(1) *Applications.* EPA shall review the public participation work plan (or, if no work plan is required by this chapter for the particular financial assistance agreement, the public participation element) included in the application to determine consistency with all policies and requirements of this part. No financial assistance shall be awarded unless EPA is satisfied that the public participation policies and requirements of this part and, any applicable public participation requirements found elsewhere in this chapter, will be met.

(2) *Compliance*—(i) *Evaluation.* EPA shall evaluate compliance with public participation requirements using the work plan, responsiveness summary, and other available information. EPA will judge the adequacy of the public participation effort in relation to the objectives and requirements of § 25.3 and § 25.4 and other applicable requirements. In conducting this evaluation, EPA may request additional information from the assisted agency, including records of hearings and meetings, and may invite public comment on the agency's performance. The evaluation will be undertaken as part of any mid-project review required in various programs under this chapter; where no such review is required the review shall be conducted at an approximate mid-point in continuing EPA oversight activity. EPA may, however, undertake such evaluation at any point in the project period, and will do so whenever it believes that an assisted agency may have failed to meet public participation requirements.

(ii) *Remedial actions.* Whenever EPA determines that an assisted agency has not fully met public participation requirements, EPA shall take actions which it deems appropriate to mitigate the adverse effects of the failure and assure that the failure is not repeated. For ongoing projects, that action shall include, at a minimum, imposing more stringent requirements on the assisted agency for the next budget period or other period of the project (including such actions as more specific output requirements and milestone schedules for output achievement; interim EPA review of public participation activities and materials prepared by the agency, and phased release of funds based on compliance with milestone schedules.) EPA may terminate or suspend part or all financial assistance for non-compliance with public participation requirements, and may take any further actions that it determines to be appropriate in accordance with parts 30 and 35 of this chapter (see, in particular, §§ 30.340, Noncompliance and 30.615-3, Withholding of Payments, and subpart H of part 30, Modification, Suspension, and Termination).

(b) *State programs approved in lieu of Federal programs.* State compliance with applicable public participation requirements in programs specified in § 25.2(a) (6) and (7) and administered by approved States shall be monitored by EPA during the annual review of the State's program, and during any financial or program audit or review of these programs. EPA may withdraw an approved program from a State for failure to comply with applicable public participation requirements.

(c) *Other covered programs.* Assuring compliance with these public participation requirements for programs not covered by paragraphs (a) and (b) of this section is the responsibility of the Administrator of EPA. Citizens with information concerning alleged failures to comply with the public participation requirements should notify the Administrator. The Administrator will assure that instances of alleged non-compliance are promptly investigated and that corrective action is taken where necessary.

§ 25.13 Coordination and non-duplication.

The public participation activities and materials that are required under this part should be coordinated or combined with those of closely related programs or activities wherever this will enhance the economy, the effectiveness, or the timeliness of the effort; enhance the clarity of the issue; and not be detrimental to participation by the widest possible public. Hearings and meetings on the same matter may be held jointly by more than one agency where this does not conflict with the policy of this paragraph. Special efforts shall be made to coordinate public participation procedures under this part and applicable regulations elsewhere in this chapter with environmental assessment and analysis procedures under 40 CFR part 6. EPA encourages interstate agencies in particular to develop combined proceedings for the States concerned.

§25.14 Termination of reporting requirements.

All reporting requirements specifically established by this part will terminate on (5 years from date of publication) unless EPA acts to extend the requirements beyond that date.

PART 26—PROTECTION OF HUMAN SUBJECTS

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26.105 [Reserved]
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AUTHORITY: 5 U.S.C. 301; 42 U.S.C. 300v-1(b).

SOURCE: 56 FR 28012, 28022, June 18, 1991, unless otherwise noted.

§26.101 To what does this policy apply?

(a) Except as provided in paragraph (b) of this section, this policy applies to all research involving human subjects conducted, supported or otherwise subject to regulation by any federal department or agency which takes appropriate administrative action to make the policy applicable to such research. This includes research conducted by federal civilian employees or military personnel, except that each department or agency head may adopt such procedural modifications as may be appropriate from an administrative standpoint. It also includes research conducted, supported, or otherwise subject to regulation by the federal government outside the United States.

(1) Research that is conducted or supported by a federal department or agency, whether or not it is regulated as defined in §26.102(e), must comply with all sections of this policy.

(2) Research that is neither conducted nor supported by a federal department or agency but is subject to regulation as defined in §26.102(e) must be reviewed and approved, in compliance with §26.101, §26.102, and §26.107 through §26.117 of this policy, by an institutional review board (IRB) that operates in accordance with the pertinent requirements of this policy.

(b) Unless otherwise required by department or agency heads, research activities in which the only involvement of human subjects will be in one or more of the following categories are exempt from this policy:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (i) research on regular and special education instructional strategies, or (ii) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless:

(i) Information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (ii) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation.

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures, or observation of public behavior that is not exempt under paragraph (b)(2) of this section, if:

(i) The human subjects are elected or appointed public officials or candidates for public office; or (ii) federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research, involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in such a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine:

(i) Public benefit or service programs; (ii) procedures for obtaining benefits or services under those programs; (iii) possible changes in or alternatives to those programs or procedures; or (iv) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (i) if wholesome foods without additives are consumed or (ii) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture.

(c) Department or agency heads retain final judgment as to whether a particular activity is covered by this policy.

(d) Department or agency heads may require that specific research activities or classes of research activities conducted, supported, or otherwise subject to regulation by the department or agency but not otherwise covered by this policy, comply with some or all of the requirements of this policy.

(e) Compliance with this policy requires compliance with pertinent federal laws or regulations which provide additional protections for human subjects.

(f) This policy does not affect any state or local laws or regulations which may otherwise be applicable and which provide additional protections for human subjects.

(g) This policy does not affect any foreign laws or regulations which may otherwise be applicable and which provide additional protections to human subjects of research.

(h) When research covered by this policy takes place in foreign countries, procedures normally followed in the foreign countries to protect human subjects may differ from those set forth in this policy. [An example is a foreign institution which complies with guidelines consistent with the World Medical Assembly Declaration (Declaration of Helsinki amended 1989) issued either by sovereign states or by an organization whose function for the protection of human research subjects is internationally recognized.] In these circumstances, if a department or agency head determines that the procedures prescribed by the institution afford protections that are at least equivalent to those provided in this policy, the department or agency head may approve the substitution of the foreign procedures in lieu of the procedural requirements provided in this policy. Except when otherwise required by statute, Executive Order, or the department or agency head, notices of these actions as they occur will be published in the FEDERAL REGISTER or will be otherwise published as provided in department or agency procedures.

(i) Unless otherwise required by law, department or agency heads may waive the applicability of some or all of the provisions of this policy to specific research activities or classes of research activities otherwise covered by this policy. Except when otherwise required by statute or Executive Order, the department or agency head shall forward advance notices of these actions to the Office for Protection from Research

APPENDIX G -- PUBLIC PARTICIPATION REGULATIONS IN 40 CFR 124 SUBPART A

iding Officer, but he/she may not otherwise participate in the proceeding.

(6) *Rights of parties.* (i) All parties to the proceeding may:

(A) Appear by counsel or other representative in all hearing and pre-hearing proceedings;

(B) Agree to stipulations of facts which shall be made a part of the record.

(7) *Recommended decision.* (i) Within 30 days after the filing of proposed findings and conclusions, and reply briefs, the Presiding Officer shall evaluate the record before him/her, the proposed findings and conclusions and any briefs filed by the parties and shall prepare a recommended decision, and shall certify the entire record, including the recommended decision, to the Administrator.

(ii) Copies of the recommended decision shall be served upon all parties.

(iii) Within 20 days after the certification and filing of the record and recommended decision, all parties may file with the Administrator exceptions to the recommended decision and a supporting brief.

(8) *Decision by Administrator.* (i) Within 60 days after the certification of the record and filing of the Presiding Officer's recommeded decision, the Administrator shall review the record before him and issue his own decision.

(ii) If the Administrator concludes that the State has administered the program in conformity with the appropriate Act and regulations his decision shall constitute "final agency action" within the meaning of 5 U.S.C. 704.

(iii) If the Administrator concludes that the State has not administered the program in conformity with the appropriate Act and regulations he shall list the deficiencies in the program and provide the State a reasonable time, not to exceed 90 days, to take such appropriate corrective action as the Administrator determines necessary.

(iv) Within the time prescribed by the Administrator the State shall take such appropriate corrective action as required by the Administrator and shall file with the Administrator and all parties a statement certified by the State Director that such appropriate [illegible] taken.

(v) The Administrator may require a further showing in addition to the certified statement that corrective action has been taken.

(vi) If the State fails to take such appropriate corrective action and file a certified statement thereof within the time prescribed by the Administrator, the Administrator shall issue a supplementary order withdrawing approval of the State program. If the State takes such appropriate corrective action, the Administrator shall issue a supplementary order stating that approval of authority is not withdrawn.

(vii) The Administrator's supplementary order shall constitute final Agency action within the meaning of 5 U.S.C. 704.

(viii) Withdrawal of authorization under this section and the appropriate Act does not relieve any person from complying with the requirements of State law, nor does it affect the validity of actions by the State prior to withdrawal.

[48 FR 14178, Apr. 1, 1983; 50 FR 6941, Feb. 19, 1985, as amended at 57 FR 5335, Feb. 13, 1992]

PART 124—PROCEDURES FOR DECISIONMAKING

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APPENDIX A TO PART 124—GUIDE TO DECISIONMAKING UNDER PART 124

AUTHORITY: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*; Safe Drinking Water Act, 42 U.S.C. 300(f) *et seq.*; Clean Water Act, 33 U.S.C. 1251 *et seq.*; Clean Air Act, 42 U.S.C. 7401 *et seq.*

SOURCE: 48 FR 14264, Apr. 1, 1983, unless otherwise noted.

Subpart A—General Program Requirements

§ 124.1 Purpose and scope.

(a) This part contains EPA procedures for issuing, modifying, revoking and reissuing, or terminating all RCRA, UIC, PSD and NPDES "permits" (including "sludge-only" permits issued pursuant to §122.1(b)(3)), other than RCRA and UIC "emergency permits" (see §§270.61 and 144.34) and RCRA "permits by rule" (§270.60). The

latter kinds of permits are governed by part 270. RCRA interim status and UIC authorization by rule are not "permits" and are covered by specific provisions in parts 144, subpart C, and 270. This part also does not apply to permits issued, modified, revoked and reissued or terminated by the Corps of Engineers. Those procedures are specified in 33 CFR parts 320-327. The procedures of this part also apply to denial of a permit for the active life of a RCRA hazardous waste management facility or unit under § 270.29.

(b) Part 124 is organized into six subparts. Subpart A contains general procedural requirements applicable to all permit programs covered by these regulations. Subparts B through F supplement these general provisions with requirements that apply to only one or more of the programs. Subpart A describes the steps EPA will follow in receiving permit applications, preparing draft permits, issuing public notice, inviting public comment and holding public hearings on draft permits. Subpart A also covers assembling an administrative record, responding to comments, issuing a final permit decision, and allowing for administrative appeal of the final permit decision. Subpart B is reserved for specific procedural requirements for RCRA permits. There are none of these at present but they may be added in the future. Subpart C contains definitions and specific procedural requirements for PSD permits. Subpart D applies to NPDES permits until an evidentiary hearing begins, when subpart E procedures take over for EPA-issued NPDES permits and EPA-terminated RCRA permits. Subpart F, which is based on the "initial licensing" provisions of the Administrative Procedure Act (APA), can be used instead of subparts A through E in appropriate cases.

(c) Part 124 offers an opportunity for three kinds of hearings: A public hearing under subpart A, an evidentiary hearing under subpart E, and a panel hearing under subpart F. This chart describes when these hearings are available for each of the five permit programs.

HEARINGS AVAILABLE UNDER THIS PART

Programs	Subpart		
	(A)	(E)	(F)
	Public hearing	Evidentiary hearing	Panel hearing
RCRA	On draft permit, at Director's discretion or on request (§ 124.12).	(1) Permit termination (RCRA section 3008). (2) With NPDES evidentiary hearing (§ 124.74(b)(2)).	(1) At RA's discretion in lieu of public hearing (§§ 124.12 and 124.111(a)(3)). (2) When consolidated with NPDES draft permit processed under Subpart F (§ 124.111(a)(1)(i)).
UIC	On draft permit, at Director's discretion or on request (§ 124.12).	With NPDES evidentiary hearing (§ 124.74(b)(2)).	(1) At RA's discretion in lieu of public hearing (§§ 124.12 and 124.111(a)(3)). (2) When consolidated with NPDES draft permit processed under Subpart F (§ 124.111(a)(1)(i)).
PSD	On draft permit, at Director's discretion or on request (§ 124.12).	Not available (§ 124.71(c))	When consolidated with NPDES draft permit processed under Subpart F if RA determines that CAA one year deadline will not be violated.
NPDES (other than general permit).	On draft permit, at Director's discretion or on request (§ 124.12).	(1) On request to challenge any permit condition or variance (§ 124.74). (2) At RA's discretion for any 301(h) request (§ 124.64(b)).	(1) At RA's discretion when first decision on permit or variance request (§ 124.111). (2) At RA's discretion when request for evidentiary hearing is granted under § 124.75(a)(2) (§§ 124.74(c)(8) and 124.111(a)(2)). (3) At RA's discretion for any 301(h) request (§ 124.64(b)).

HEARINGS AVAILABLE UNDER THIS PART—Continued

Programs	Subpart		
	(A)	(E)	(F)
	Public hearing	Evidentiary hearing	Panel hearing
NPDES (general permit).	On draft permit, at Director's discretion or on request (§ 124.12).	Not available (§ 124.71(a))	At RA's discretion in lieu of public hearing (§ 124.111(a)(3)).
404	On draft permit or on application when no draft permit, at Director's discretion or on request (§ 124.12).	Not available (§ 124.71)	Not available (§ 124.111).

(d) This part is designed to allow permits for a given facility under two or more of the listed programs to be processed separately or together at the choice of the Regional Administrator. This allows EPA to combine the processing of permits only when appropriate, and not necessarily in all cases. The Regional Administrator may consolidate permit processing when the permit applications are submitted, when draft permits are prepared, or when final permit decisions are issued. This part also allows consolidated permits to be subject to a single public hearing under § 124.12, a single evidentiary hearing under § 124.75, or a single non-adversary panel hearing under § 124.120. Permit applicants may recommend whether or not their applications should be consolidated in any given case.

(e) Certain procedural requirements set forth in part 124 must be adopted by States in order to gain EPA approval to operate RCRA, UIC, NPDES, and 404 permit programs. These requirements are listed in §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA) and signaled by the following words at the end of the appropriate part 124 section or paragraph heading: *(applicable to State programs see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA))*. Part 124 does not apply to PSD permits issued by an approved State.

(f) To coordinate decisionmaking when different permits will be issued by EPA and approved State programs, this part allows applications to be jointly processed, joint comment periods and hearings to be held, and final permits to be issued on a cooperative basis whenever EPA and a State agree to take such steps in general or in individual cases. These joint processing agreements may be provided in the Memorandum of Agreement developed under §§ 123.24 (NPDES), 145.24 (UIC), 233.24 (404), and 271.8 (RCRA).

[48 FR 14264, Apr. 1, 1983, as amended at 54 FR 9607, Mar. 7, 1989; 54 FR 18785, May 2, 1989]

§ 124.2 Definitions.

(a) In addition to the definitions given in §§ 122.2 and 123.2 (NPDES), 501.2 (sludge management), 144.3 and 145.2 (UIC), 233.3 (404), and 270.2 and 271.2 (RCRA), the definitions below apply to this part, except for PSD permits which are governed by the definitions in § 124.41. Terms not defined in this section have the meaning given by the appropriate Act.

Administrator means the Administrator of the U.S. Environmental Protection Agency, or an authorized representative.

Applicable standards and limitations means all State, interstate, and federal standards and limitations to which a "discharge," a "sludge use or disposal practice" or a related activity is subject under the CWA, including "standards for sewage sludge use or disposal," "effluent limitations," water quality standards, standards of performance, toxic effluent standards or prohibitions, "best management practices," and pretreatment standards under sections 301, 302, 303, 304, 306, 307, 308, 403, and 405 of CWA.

Application means the EPA standard national forms for applying for a permit, including any additions, revisions or modifications to the forms; or forms approved by EPA for use in "approved States," including any approved modifications or revisions. For RCRA, appli-

cation also includes the information required by the Director under §§270.14 through 270.29 [contents of Part B of the RCRA application].

Appropriate Act and regulations means the Clean Water Act (CWA); the Solid Waste Disposal Act, as amended by the Resource Conservation Recovery Act (RCRA); or Safe Drinking Water Act (SDWA), whichever is applicable; and applicable regulations promulgated under those statutes. In the case of an "approved State program" appropriate Act and regulations includes program requirements.

Consultation with the Regional Administrator (§124.62(a)(2)) means review by the Regional Administrator following evaluation by a panel of the technical merits of all 301(k) applications approved by the Director. The panel (to be appointed by the Director of the Office of Water Enforcement and Permits) will consist of Headquarters, Regional, and State personnel familiar with the industrial category in question.

CWA means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act of Federal Pollution Control Act Amendments of 1972) Public Law 92-500, as amended by Public Law 95-217 and Public Law 95-576; 33 U.S.C. 1251 *et seq.*

Director means the Regional Administrator, the State director or the Tribal director as the context requires, or an authorized representative. When there is no approved State or Tribal program, and there is an EPA administered program, *Director* means the Regional Administrator. When there is an approved State or Tribal program, "Director" normally means the State or Tribal director. In some circumstances, however, EPA retains the authority to take certain actions even when there is an approved State or Tribal program. (For example, when EPA has issued an NPDES permit prior to the approval of a State program, EPA may retain jurisdiction over that permit after program approval; see §123.1) In such cases, the term "Director" means the Regional Administrator and not the State or Tribal director.

Draft permit means a document prepared under §124.6 indicating the Director's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a "permit." A notice of intent to terminate a permit and a notice of intent to deny a permit as discussed in §124.5, are types of "draft permits." A denial of a request for modification, revocation and reissuance or termination, as discussed in §124.5, is not a "draft permit." A "proposal permit" is not a "draft permit."

Environmental Appeals Board shall mean the Board within the Agency described in §1.25(e) of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in RCRA, PSD, UIC, or NPDES permit appeals filed under this subpart, including informal appeals of denials of requests for modification, revocation and reissuance, or termination of permits under Section 124.5(b). An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation does not preclude the Environmental Appeals Board from referring an appeal or a motion under this subpart to the Administrator when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator by the Environmental Appeals Board, all parties shall be so notified and the rules in this subpart referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

EPA ("EPA") means the United States "Environmental Protection Agency."

Facility or activity means any "HWM facility," UIC "injection well," NPDES "point source" or "treatment works treating domestic sewage" or State 404 dredge or fill activity, or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the RCRA, UIC, NPDES, or 404 programs.

Federal Indian reservation (in the case of NPDES) means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

General permit (NPDES and 404) means an NPDES or 404 "permit" authorizing a category of discharges or activities under the CWA within a geographical area. For NPDES, a general permit means a permit issued under §122.28. For 404, a general permit means a permit issued under §233.37.

Indian Tribe means (in the case of UIC) any Indian Tribe having a federally recognized governing body carrying out substantial governmental duties and powers over a defined area. For the NPDES program, the term "Indian Tribe" means any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.

Interstate agency means an agency of two or more States established by or under an agreement or compact approved by the Congress, or any other agency of two or more States having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator under the "appropriate Act and regulations."

Major facility means any RCRA, UIC, NPDES, or 404 "facility or activity" classified as such by the Regional Administrator, or, in the case of "approved State programs," the Regional Administrator in conjunction with the State Director.

NPDES means National Pollutant Discharge Elimination System.

Owner or operator means owner or operator of any "facility or activity" subject to regulation under the RCRA, UIC, NPDES, or 404 programs.

Permit means an authorization, license, or equivalent control document issued by EPA or an "approved State" to implement the requirements of this part and parts 122, 123, 144, 145, 233, 270, and 271. "Permit" includes RCRA "permit by rule" (§270.60), UIC area permit (§144.33), NPDES or 404 "general permit" (§§270.61, 144.34, and 233.38). Permit does not include RCRA interim status (§270.70), UIC authorization by rule (§144.21), or any permit which has not yet been the subject of final agency action, such as a "draft permit" or a "proposed permit."

Person means an individual, association, partnership, corporation, municipality, State, Federal, or Tribal agency, or an agency or employee thereof.

RCRA means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580, as amended by Pub. L. 95-609, 42 U.S.C. 6901 *et seq*).

Regional Administrator means the Regional Administrator of the appropriate Regional Office of the Environmental Protection Agency or the authorized representative of the Regional Administrator.

Schedule of compliance means a schedule of remedial measures included in a "permit," including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the "appropriate Act and regulations."

SDWA means the Safe Drinking Water Act (Pub. L. 95-523, as amended by Pub. L. 95-1900; 42 U.S.C. 300f *et seq*).

Section 404 program or State 404 program or 404 means an "approved State program" to regulate the "discharge of dredged material" and the "discharge of fill material" under section 404 of the Clean Water Act in "State regulated waters."

Site means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity.

State means one of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (except in the case of RCRA), the Commonwealth of the Northern Mariana Islands, or an Indian Tribe treated as a State (except in the case of RCRA). *State Director* means the chief administrative officer of any State, interstate, or Tribal agency operating an approved program, or the delegated representative of the State director. If the responsibility is divided among two or more States, interstate, or Tribal agencies, "State Director" means the chief administrative officer of the State, interstate, or Tribal agency authorized to perform the particular procedure or function to which reference is made.

State Director means the chief administrative officer of any State or interstate agency operating an "approved program," or the delegated representative of the state Director. If responsibility is divided among two or more State or interstate agencies, "State Director" means the chief administrative officer of the State or interstate agency authorized to perform the particular procedure or function to which reference is made.

UIC means the Underground Injection Control program under Part C of the Safe Drinking Water Act, including an "approved program."

Variance (NPDES) means any mechanism or provision under section 301 or 316 of CWA or under 40 CFR part 125, or in the applicable "effluent limitations guidelines" which allows modification to or waiver of the generally applicable effluent limitation requirements or time deadlines of CWA. This includes provisions which allow the establishment of alternative limitations based on fundamentally different factors or on sections 301(c), 301(g), 301(h), 301(i), or 316(a) of CWA.

(b) For the purposes of part 124, the term *Director* means the State Director or Regional Administrator and is used when the accompanying provision is required of EPA-administered programs and of State programs under §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA). The term *Regional Administrator* is used when the accompanying provision applies exclusively to EPA-issued permits and is not applicable to State programs under these sections. While States are not required to implement these latter provisions, they are not precluded from doing so, notwithstanding use of the term "Regional Administrator."

(c) The term *formal hearing* means any evidentiary hearing under subpart E or any panel hearing under subpart F but does not mean a public hearing conducted under §124.12.

[48 FR 14264, Apr. 1, 1983; 48 FR 30115, June 30, 1983, as amended at 49 FR 25981, June 25, 1984; 53 FR 37410, Sept. 26, 1988; 54 FR 18785, May 2, 1989; 57 FR 5335, Feb. 13, 1992; 57 FR 60129, Dec. 18, 1992; 58 FR 67983, Dec. 22, 1993]

§ 124.3 Application for a permit.

(a) *Applicable to State programs, see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).* (1) Any person who requires a permit under the RCRA, UIC, NPDES, or PSD programs shall complete, sign, and submit to the Director an application for each permit required under §§270.1 (RCRA), 144.1 (UIC), 40 CFR 52.21 (PSD), and 122.1 (NPDES). Applications are not required for RCRA permits by rule (§270.60), underground injections authorized by rules (§§144.21 through 144.26), NPDES general permits (§122.28) and 404 general permits (§233.37).

(2) The Director shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit. See §§270.10, 270.13 (RCRA), 144.31 (UIC), 40 CFR 52.21 (PSD), and 122.21 (NPDES).

(3) Permit applications (except for PSD permits) must comply with the signature and certification requirements of §§122.22 (NPDES), 144.32 (UIC), 233.6 (404), and 270.11 (RCRA).

(b) [Reserved]

(c) The Regional Administrator shall review for completeness every application for an EPA-issued permit. Each application for an EPA-issued permit submitted by a new HWM facility, a new UIC injection well, a major PSD stationary source or major PSD modification, or an NPDES new source or NPDES new discharger should be reviewed for completeness by the Regional Administrator within 30 days of its receipt. Each application for an EPA-issued permit submitted by an existing HWM facility (both Parts A and B of the application), existing injection well or existing NPDES source or sludge-only facility should be reviewed for completeness within 60 days of receipt. Upon completing the review, the Regional Administrator shall notify the applicant in writing whether the application is complete. If the application is incomplete, the Regional Administrator shall list the information necessary to make the application complete. When the application is for an existing HWM facility, an existing UIC injection well or an existing NPDES source or "sludge-only facility" the Regional Administrator shall specify in the notice of deficiency a date for submitting the necessary information. The Regional Administrator shall notify the applicant that the application is complete upon receiving this information. After the application is completed, the Regional Administrator may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.

(d) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under the applicable statutory provision including RCRA section 3008, SDWA sections 1423 and 1424, CAA section 167, and CWA sections 308, 309, 402(h), and 402(k).

(e) If the Regional Administrator decides that a site visit is necessary for any reason in conjunction with the processing of an application, he or she shall notify the applicant and a date shall be scheduled.

(f) The effective date of an application is the date on which the Regional Administrator notifies the applicant that the application is complete as provided in paragraph (c) of this section.

(g) For each application from a major new HWM facility, major new UIC injection well, major NPDES new source, major NPDES new discharger, or a permit to be issued under provisions of §122.28(c), the Regional Administrator shall, no later than the effective date of the application, prepare and mail to the applicant a project decision schedule. (This paragraph does not apply to PSD permits.) The schedule shall specify target dates by which the Regional Administrator intends to:

(1) Prepare a draft permit;

(2) Give public notice;

(3) Complete the public comment period, including any public hearing;

(4) Issue a final permit; and

(5) In the case of an NPDES permit, complete any formal proceedings under subpart E or F.

(Clean Water Act (33 U.S.C. 1251 *et seq.*), Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), Clean Air Act (42 U.S.C. 7401 *et seq.*), Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*))

[48 FR 14264, Apr. 1, 1983, as amended at 48 FR 39620, Sept. 1, 1983; 54 FR 18785, May 2, 1989]

§ 124.4 Consolidation of permit processing.

(a)(1) Whenever a facility or activity requires a permit under more than one statute covered by these regulations, processing of two or more applications for those permits may be consolidated. The first step in consolidation is to prepare each draft permit at the same time.

(2) Whenever draft permits are prepared at the same time, the statements of basis (required under §124.7 for EPA-issued permits only) or fact sheets (§124.8), administrative records (required under §124.9 for EPA-issued permits only), public comment periods (§124.10), and any public hearings (§124.12) on those permits should also be consolidated. The final permits may be issued together. They need not be issued together if in the judgment of the Regional Administrator or State Director(s), joint processing would result in unreasonable delay in the issuance of one or more permits.

(b) Whenever an existing facility or activity requires additional permits under one or more of the statutes covered by these regulations, the permitting authority may coordinate the expiration date(s) of the new permit(s) with the expiration date(s) of the existing permit(s) so that all permits expire simultaneously. Processing of the subsequent applications for renewal permits may then be consolidated.

(c) Processing of permit applications under paragraph (a) or (b) of this section may be consolidated as follows:

(1) The Director may consolidate permit processing at his or her discretion

whenever a facility or activity requires all permits either from EPA or from an approved State.

(2) The Regional Administrator and the State Director(s) may agree to consolidate draft permits whenever a facility or activity requires permits from both EPA and an approved State.

(3) Permit applicants may recommend whether or not the processing of their applications should be consolidated.

(d) Whenever permit processing is consolidated and the Regional Administrator invokes the "initial licensing" provisions of subpart F for an NPDES, RCRA, or UIC permit, any permit(s) with which that NPDES, RCRA or UIC permit was consolidated shall likewise be processed under subpart F.

(e) Except with the written consent of the permit applicant, the Regional Administrator shall not consolidate processing a PSD permit with any other permit under paragraph (a) or (b) of this section or process a PSD permit under subpart F as provided in paragraph (d) of this section when to do so would delay issuance of the PSD permit more than one year from the effective date of the application under §124.3(f).

§ 124.5 Modification, revocation and reissuance, or termination of permits.

(a) *(Applicable to State programs, see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)).* Permits (other than PSD permits) may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Director's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in §122.62 or §122.64 (NPDES), 144.39 or 144.40 (UIC), 233.14 or 233.15 (404), and 270.41 or 270.43 (RCRA). All requests shall be in writing and shall contain facts or reasons supporting the request.

(b) If the Director decides the request is not justified, he or she shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the Regional Administrator may be informally appealed to the Environmental Appeals Board by a letter briefly setting forth the relevant facts. The Environmental Appeals Board may direct the Regional Administrator to begin modification, revocation and reissuance, or termination proceedings under paragraph (c) of this section. The appeal shall be considered denied if the Environmental Appeals Board takes no action on the letter within 60 days after receiving it. This informal appeal is, under 5 U.S.C. 704, a prerequisite to seeking judicial review of EPA action in denying a request for modification, revocation and reissuance, or termination.

(c) *(Applicable to State programs, see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)).* (1) If the Director tentatively decides to modify or revoke and reissue a permit under §§122.62 (NPDES), 144.39 (UIC), 233.14 (404), or 270.41 or 270.42(c) (RCRA), he or she shall prepare a draft permit under §124.6 incorporating the proposed changes. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits, the Director shall require the submission of a new application.

(2) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(3) "Minor modifications" as defined in §§122.63 (NPDES), 144.41 (UIC), and 233.16 (404), and "Classes 1 and 2 modifications" as defined in §270.42 (a) and (b) (RCRA) are not subject to the requirements of this section.

(d) *(Applicable to State programs, see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)).* If the Director tentatively decides to terminate a permit under §§122.64 (NDPES), 144.40 (UIC), 233.15 (404), or 270.43 (RCRA), he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under §124.6. In the case of EPA-issued permits, a notice of intent to terminate shall not be issued if the Regional Administrator and the permittee agree to termination in the course of transferring permit responsibility to an approved State under §§123.24(b)(1) (NPDES), 145.24(b)(1) (UIC), 271.8(b)(6) (RCRA), or 501.14(b)(1) (Sludge).

(e) When EPA is the permitting authority, all draft permits (including notices of intent to terminate) prepared under this section shall be based on the administrative record as defined in §124.9.

(f) *(Applicable to State programs, see §233.26 (404)).* Any request by the permittee for modification to an existing 404 permit (other than a request for a minor modification as defined in §233.16 (404)) shall be treated as a permit application and shall be processed in accordance with all requirements of §124.3.

(g)(1) (Reserved for PSD Modification Provisions).

(2) PSD permits may be terminated only by rescission under §52.21(w) or by automatic expiration under §52.21(r). Applications for rescission shall be precessed under §52.21(w) and are not subject to this part.

[48 FR 14264, Apr. 1, 1983, as amended at 53 FR 37934, Sept. 28, 1988; 54 FR 18785, May 2, 1989; 57 FR 60129, Dec. 18, 1992]

§ 124.6 Draft permits.

(a) *(Applicable to State programs, see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).)* Once an application is complete, the Director shall tentatively decide whether to prepare a draft permit (except in the case of State section 404 permits for which no draft permit is required under §233.39) or to deny the application.

(b) If the Director tentatively decides to deny the permit application, he or she shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this section. See §124.6(e). If the Director's final decision (§124.15) is that the tentative decision to deny the permit application was incorrect, he or she shall withdraw the notice of intent to deny and proceed to prepare a draft permit under paragraph (d) of this section.

(c) *(Applicable to State programs, see §§123.25 (NPDES) and 233.26 (404).)* If the Director tentatively decides to issue an NPDES or 404 general permit, he or she shall prepare a draft general permit under paragraph (d) of this section.

(d) *(Applicable to State programs, see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).)* If the Director decides to prepare a draft permit, he or she shall prepare a draft permit that contains the following information:

(1) All conditions under §§122.41 and 122.43 (NPDES), 144.51 and 144.42 (UIC, 233.7 and 233.8 (404, or 270.30 and 270.32 (RCRA) (except for PSD permits)));

(2) All compliance schedules under §§122.47 (NPDES), 144.53 (UIC), 233.10 (404), or 270.33 (RCRA) (except for PSD permits);

(3) All monitoring requirements under §§122.48 (NPDES), 144.54 (UIC), 233.11 (404), or 270.31 (RCRA) (except for PSD permits); and

(4) For:

(i) RCRA permits, standards for treatment, storage, and/or disposal and other permit conditions under §270.30;

(ii) UIC permits, permit conditions under §144.52;

(iii) PSD permits, permit conditions under 40 CFR §52.21;

(iv) 404 permits, permit conditions under §§233.7 and 233.8;

(v) NPDES permits, effluent limitations, standards, prohibitions, standards for sewage sludge use or disposal, and conditions under §§122.41, 122.42, and 122.44, including when applicable any conditions certified by a State agency under §124.55, and all variances that are to be included under §124.63.

(e) *(Applicable to State programs, see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).)* All draft permits prepared by EPA under this section shall be accompanied by a statement of basis (§124.7) or fact sheet (§124.8), and shall be based on the administrative record (§124.9), publicly

noticed (§124.10) and made available for public comment (§124.11). The Regional Administrator shall give notice of opportunity for a public hearing (§124.12), issue a final decision (§124.15) and respond to comments (§124.17). For RCRA, UIC or PSD permits, an appeal may be taken under §124.19 and, for NPDES permits, an appeal may be taken under §124.74. Draft permits prepared by a State shall be accompanied by a fact sheet if required under §124.8.

[48 FR 14264, Apr. 1, 1983, as amended at 54 FR 18785, May 2, 1989]

§ 124.7 Statement of basis.

EPA shall prepare a statement of basis for every draft permit for which a fact sheet under §124.8 is not prepared. The statement of basis shall briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis shall be sent to the applicant and, on request, to any other person.

§ 124.8 Fact sheet.

(Applicable to State programs, see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).)

(a) A fact sheet shall be prepared for every draft permit for a major HWM, UIC, 404, or NPDES facility or activity, for every Class I sludge management facility, for every 404 and NPDES general permit (§§237.37 and 122.28), for every NPDES draft permit that incorporates a variance or requires an explanation under §124.56(b), for every draft permit that includes a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix), and for every draft permit which the Director finds is the subject of wide-spread public interest or raises major issues. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The Director shall send this fact sheet to the applicant and, on request, to any other person.

(b) The fact sheet shall include, when applicable:

(1) A brief description of the type of facility or activity which is the subject of the draft permit;

(2) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged.

(3) For a PSD permit, the degree of increment consumption expected to result from operation of the facility or activity.

(4) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by §124.9 (for EPA-issued permits);

(5) Reasons why any requested variances or alternatives to required standards do or do not appear justified;

(6) A description of the procedures for reaching a final decision on the draft permit including:

(i) The beginning and ending dates of the comment period under §124.10 and the address where comments will be received;

(ii) Procedures for requesting a hearing and the nature of that hearing; and

(iii) Any other procedures by which the public may participate in the final decision.

(7) Name and telephone number of a person to contact for additional information.

(8) For NPDES permits, provisions satisfying the requirements of §124.56.

[48 FR 14264, Apr. 1, 1983, as amended at 54 FR 18786, May 2, 1989]

§ 124.9 Administrative record for draft permits when EPA is the permitting authority.

(a) The provisions of a draft permit prepared by EPA under §124.6 shall be based on the administrative record defined in this section.

(b) For preparing a draft permit under §124.6, the record shall consist of:

(1) The application, if required, and any supporting data furnished by the applicant;

(2) The draft permit or notice of intent to deny the application or to terminate the permit;

(3) The statement of basis (§124.7) or fact sheet (§124.8);

(4) All documents cited in the statement of basis or fact sheet; and

(5) Other documents contained in the supporting file for the draft permit.

(6) For NPDES new source draft permits only, any environmental assessment, environmental impact statement (EIS), finding of no significant impact, or environmental information document and any supplement to an EIS that may have been prepared. NPDES permits other than permits to new sources as well as all RCRA, UIC and PSD permits are not subject to the environmental impact statement provisions of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4321.

(c) Material readily available at the issuing Regional Office or published material that is generally available, and that is included in the administrative record under paragraphs (b) and (c) of this section, need not be physically included with the rest of the record as long as it is specifically referred to in the statement of basis or the fact sheet.

(d) This section applies to all draft permits when public notice was given after the effective date of these regulations.

§ 124.10 Public notice of permit actions and public comment period.

(a) *Scope.* (1) The Director shall give public notice that the following actions have occurred:

(i) A permit application has been tentatively denied under §124.6(b);

(ii) *(Applicable to State programs, see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)).* A draft permit has been prepared under §124.6(d);

(iii) *(Applicable to State programs, see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404) and 271.14 (RCRA)).* A hearing has been scheduled under §124.12, subpart E or subpart F;

(iv) An appeal has been granted under §124.19(c);

(v) *(Applicable to State programs, see §233.26 (404)).* A State section 404 application has been received in cases when no draft permit will be prepared (see §233.39); or

(vi) An NPDES new source determination has been made under §122.29.

(2) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied under §124.5(b). Written notice of that denial shall be given to the requester and to the permittee.

(3) Public notices may describe more than one permit or permit actions.

(b) *Timing (applicable to State programs, see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404, and 271.14 (RCRA)).* (1) Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) required under paragraph (a) of this section shall allow at least 30 days for public comment. For RCRA permits only, public notice shall allow at least 45 days for public comment. For EPA-issued permits, if the Regional Administrator determines under 40 CFR part 6, subpart F that an Environmental Impact Statement (EIS) shall be prepared for an NPDES new source, public notice of the draft permit shall not be given until after a draft EIS is issued.

(2) Public notice of a public hearing shall be given at least 30 days before the hearing. (Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.)

(c) *Methods (applicable to State programs, see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)).* Public notice of activities described in paragraph (a)(1) of this section shall be given by the following methods:

(1) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes and categories of permits);

(i) The applicant (except for NPDES and 404 general permits when there is no applicant);

(ii) Any other agency which the Director knows has issued or is required to issue a RCRA, UIC, PSD (or other permit under the Clean Air Act), NPDES, 404, sludge management permit, or ocean dumping permit under the Marine Research Protection and Sanctuaries Act for the same facility

or activity (including EPA when the draft permit is prepared by the State);

(iii) Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, State Historic Preservation Officers, including any affected States (Indian Tribes). (For purposes of this paragraph, and in the context of the Underground Injection Control Program only, the term State includes Indian Tribes treated as States.)

(iv) For NPDES and 404 permits only, any State agency responsible for plan development under CWA section 208(b)(2), 208(b)(4) or 303(e) and the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service;

(v) For NPDES permits only, any user identified in the permit application of a privately owned treatment works;

(vi) For 404 permits only, any reasonably ascertainable owner of property adjacent to the regulated facility or activity and the Regional Director of the Federal Aviation Administration if the discharge involves the construction of structures which may affect aircraft operations or for purposes associated with seaplane operations;

(vii) For PSD permits only, affected State and local air pollution control agencies, the chief executives of the city and county where the major stationary source or major modification would be located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the regulated activity;

(viii) For Class I injection well UIC permits only, state and local oil and gas regulatory agencies and state agencies regulating mineral exploration and recovery;

(ix) Persons on a mailing list developed by:

(A) Including those who request in writing to be on the list;

(B) Soliciting persons for "area lists" from participants in past permit proceedings in that area; and

(C) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as Regional and State funded newsletters, environmental bulletins, or State law journals. (The Director may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Director may delete from the list the name of any person who fails to respond to such a request.)

(x)(A) To any unit of local government having jurisdiction over the area where the facility is proposed to be located; and (B) to each State agency having any authority under State law with respect to the construction or operation of such facility.

(2)(i) For major permits, NPDES and 404 general permits, and permits that include sewage sludge land application plans under 40 CFR 501.15(a)(2)(ix), publication of a notice in a daily or weekly newspaper within the area affected by the facility or activity; and for EPA-issued NPDES general permits, in the FEDERAL REGISTER;

NOTE: The Director is encouraged to provide as much notice as possible of the NPDES or Section 404 draft general permit to the facilities or activities to be covered by the general permit.

(ii) For all RCRA permits, publication of a notice in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations.

(3) When the program is being administered by an approved State, in a manner constituting legal notice to the public under State law; *and*

(4) Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(d) *Contents (applicable to State programs, see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA))*—(1) *All public notices.* All public notices issued under this part shall contain the following minimum information:

(i) Name and address of the office processing the permit action for which notice is being given;

(ii) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit, except in the case of NPDES and 404 draft general permits under §§122.28 and 233.37;

(iii) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit, for NPDES or 404 general permits when there is no application.

(iv) Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, as the case may be, statement of basis or fact sheet, and the application; and

(v) A brief description of the comment procedures required by §§124.11 and 124.12 and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision.

(vi) For EPA-issued permits, the location of the administrative record required by §124.9, the times at which the record will be open for public inspection, and a statement that all data submitted by the applicant is available as part of the administrative record.

(vii) For NPDES permits only (including those for "sludge-only facilities"), a general description of the location of each existing or proposed discharge point and the name of the receiving water and the sludge use and disposal practice(s) and the location of each sludge treatment works treating domestic sewage and use or disposal sites known at the time of permit application. For draft general permits, this requirement will be satisfied by a map or description of the permit area. For draft general permits, this requirement will be satisfied by a map or description of the permit area. For EPA-issued NPDES permits only, if the discharge is from a new source, a statement as to whether an environmental impact statement will be or has been prepared.

(viii) For 404 permits only,

(A) The purpose of the proposed activity (including, in the case of fill material, activities intended to be conducted on the fill), a description of the type, composition, and quantity of materials to be discharged and means of conveyance; and any proposed conditions and limitations on the discharge;

(B) The name and water quality standards classification, if applicable, of the receiving waters into which the discharge is proposed, and a general description of the site of each proposed discharge and the portions of the site and the discharges which are within State regulated waters;

(C) A description of the anticipated environmental effects of activities conducted under the permit;

(D) References to applicable statutory or regulatory authority; and

(E) Any other available information which may assist the public in evaluating the likely impact of the proposed activity upon the integrity of the receiving water.

(ix) Any additional information considered necessary or proper.

(2) *Public notices for hearings.* In addition to the general public notice described in paragraph (d)(1) of this section, the public notice of a hearing under §124.12, subpart E, or subpart F shall contain the following information:

(i) Reference to the date of previous public notices relating to the permit;

(ii) Date, time, and place of the hearing;

(iii) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures; and

(iv) For 404 permits only, a summary of major issues raised to date during the public comment period.

(e) *(Applicable to State programs, see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)).* In addition to the general public notice described in paragraph (d)(1) of this section, all persons identified in paragraphs (c)(1) (i), (ii), (iii), and (iv) of this section shall be mailed a copy of the fact sheet or statement of basis (for EPA-issued permits), the permit application (if any) and the draft permit (if any).

[48 FR 14264, Apr. 1, 1983; 48 FR 30115, June 30, 1983, as amended at 53 FR 28147, July 26, 1988; 53 FR 37410, Sept. 26, 1988; 54 FR 258, Jan. 4, 1989; 54 FR 18786, May 2, 1989]

§ 124.11 Public comments and requests for public hearings.

(Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA)). During the public comment period provided under § 124.10, any interested person may submit written comments on the draft permit or the permit application for 404 permits when no draft permit is required (see § 233.39) and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in § 124.17.

§ 124.12 Public hearings.

(a) *(Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).)* (1) The Director shall hold a public hearing whenever he or she finds, on the basis of requests, a significant degree of public interest in a draft permit(s);

(2) The Director may also hold a public hearing at his or her discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision;

(3) For RCRA permits only, (i) the Director shall hold a public hearing whenever he or she receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice under § 124.10(b)(1); (ii) whenever possible the Director shall schedule a hearing under this section at a location convenient to the nearest population center to the proposed facility;

(4) Public notice of the hearing shall be given as specified in § 124.10.

(b) Whenever a public hearing will be held and EPA is the permitting authority, the Regional Administrator shall designate a Presiding Officer for the hearing who shall be responsible for its scheduling and orderly conduct.

(c) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under § 124.10 shall automatically be extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.

(d) A tape recording or written transcript of the hearing shall be made available to the public.

(e)(1) At his or her discretion, the Regional Administrator may specify that RCRA or UIC permits be processed under the procedures in subpart F.

(2) For initial RCRA permits for existing HWM facilities, the Regional Administrator shall have the discretion to provide a hearing under the procedures in subpart F. The permit applicant may request such a hearing pursuant to § 124.114 no one or more issues, if the applicant explains in his request why he or she believes those issues:

(i) Are genuine issues to material fact; and (ii) determine the outcome of one or more contested permit conditions identified as such in the applicant's request, that would require extensive changes to the facility ("contested major permit conditions"). If the Regional Administrator decides to deny the request, he or she shall send to the applicant a brief written statement of his or her reasons for concluding that no such determinative issues have been presented for resolution in such a hearing.

[48 FR 14264, Apr. 1, 1983, as amended at 49 FR 17718, Apr. 24, 1984; 50 FR 6941, Feb. 19, 1985; 54 FR 258, Jan. 4, 1989]

§ 124.13 Obligation to raise issues and provide information during the public comment period.

All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Director's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public hearing) under § 124.10. Any supporting materials which are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials. Commenters shall make supporting materials not already included in the administrative record available to EPA as directed by the Regional Administrator. (A comment period longer than 30 days may be necessary to give commenters a reasonable opportunity to comply with the requirements of this section. Additional time shall be granted under § 124.10 to the extent that a commenter who requests additional time demonstrates the need for such time.)

[49 FR 38051, Sept. 26, 1984]

§ 124.14 Reopening of the public comment period.

(a)(1) The Regional Administrator may order the public comment period reopened if the procedures of this paragraph could expedite the decisionmaking process. When the public comment period is reopened under this paragraph, all persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Regional Administrator's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must submit all reasonably available factual grounds supporting their position, including all supporting material, by a date, not less than sixty days after public notice under paragraph (a)(2) of this section, set by the Regional Administrator. Thereafter, any person may file a written response to the material filed by any other person, by a date, not less than twenty days after the date set for filing of the material, set by the Regional Administrator.

(2) Public notice of any comment period under this paragraph shall identify the issues to which the requirements of § 124.14(a) shall apply.

(3) On his own motion or on the request of any person, the Regional Administrator may direct that the requirements of paragraph (a)(1) of this section shall apply during the initial comment period where it reasonably appears that issuance of the permit will be contested and that applying the requirements of paragraph (a)(1) of this section will substantially expedite the decisionmaking process. The notice of the draft permit shall state whenever this has been done.

(4) A comment period of longer than 60 days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this section. Commenters may request longer comment periods and they shall be granted under § 124.10 to the extent they appear necessary.

(b) If any data information or arguments submitted during the public comment period, including information or arguments required under § 124.13, appear to raise substantial new questions concerning a permit, the Regional Administrator may take one or more of the following actions:

(1) Prepare a new draft permit, appropriately modified, under § 124.6;

(2) Prepare a revised statement of basis under § 124.7, a fact sheet or revised fact sheet under § 124.8 and reopen the comment period under § 124.14; or

(3) Reopen or extend the comment period under § 124.10 to give interested persons an opportunity to comment on the information or arguments submitted.

(c) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under § 124.10 shall define the scope of the reopening.

(d) For RCRA, UIC, or NPDES permits, the Regional Administrator may also, in the circumstances described above, elect to hold further proceedings under subpart F. This decision may be combined with any of the actions enumerated in paragraph (b) of this section.

(e) Public notice of any of the above actions shall be issued under § 124.10.

[48 FR 14264, Apr. 1, 1983, as amended at 49 FR 38051, Sept. 26, 1984]

§ 124.15 Issuance and effective date of permit.

(a) After the close of the public comment period under § 124.10 on a draft permit, the Regional Administrator shall issue a final permit decision (or a decision to deny a permit for the active

life of a RCRA hazardous waste management facility or unit under §270.29). The Regional Administrator shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a RCRA, UIC, or PSD permit or for contesting a decision on an NPDES permit or a decision to terminate a RCRA permit. For the purposes of this section, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) A final permit decision (or a decision to deny a permit for the active life of a RCRA hazardous waste management facility or unit under §270.29) shall become effective 30 days after the service of notice of the decision unless:

(1) A later effective date is specified in the decision; or

(2) Review is requested under §124.19 (RCRA, UIC, and PSD permits) or an evidentiary hearing is requested under §124.74 (NPDES permit and RCRA permit terminations); or

(3) No comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.

[48 FR 14264, Apr. 1, 1983, as amended at 54 FR 9607, Mar. 7, 1989]

§ 124.16 Stays of contested permit conditions.

(a) *Stays.* (1) If a request for review of a RCRA or UIC permit under §124.19 or an NPDES permit under §124.74 or §124.114 is granted or if conditions of a RCRA or UIC permit are consolidated for reconsideration in an evidentiary hearing on an NPDES permit under §§124.74, 124.82 or 124.114, the effect of the contested permit conditions shall be stayed and shall not be subject to judicial review pending final agency action. (No stay of a PSD permit is available under this section.) If the permit involves a new facility or new injection well, new source, new discharger or a recommencing discharger, the applicant shall be without a permit for the proposed new facility, injection well, source or discharger pending final agency action. See also §124.60.

(2) Uncontested conditions which are not severable from those contested shall be stayed together with the contested conditions. Stayed provisions of permits for existing facilities, injection wells, and sources shall be identified by the Regional Administrator. All other provisions of the permit for the existing facility, injection well, or source shall remain fully effective and enforceable.

(b) *Stays based on cross effects.* (1) A stay may be granted based on the grounds that an appeal to the Administrator under §124.19 of one permit may result in changes to another EPA-issued permit only when each of the permits involved has been appealed to the Administrator and he or she has accepted each appeal.

(2) No stay of an EPA-issued RCRA, UIC, or NPDES permit shall be granted based on the staying of any State-issued permit except at the discretion of the Regional Administrator and only upon written request from the State Director.

(c) Any facility or activity holding an existing permit must:

(1) Comply with the conditions of that permit during any modification or revocation and reissuance proceeding under §124.5; and

(2) To the extent conditions of any new permit are stayed under this section, comply with the conditions of the existing permit which correspond to the stayed conditions, unless compliance with the existing conditions would be technologically incompatible with compliance with other conditions of the new permit which have not been stayed.

§ 124.17 Response to comments.

(a) *(Applicable to State programs, see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).)* At the time that any final permit decision is issued under §124.15, the Director shall issue a response to comments. States are only required to issue a response to comments when a final permit is issued. This response shall:

(1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(2) Briefly describe and respond to all significant comments on the draft permit or the permit application (for section 404 permits only) raised during the public comment period, or during any hearing.

(b) For EPA-issued permits, any documents cited in the response to comments shall be included in the administrative record for the final permit decision as defined in §124.18. If new points are raised or new material supplied during the public comment period, EPA may document its response to those matters by adding new materials to the administrative record.

(c) *(Applicable to State programs, see §§123.25 (NPDES), 145.11 (UIC), 233.26 (404), and 271.14 (RCRA).)* The response to comments shall be available to the public.

§ 124.18 Administrative record for final permit when EPA is the permitting authority.

(a) The Regional Administrator shall base final permit decisions under §124.15 on the administrative record defined in this section.

(b) The administrative record for any final permit shall consist of the administrative record for the draft permit and:

(1) All comments received during the public comment period provided under §124.10 (including any extension or reopening under §124.14);

(2) The tape or transcript of any hearing(s) held under §124.12;

(3) Any written materials submitted at such a hearing;

(4) The response to comments required by §124.17 and any new material placed in the record under that section;

(5) For NPDES new source permits only, final environmental impact statement and any supplement to the final EIS;

(6) Other documents contained in the supporting file for the permit; and

(7) The final permit.

(c) The additional documents required under paragraph (b) of this section should be added to the record as soon as possible after their receipt or publication by the Agency. The record shall be complete on the date the final permit is issued.

(d) This section applies to all final RCRA, UIC, PSD, and NPDES permits when the draft permit was subject to the administrative record requirements of §124.9 and to all NPDES permits when the draft permit was included in a public notice after October 12, 1979.

(e) Material readily available at the issuing Regional Office, or published materials which are generally available and which are included in the administrative record under the standards of this section or of §124.17 ("Response to comments"), need not be physically included in the same file as the rest of the record as long as it is specifically referred to in the statement of basis or fact sheet or in the response to comments.

§ 124.19 Appeal of RCRA, UIC, and PSD permits.

(a) Within 30 days after a RCRA, UIC, or PSD final permit decision (or a decision under §270.29 to deny a permit for the active life of a RCRA hazardous waste management facility or unit) has been issued under §124.15, any person who filed comments on that draft permit or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the permit decision. Any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition for administrative review only to the extent of the changes from the draft to the final permit decision. The 30-day period within which a person may request review under this section begins with the service of notice of the Regional Administrator's action unless a later date is specified in that notice. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) to the extent required by these regulations and when appropriate, a showing that the condition in question is based on:

(1) A finding of fact or conclusion of law which is clearly erroneous, or

(2) An exercise of discretion or an important policy consideration which the

ıvironmental Appeals Board should, its discretion, review.

(b) The Environmental Appeals Board ay also decide on its initiative to re-ew any condition of any RCRA, UIC, PSD permit issued under this part. ıe Environmental Appeals Board ust act under this paragraph within days of the service date of notice of e Regional Administrator's action.

(c) Within a reasonable time follow-g the filing of the petition for review, e Environmental Appeals Board shall ɜue an order granting or denying the tition for review. To the extent re-ew is denied, the conditions of the ıal permit decision become final ency action. Public notice of any ant of review by the Environmental ppeals Board under paragraph (a) or) of this section shall be given as pro-ded in §124.10. Public notice shall set rth a briefing schedule for the appeal ıd shall state that any interested per-n may file an amicus brief. Notice of ınial of review shall be sent only to ıe person(s) requesting review.

(d) The Environmental Appeals Board ay defer consideration of an appeal of RCRA or UIC permit under this sec-on until the completion of formal oceedings under subpart E or F relat-g to an NPDES permit issued to the ıme facility or activity upon conclud-g that:

(1) The NPDES permit is likely to ıse issues relevant to a decision of ıe RCRA or UIC appeals;

(2) The NPDES permit is likely to be ppealed; and

(3) *Either:* (i) The interests of both ıe facility or activity and the public e not likely to be materially ad-ersely affected by the deferral; or

(ii) Any adverse effect is outweighed r the benefits likely to result from a onsolidated decision on appeal.

(e) A petition to the Environmental ppeals Board under paragraph (a) of ıis section is, under 5 U.S.C. 704, a erequisite to the seeking of judicial view of the final agency action.

(f)(1) For purposes of judicial review nder the appropriate Act, final agency ction occurs when a final RCRA, UIC, r PSD permit is issued or denied by PA and agency review procedures are xhausted. A final permit decision shall be issued by the Regional Administrator:

(i) When the Environmental Appeals Board issues notice to the parties that review has been denied;

(ii) When the Environmental Appeals Board issues a decision on the merits of the appeal and the decision does not include a remand of the proceedings; or

(iii) Upon the completion of remand proceedings if the proceedings are remanded, unless the Environmental Appeals Board's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.

(2) Notice of any final agency action regarding a PSD permit shall promptly be published in the FEDERAL REGISTER.

(g) Motions to reconsider a final order shall be filed within ten (10) days after service of the final order. Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration under this provision shall be directed to, and decided by, the Environmental Appeals Board. Motions for reconsideration directed to the administrator, rather than to the Environmental Appeals Board, will not be considered, except in cases that the Environmental Appeals Board has referred to the Administrator pursuant to §124.2 and in which the Administrator has issued the final order. A motion for reconsideration shall not stay the effective date of the final order unless specifically so ordered by the Environmental Appeals Board.

[48 FR 14264, Apr. 1, 1983, as amended at 54 FR 9607, Mar. 7, 1989; 57 FR 5335, Feb. 13, 1992]

§124.20 Computation of time.

(a) Any time period scheduled to begin on the occurrence of an act or event shall begin on the day after the act or event.

(b) Any time period scheduled to begin before the occurrence of an act or event shall be computed so that the period ends on the day before the act or event.

(c) If the final day of any time period falls on a weekend or legal holiday, the time period shall be extended to the next working day.

(d) Whenever a party or interested person has the right or is required to act within a prescribed period after the service of notice or other paper upon him or her by mail, 3 days shall be added to the prescribed time.

§124.21 Effective date of part 124.

(a) Except for paragraphs (b) and (c) of this section, part 124 will become effective July 18, 1980. Because this effective date will precede the processing of any RCRA or UIC permits, part 124 will apply in its entirety to all RCRA and UIC permits.

(b) All provisions of part 124 pertaining to the RCRA program will become effective on November 19, 1980.

(c) All provisions of part 124 pertaining to the UIC program will become effective July 18, 1980, but shall not be implemented until the effective date of 40 CFR part 146.

(d) This part does not significantly change the way in which NPDES permits are processed. Since October 12, 1979, NPDES permits have been the subject to almost identical requirements in the revised NPDES regulations which were promulgated on June 7, 1979. See *44 FR 32948*. To the extent this part changes the revised NPDES permit regulations, those changes will take effect as to all permit proceedings in progress on July 3, 1980.

(e) This part also does not significantly change the way in which PSD permits are processed. For the most part, these regulations will also apply to PSD proceedings in progress on July 18, 1980. However, because it would be disruptive to require retroactively a formal administrative record for PSD permits issued without one, §§124.9 and 124.18 will apply to PSD permits for which draft permits were prepared after the effective date of these regulations.

Subpart B—Specific Procedures Applicable to RCRA Permits (Reserved)

Subpart C—Specific Procedures Applicable to PSD Permits

§124.41 Definitions applicable to PSD permits.

Whenever PSD permits are processed under this part, the following terms shall have the following meanings:

Administrator, EPA, and *Regional Administrator* shall have the meanings set forth in §124.2, except when EPA has delegated authority to administer those regulations to another agency under the applicable subsection of 40 CFR 52.21, the term *EPA* shall mean the delegate agency and the term *Regional Administrator* shall mean the chief administrative officer of the delegate agency.

Application means an application for a PSD permit.

Appropriate Act and Regulations means the Clean Air Act and applicable regulations promulgated under it.

Approved program means a State implementation plan providing for issuance of PSD permits which has been approved by EPA under the Clean Air Act and 40 CFR part 51. An *approved State* is one administering an *approved program. State Director* as used in §124.4 means the person(s) responsible for issuing PSD permits under an approved program, or that person's delegated representative.

Construction has the meaning given in 40 CFR 52.21.

Director means the Regional Administrator.

Draft permit shall have the meaning set forth in §124.2.

Facility or activity means a *major PSD stationary source* or *major PSD modification.*

Federal Land Manager has the meaning given in 40 CFR 52.21.

Indian Governing Body has the meaning given in 40 CFR 52.21.

APPENDIX H -- EXAMPLES OF RCRA PUBLIC NOTICES

March 4, 1996
Washington Post
(page B5)

Example of a public notice placed as a display advertisement.

funding to public schools and colleges—they were left out during a news conference Democrats held to claim credit for education's share of the budget. Every speaker was a man. That ticked off the party's 16 female legislators, and they let it be known.

"We said that that should never happen again—and it won't," Howell said. "The message got through."

Of course, into the late 1970s, female lawmakers were so uncommon in the Statehouse that then-House Speaker John Warren Cooke didn't know what to do with them, Keating recalled. Cooke's solution was to put them all on the Education Committee. Currently, seven of that com-

"what kind of grade would I give them? Not good," said Debbie Walsh, acting director of the Center for the American Woman and Politics at Rutgers University. The U.S. average for women in legislatures is 20.8 percent, Walsh notes, and most of the states in the bottom 10 are in the South, which tends to have a more conservative political culture.

With women being the primary caregivers in most families, few in Virginia apparently are willing to spend six to eight weeks away from home every year to serve in the legislature. Not one of the 21 women in the General Assembly has young or school-age children, compared with at least 47 of the

garet Whipple (D-Arlington), a former County Board chairwoman. Since Kathryn H. Stone, of Arlington, was elected to the House in 1953, 18 of the state's 51 female legislators have come from Northern Virginia.

"In Arlington and Falls Church, being a woman is an asset," Whipple said. "Women vote heavily and are pleased to see a woman take on this kind of responsibility and position." That is the kind of attitude the women's caucus hopes to spread throughout Virginia.

"We have so many qualified women working in our communities who are increasingly recognizing that on the issues that matter, the legislature is the place to be," Howell said.

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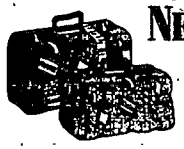

UP TO 20% OFF

ONE MONTH ONLY!

Dig out your old suitcase, briefcase, wallet, or backpack that you're too embarrassed to use anymore. Bring it in and trade any style luggage for new luggage, any style briefcase for a new one, etc., and get up to 20% off. Some restrictions may apply. Offer Expires April 4th.

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INFORMAL PUBLIC MEETING and FORMAL PUBLIC HEARING on PROPOSED DISTRICT DRINKING WATER ORDER

EPA

WHO: The United States Environmental Protection Agency, Region III

WHAT: EPA will conduct both an informal public meeting and a formal public hearing to discuss the District of Columbia's drinking water supply.

WHEN: **Tuesday, April 9, 1996** Informal Public Meeting: 5-9 pm
Wednesday, April 17, 1996 Formal Public Hearing: 6:30-9 pm

WHERE: National Guard Association of the United States
"Hall of States" (first floor)
One Massachusetts Avenue, NW
Washington, DC 20001

WHY: On November 13, 1995, EPA issued a Proposed Administrative Order (PAO) to the water system of the District of Columbia for violations of Section 1414(g) of the Safe Drinking Water Act [42 USC, § 3000-3(g)]. These sessions are authorized under 40 CFR, § 25.5, § 25.6 and § 142.205.

The **meeting** will focus on concerns about drinking water produced by the US Army Corps of Engineers' Washington Aqueduct and distributed by the District of Columbia Water Systems. Representatives of the Washington Aqueduct and DC Drinking Water System will attend the meeting.

The **hearing** is to determine if the PAO: correctly states the nature and extent of the District's SDWA violations, and if the PAO provides, where appropriate, a reasonable time for the District to comply with the SDWA and applicable rules. EPA will transcribe the hearing.

HOW: For further information and/or to obtain copies of the proposed Administrative Order, call Joyce Baker at 1-800-438-2474 or 215-597-2460. The PAO is also available for review at the Martin Luther King, Jr. Library, Southeast Branch, 403 7th Street, SE, Washington, DC 20003.

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P.O. Box 337, Bridgeport, NJ 08014, 609/467-3100 General Offices, 609/467-3105 Sales Office

PUBLIC NOTICE OF HSWA PERMIT MODIFICATION REQUEST

Rollins Environmental Services (NJ) Inc. [RES(NJ)] submitted a request on January 25, 1996 to the U.S. Environmental Protection Agency (EPA) for modification of its Hazardous and Solid Waste Amendments of 1984 (HSWA) Permit. The facility, located in Logan Township, New Jersey includes hazardous waste storage, transfer and treatment units. In this modification request, RES(NJ) is seeking authorization to continue to receive sixty-four newly listed wastes designated as hazardous wastes by EPA on August 9, 1995.

The public is invited to submit written comments on this request to the following Agency contact through the 60-day period ending March 25, 1996:

Ms. Ellen Stein
U.S. Environmental Protection Agency
Air & Waste Management Division
290 Broadway, 22nd Floor
New York, NY 10007-1866
(212) 637-4114

The permittee's compliance history during the life of the permit being modified is available from the Agency contact person.

A copy of the permit modification request and supporting documentation may be viewed and copied at the following location:

Logan Township Municipal Building
73 Main Street
Bridgeport, New Jersey 08014

Please call Ms. Elizabeth Bullock, Township Clerk, at 467-3424 to schedule your visit to the Municipal Building.

RES(NJ) will hold a meeting open to the public on Tuesday, February 13, 1996 at 4:00 pm for the purpose of describing the request and to address comments on the request. The meeting will be held at the Bridgeport Holiday Inn at Exit 10 of Interstate 295.

The RES(NJ) contact person is:

Mr. Gerard V. Hartig
Rollins Environmental Services (NJ) Inc.
P.O. Box 337
Bridgeport, New Jersey 08014
(609) 467-3100

Squibb Manufacturing, Inc.
P.O. Box 609 Humacao, Puerto Rico 00792-0609
Tel. (809) 852-1255 • Fax (809) 852-3800

March 21, 1995

FEDERAL EXPRESS

Mr. Richard Yue
U.S. Environmental Protection Agency
Hazardous Waste Facilities Branch
290 Broadway
New York, New York 10007

Dear Mr. Yue:

Re: Squibb Manufacturing, Inc.
RCRA Permit Application

Pursuant to your request today, I am pleased to submit for your consideration and records, copy of documents generated since early 1995 related to our RCRA Permit Renewal Application. These documents are attached and consist of the following:

Annex 1

Correspondence dated January 18, 1995.
Leaflet distributed among residents of Villa Humacao and El Junquito, advising them that:

a. SMI filed a RCRA Permit Renewal Application at EPA and EQB

b. EPA will soon publish public notice announcing the date and time for a public meeting related to the renewal process

c. copy of the documents are in the Public Library

d. the general community is welcome to participate in these proceedings

Annex 2

Correspondence dated January 26, 1995.
Leaflet distributed among residents of El Junquito inviting them to a community meeting to be held on January 31, 1995, to discuss environmental issues including the RCRA Permit Renewal Application. (A similar meeting was held at the request of Villa Humacao residents during December, 1994).

Annex 3

Copy of a January 25, 1995 newspaper article in Humacao's El Oriental, related to our application and inviting the Humacao community to request any desired information pertaining to the application maintained in the Public Library and the Plant.

Additionally, we advised the community of a meeting to be held at El Junquito and the planned EPA Public Meeting.

~~**Annex 4**~~ (not included)

~~**Copy of invoice for the broadcast of two, ninety-second spots through Humacao's WALO radio station on January 27, 1995 related to EPA's February 8, 1995 Public Meeting.**~~

Annex 5

Copy of correspondence dated January 30, 1995. SMI requests WALO radio station to notify the Humacao community of the forthcoming January 31, 1995 meeting at El Junquito and the February 8, 1995 Public Meeting.

Annex 6

Copy of public notice published on February 1; 1995 in Humacao's El Oriental regarding EPA's February 8, 1995 Public Meeting.

Annex 7

Copy of a February 8, 1995 newspaper article published in Humacao's El Oriental, related to our waste management activities and the particulars of the permit renewal process.

Annex 8

Copies of correspondence addressed to Humacao community leaders and government officials which served as cover letters to the four-volume RCRA Permit Renewal Application delivered individually and by-hand.

Please advise if I may be of further assistance.

Sincerely,

Julio Ortiz Torres
Environmental Affairs Manager

JOT/cll
Attachments
Yue

SQUIBB MANUFACTURING, INC.

18 de enero de 1995

Estimados vecinos:

Squibb Manufacturing, Inc., en su compromiso con la comunidad de Humacao, desea por este medio informarles que ha radicado su solicitud de renovación de permiso como facilidad de manejo de desperdicios sólidos peligrosos ante la Agencia de Protección Ambiental Federal (EPA por sus siglas en inglés).

Próximamente la EPA anunciará el día y el lugar donde se celebrará una reunión pública con el propósito de informar sobre la renovación de Squibb y las oportunidades que tiene el público en general de revisar la solicitud de renovación de permiso y posteriormente someter sus comentarios de conformidad con la reglamentación federal. Copia de la solicitud de renovación ya está disponible para el público en la Biblioteca Municipal de Humacao localizada en la Avenida Font Martelo esquina Domingo Quijano, Humacao, Puerto Rico (Tel. 850-6446) y en nuestras facilidades en la Carretera #3 Km. 77.5 en Humacao.

Squibb invita a la comunidad en general a participar en el proceso y está en la mejor disposición de proveer cualquier información u orientación sobre este asunto, en cuyo caso pueden comunicarse con el Ing. Julio Ortiz-Torres, Gerente de Asuntos del Ambiente, al teléfono 850-6731.

Héctor Totti

Héctor J. Totti
Gerente General

:mas

Annex 1

Squibb Manufacturing, Inc.
P.O. Box 609 Humacao, Puerto Rico 00792-0609
Tel. (809) 852-1255 • Fax (809) 852-3800

25 de enero de 1995

Estimados vecinos:

Cordialmente los invitamos a nuestra próxima reunión de comunicación con la comunidad a llevarse a cabo martes, 31 de enero de 1995, comenzando a las 7:00 de la noche en el Centro de Reuniones del Comité de Seguridad Vecinal en Junquito. Esa noche compartiremos con ustedes información relacionada con asuntos ambientales de suma importancia para la comunidad.

Los esperamos,

Sinceramente,

Héctor Totti

Héctor J. Totti
Gerente General

esj-006/mih

Annex 2

al frente

En defensa del Incinerado

"Las facilidades para el manejo de los desperdicios peligrosos que opera Squibb Manufacturing Inc. en Humacao, cumplen con los estrictos controles reglamentarios de la ley federal", sostuvo el gerente general de esta planta, Héctor Totti, en un comunicado de prensa enviado a El Oriental.

Sobre las mencionadas facilidades de desperdicios sólidos que despuntan como el foco de una nueva controversia ambiental en la región, el ejecutivo de la planta aseguró que fueron diseñadas y construidas, "y se operan y se mantienen", en conformidad con las estrictas disposiciones reglamentarias que impone la Ley Federal de Desperdicios Peligrosos.

Totti descartó la percepción de que la operación es una nueva; señalando que lo que su compañía ha hecho es radicar una solicitud de renovación de permiso como facilidad de manejo de desperdicios peligrosos ante la Agencia Federal de Protección Ambiental (EPA por sus siglas en inglés). "Esta facilidad lleva operando desde los años 60", puntualizó.

Según el ejecutivo, el único efecto que tendría la renovación del permiso sería el de permitirle a la Squibb continuar disponiendo en su planta de los desperdicios peligrosos que resultan del proceso de manufactura de los productos farmacéuticos.

"Los incineradores son indispensables para continuar nuestras actividades de manufactura", señaló el gerente, agregando que; "conforme a nuestro compromiso de mantener informada a la comunidad sobre este extenso proceso", se han programado una serie de reuniones con varios sectores de la comunidad.

En diciembre pasado se realizó una de estas reuniones en la urbanización Villa Humacao y próximamente, según anunció, se estará realizando otra en la comunidad del Junquito.

"Además la EPA tiene programad reunión sobre este asunto, para prim de febrero próximo", reveló.

Totti extendió una invitación comunidad en general para que part de este proceso y reiteró "el compr de la Squibb Manufacturing de pr información y aclarar dudas que sobre el proyecto".

A estos efectos, ofreció el núme teléfono, 850-6731, a donde pueden aquellos interesados en ob información sobre el mismo, e in que existe una copia de la solicit renovación, disponible en la Bibli Municipal de Humacao, la JCA y propia planta.

Viene de la página 2

bastante poblada y afectada por otras actividades contaminantes", concluyó en su exposición de motivos el senador pipiolo.

A base de estos planteamientos, entonces procedió a solicitar de las comisiones antes mencionadas, una investigación exhaustiva en torno a la solicitud de permisos de la Compañía Bristol Myers Squibb para construir y operar el referido incinerador, así como el emplazamiento de funcionarios de la JCA y la JP para que suministren toda la información, documentación y evidencia que se estime pueda ser pertinente a la investigación.

"Las Comisiones reque información, documentación y evid de cualquiera otra agencia guberna que pueda estar relacionada c evaluación del proyecto; así como Compañía promovente, de comunidades afectadas y de cualqui parte interesada", agrega el legisla el Resuélvase de su Resolución, en concluye señalando el 30 de mayo d año, como la fecha límite para ren informe de los hallazgo recomendaciones productos d investigación.

Pedimos disculpas a los pacientes que no han podido comunicarse por teléfono con el Centro Quiropráctico durante el mes de enero. La razón es que la compañía telefónica no ha podido hacer el traslado en cuatro semana.

Dr. V. A. Domínguez
850-4420

Para vestir elegante sin sacrificar tu bolsillo ven a RALPH'S y encontrarás...

CAMISAS MASCOT

Juego de Tirantes

Annex 3

Squibb Manufacturing, Inc.
P.O. Box 609 Humacao, Puerto Rico 00792-0609
Tel. (809) 852-1255 • Fax (809) 852-3200

30 de enero de 1995

Sa. Mercy Padilla
WALO Radio Oriental
Call Box 1240
Humacao, Puerto Rico 00792

Estimada Sa. Padilla:

Nos hacemos eco de la preocupación expresada por la Sra. Ferrer y Sra. Martínez en torno a la remoción de letreros y cruzacalles de su área vecinal.

Squibb no promueve y condena este tipo de acción ya que apoya totalmente la libre expresión de todos los sectores de la comunidad. Es por eso que estamos promoviendo un diálogo abierto entre todos para dilucidar y aclarar todas las dudas en cuanto al proceso de renovación de permisos.

Estamos participando en reuniones con las comunidades adyacentes. La próxima reunión es el martes, 31 de enero, con los residentes de la Comunidad de Junquito en el Centro de Seguridad Vecinal a las 7:00 p.m. El miércoles, 8 de febrero, la EPA celebrará una reunión en el Caracolillo con el objetivo de darle toda la información relacionada con este proceso.

Exhortamos a todos los vecinos de estas comunidades a asistir a estas reuniones para que puedan aclarar dudas y expresar sus preocupaciones.

Sinceramente,

Julio Ortiz-Torres
Gerente, Asuntos del Ambiente

Annex 5

Junta de Calidad Ambiental

AVISO PUBLICO

AGENCIA DE PROTECCION AMBIENTAL DE LOS ESTADOS UNIDOS
26 FEDERAL PLAZA
NEW YORK, NEW YORK 10278

EPA ID. NO. PRD090021056

27 DE ENERO DE 1995

AVISO DE RECIBO DE LA SOLICITUD DE RENOVACION DE PERMISO PARTE B DE LA LEY DE CONSERVACION Y RECUPERACION DE RECURSOS (RCRA, POR SUS SIGLAS EN INGLES) Y DEL REPORTE DE ESTUDIO DE RIESGO DEL INCINERADOR DE DESPERDICIOS PELIGROSOS.

Por este medio, la Agencia de Protección Ambiental de los Estados Unidos (EPA, por sus siglas en inglés), Región II, da aviso de haber recibido la Solicitud de Renovación de Permiso Parte B de la Ley de Conservación y Recuperación de Recursos (RCRA) el día 1ro de septiembre de 1994, y el Reporte de Estudio de Riesgo del Incinerador de Desperdicios Peligrosos el día 7 de octubre de 1994, sometido por:

Squibb Manufacturing Incorporated
Carr. Núm. 3, Km. 77.5
P.O.Box 609
Humacao, Puerto Rico 00792
ATT: Sr. Héctor J. Totti, Vice-Presidente

Squibb Manufacturing Incorporated ("Squibb") opera una facilidad que manufactura productos farmacéuticos, el cual produce drogas para consumo humano. La facilidad ha estado en operación desde 1970. Un permiso fue emitido a Squibb efectivo el 1 de marzo de 1990 por EPA bajo la autoridad de RCRA, (42 U.S.C. 6901 et seq.), según revisada por las Enmiendas a los Desperdicios Sólidos y Peligrosos de 1984 (HSWA, por sus siglas en inglés), para el manejo de seis (6) tanques de almacenaje de desperdicios peligrosos sobre el terreno, y la operación de dos (2) unidades de incinerador (el "TRANE" y "BRULE"). En la unidad "TRANE" le es permitido incinerar desperdicios peligrosos, mientras en la unidad "BRULE" le es permitido incinerar solo desperdicios ignitivos ("ionizables"). La unidad "BRULE" está programada para cerrarse en 1995. El permiso "RCRA" actual expira el 1 de marzo de 1995.

Squibb ha solicitado renovar su permiso para el manejo de desperdicios peligrosos en la facilidad de Humacao. Bajo la solicitud de renovación de permiso RCRA, Squibb propone continuar con la operación del incinerador "TRANE" tratando desperdicios peligrosos. En adición, Squibb propone el tratar desperdicios peligrosos en el incinerador existente Caloric 1 y en el nuevo incinerador Caloric 2 el cual está actualmente en construcción.

Los tres incineradores de desperdicios peligrosos que están incluidos en la solicitud de renovación de permiso (TRANE, Caloric 1 y Caloric 2) quemará desperdicios peligrosos generados únicamente de la facilidad de Squibb. Con respecto al almacenaje de desperdicios peligrosos en el sistema de tanques, Squibb propone operar un nuevo séptimo (7) tanque sobre el terreno para almacenar desperdicios peligrosos, junto con los seis (6) tanques de almacenaje existentes.

Este aviso del recibo de la solicitud de renovación de permiso RCRA es para el archivo administrativo. El archivo administrativo consiste de este aviso, la solicitud de renovación de permiso RCRA Parte B, la cual incluye la prueba de quemado ("Trial Burn Plan"), y el reporte de estudio de Riesgo del incinerador de desperdicios peligrosos sometido por Squibb, y otra información y material reunido o preparado tanto por EPA como por la Junta de Calidad Ambiental de Puerto Rico (JCA) para la facilidad de Squibb. Su contenido puede ser inspeccionado en cualquier momento entre las 8:30 A.M. a las 4:00 P.M. de Lunes a Viernes, excepto días feriados. Copias de estos documentos están disponibles a $.20 por página. Para hacer una cita con el propósito de inspeccionar el archivo administrativo en EPA en la ciudad de Nueva York, favor de comunicarse con el Sr. Richard Yue al (212) 264-8399. El archivo administrativo se encuentra también disponible en la Junta de Calidad Ambiental; Area Control Contaminación de Terrenos, Avenida Ponce de León #431, Hato Rey, Puerto Rico 00919. Para hacer una cita con el propósito de inspeccionar el archivo administrativo en la JCA, favor de comunicarse con el Sr. Santos Cabrera al teléfono (809) 767-8181 ext. 2351.

Para los ciudadanos residentes en o cerca del municipio de Humacao, interesados en conocer sobre el caso durante el proceso de permiso se ha designado un lugar donde estará disponible la información pública. En este lugar se tendrá disponible al público copia de los documentos del archivo administrativo y otro material de información relevante a la facilidad, nombres y números de teléfono de las oficinas de contacto de EPA y la JCA, y la dirección a la cual los comentarios y las preguntas deben ser dirigidas durante el proceso de evaluación del permiso. La información estará disponible durante todo el proceso de permiso en la siguiente localización: La Librería Pública en el municipio de Humacao, Carretera Núm. 3, Km. 77.5, Humacao, Puerto Rico. Número de teléfono (809) 850-6464.

Una reunión pública se llevará a cabo el 8 de febrero de 1995, entre las 6:00 P.M. a 10:00 P.M., en el Restaurante El Caracolillo, Carr. Núm. 3, Km. 74.5, Humacao, Puerto Rico 00791. Número de teléfono (809) 850-0833. El propósito de la reunión pública es aclarar cualquier pregunta que el público pueda tener con respecto a la solicitud de renovación de permiso RCRA. Este aviso también provee al ciudadano interesado en recibir información relevante al permiso y avisos públicos futuros en el borrador y la determinación de permiso tiene una oportunidad para ser incluido en la lista de envío ("Mailing List") de la facilidad o en la de la EPA.

Finalmente, este aviso también sirve de notificación inicial de que Squibb solicita un permiso temporero de emergencia para tratar desperdicios peligrosos en el incinerador existente Caloric 1 no-permitido. Si se emitido, el permiso de emergencia puede autorizar a Squibb a tratar desperdicios peligrosos en el incinerador Caloric 1 mientras que la unidad "TRANE" es usada para efectuar pruebas de quemado para determinar condiciones de operación aplicables al permiso. Squibb debe demostrarle a la EPA y a la JCA que la autorización temporera es necesaria para las actividades de manejo de desperdicios peligrosos en el sitio, de tal forma que permita un cuidadoso manejo de los desperdicios peligrosos en el sitio.

Cualquier comentario escrito con relación al proceso de renovación de permiso o al permiso temporero de emergencia, solicitudes de información y solicitudes para estar en la lista de envío ("Mailing List") de EPA pueden ser sometidos a:

Mr. Andrew Bellina, P.E.
Chief, Hazardous Waste Facilities Branch
US Environmental Protection Agency
26 Federal Plaza - Region II - Room 1037
New York, New York 10278

HECTOR RUSSE MARTINEZ
PRESIDENTE
JUNTA CALIDAD AMBIENTAL

GOVERNMENT OF PUERTO RICO/
OFFICE OF THE GOVERNOR

PUBLIC NOTICE

US ENVIRONMENTAL PROTECTION AGENCY
26 FEDERAL PLAZA - REGION II
NEW YORK, NEW YORK 10278

Environmental Quality Board

PUBLIC NOTICE: PN #:
EPA ID. NO.: PRD090021055

DATE: JANUARY 27, 1995

NOTICE OF RECEIPT OF RCRA PART B PERMIT RENEWAL APPLICATION AND HAZARDOUS WASTE INCINERATOR RISK ASSESSMENT REPORT

Notice is hereby given that the US Environmental Protection Agency (EPA) Region II, is in receipt of the Resource Conservation and Recovery Act (RCRA) Part B Permit Renewal Application dated September 1, 1994, and the Hazardous Waste Incinerator Risk Assessment Report dated October 7, 1994, submitted by:

The Squibb Manufacturing Incorporated
State Road No. 3, Km. 77.5
P.O. Box 609
Humacao, Puerto Rico 00792
ATTN: Mr. Héctor J. Totti, Vice-President

The Squibb Manufacturing Incorporated ("Squibb") operates a pharmaceutical manufacturing facility which produces drugs for human consumption. The facility has been in operation since 1970. A permit was issued to Squibb effective on March 1, 1990 by EPA under the authority of the Resources Conservation and Recovery Act (RCRA), (42 U.S.C. §6901 et seq.), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), for the management of six (6) above-ground hazardous waste storage tanks, and the operation of two (2) incinerator units (the "TRANE" and "BRULE"). The TRANE unit is permitted to incinerate hazardous waste, while the BRULE unit is permitted to incinerate only ignitable waste. The BRULE unit is scheduled for closure in 1995. The current RCRA permit expires on March 1, 1995.

Squibb has applied to renew their permit for the management of hazardous wastes at the Humacao facility. Under the RCRA permit renewal application, Squibb proposes to continue the operation of the TRANE incinerator treating hazardous wastes. Addition, Squibb proposes to treat hazardous wastes in the existing Caloric 1 incinerator and in a new Caloric 2 incinerator which is currently being constructed. The three hazardous waste incinerator units that are included in the permit renewal application (TRANE, Caloric 1, and Caloric 2) will Burn hazardous waste generated solely from the Squibb facility. With regards to the storage of hazardous wastes in the tank system, Squibb proposes to operate a new seventh (7) above-ground hazardous waste storage tank, along with the six (6) existing storage tanks.

This notice of the receipt of the RCRA Permit Renewal Application is for the Administrative Record. The Administrative Records consists of this notice, RCRA Part B Permit Renewal Application which includes the Trial Burn Plan, and the Hazardous Waste Incinerator Risk Assessment Report submitted by Squibb, and other data and materials assembled or prepared by EPA and the Puerto Rico Environmental Quality Board (EQB) for the Squibb facility. Its contents may be inspected any time between 8:30 A.M. to 4:00 P.M. Monday through Friday, except holidays. Copies of these documents are available at $0.20 per copy sheet. To make an appointment to inspect the administrative record at EPA in New York, please contact Mr. Richard Yue at (212) 264-9339. The Administrative Record is also on file at the Puerto Rico Environmental Quality Board, Land Pollution Control Area, 431 Ponce de León Avenue, Hato Rey, Puerto Rico 00919. To make an appointment to inspect the Administrative Record at EQB, please contact Mr. Santos Cabrera, at (809) 767-8181 ext. 2351.

For citizens residing near the Humacao Municipality, a public information repository has been established by the facility for all citizens interested in becoming involved during the permitting process. The public information repository will have copies of the Administrative Record documents, and other information material relevant to the facility which is available for public review. The repository will also include the name and telephone number of EPA and EQB's contact office, and the mailing address to which comments and inquiries may be directed during the permit review process. The repository will be maintained throughout the permitting process at the following location: The Public Library of the Municipality of Humacao, Road No. 3, Km. 77.5, Humacao, Puerto Rico. Telephone number (809) 850-6446.

A public meeting will be held on February 8, 1995, between 6:00 P.M. to 10:00 P.M., at the Caracolillo' Restaurant, Road No. 3, Km. 74.5, Humacao, Puerto Rico, 00791, telephone number (809) 850-0633. The purpose of the public meeting is to answer any questions the public may have regarding the RCRA Permit Renewal Application. This notice also provides the citizens interested in receiving relevant permitting information and future public notices on the Draft and final Permit Determination an Opportunity to be included in the facility or EPA's Mailing List.

Finally, this notice also serves the initial notification that Squibb may request a temporary emergency permit to treat hazardous waste in the existing non-permitted Caloric 1 incinerator. If issued, the emergency permit would authorize Squibb to treat hazardous waste in the Caloric 1 incinerator while the TRANE unit is used to perform Trial Burn tests to determine applicable permit operating conditions. Squibb must demonstrate to EPA and EQB that the temporary authorization is necessary for the facility's hazardous waste management activities and will minimize the over-accumulation of hazardous waste on-site, therefore, allowing for safer management of on-site hazardous waste.

Any written comments concerning the permit renewal process or temporary emergency permit, request for information, and requests to be on the EPA's mailing list should be made to:

Mr. Andrew Stelling, P.E.
Chief, Hazardous Waste Facilities Branch
US Environmental Protection Agency
26 Federal Plaza - Region II - Room 1037
New York, New York 10278

[illegible]
CHAIRMAN

[Note: Text of notice also provided on next page.]

PUBLIC NOTICE

U.S. ENVIRONMENTAL PROTECTION AGENCY - REGION II
26 FEDERAL PLAZA
NEW YORK, NEW YORK 10278

PUBLIC NOTICE: PN #
EPA I.D. NUMBER: PRD090021056

DATE: JANUARY 27, 1995

NOTICE OF RECEIPT OF RCRA PART B PERMIT RENEWAL APPLICATION
AND HAZARDOUS WASTE INCINERATOR RISK ASSESSMENT REPORT

NOTICE IS HEREBY GIVEN THAT THE U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) REGION II, IS IN RECEIPT OF THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) PART B PERMIT RENEWAL APPLICATION DATED SEPTEMBER 1, 1994, AND THE HAZARDOUS WASTE INCINERATOR RISK ASSESSMENT REPORT DATED OCTOBER 7, 1994, SUBMITTED BY:

THE SQUIBB MANUFACTURING INCORPORATED
STATE ROAD NO. 3, KM 77.5
P.O. BOX 609
HUMACAO, PUERTO RICO 00792
ATTENTION: MR. HECTOR J. TOTTI, VICE PRESIDENT

THE SQUIBB MANUFACTURING INCORPORATED ("SQUIBB") OPERATES A PHARMACEUTICAL MANUFACTURING FACILITY WHICH PRODUCES DRUGS FOR HUMAN CONSUMPTION. THE FACILITY HAS BEEN IN OPERATION SINCE 1970. A PERMIT WAS ISSUED TO SQUIBB EFFECTIVE ON MARCH 1, 1990 BY EPA UNDER THE AUTHORITY OF THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA), (42 U.S.C. § 6901 ET SEQ.), AS AMENDED BY THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984 (HSWA), FOR THE MANAGEMENT OF SIX (6) ABOVE-GROUND HAZARDOUS WASTE STORAGE TANKS, AND THE OPERATION OF TWO (2) INCINERATOR UNITS (THE "TRANE" AND "BRULE"). THE TRANE UNIT IS PERMITTED TO INCINERATE HAZARDOUS WASTE, WHILE THE BRULE UNIT IS PERMITTED TO INCINERATE ONLY IGNITABLE WASTE. THE BRULE UNIT IS SCHEDULED FOR CLOSURE IN 1995. THE CURRENT RCRA PERMIT EXPIRES ON MARCH 1, 1995.

SQUIBB HAS APPLIED TO RENEW THEIR PERMIT FOR THE MANAGEMENT OF HAZARDOUS WASTES AT THE HUMACAO FACILITY. UNDER THE RCRA PERMIT RENEWAL APPLICATION, SQUIBB PROPOSES TO CONTINUE THE OPERATION OF THE TRANE INCINERATOR TREATING HAZARDOUS WASTES. ADDITION, SQUIBB PROPOSES TO TREAT HAZARDOUS WASTES IN THE EXISTING CALORIC 1 INCINERATOR AND IN A NEW CALORIC 2 INCINERATOR WHICH IS CURRENTLY BEING CONSTRUCTED. THE THREE HAZARDOUS WASTE INCINERATOR UNITS THAT ARE INCLUDED IN THE PERMIT RENEWAL APPLICATION (TRANE, CALORIC 1, AND CALORIC 2) WILL BURN HAZARDOUS WASTE GENERATED SOLELY FROM THE SQUIBB FACILITY. WITH REGARDS TO THE STORAGE OF HAZARDOUS WASTES IN THE TANK SYSTEM, SQUIBB PROPOSES TO OPERATE A NEW SEVENTH (7) ABOVE-GROUND HAZARDOUS WASTE STORAGE TANK, ALONG WITH THE SIX (6) EXISTING STORAGE TANKS.

THIS NOTICE OF THE RECEIPT OF THE RCRA PERMIT RENEWAL APPLICATION IS FOR THE ADMINISTRATIVE RECORD. THE ADMINISTRATIVE RECORD CONSISTS OF THIS NOTICE, RCRA PART B PERMIT RENEWAL APPLICATION WHICH INCLUDES THE TRIAL BURN PLAN, AND THE HAZARDOUS WASTE INCINERATOR RISK ASSESSMENT REPORT SUBMITTED BY SQUIBB, AND OTHER DATA AND MATERIALS ASSEMBLED OR PREPARED BY EPA AND THE PUERTO RICO ENVIRONMENTAL QUALITY BOARD (EQB) FOR THE SQUIBB FACILITY. ITS CONTENTS MAY BE INSPECTED ANY TIME BETWEEN 8:30 A.M. TO 4:00 P.M. MONDAY THROUGH FRIDAY, EXCEPT HOLIDAYS. COPIES OF THESE DOCUMENTS ARE AVAILABLE AT $.15 PER COPY SHEET. TO MAKE AN APPOINTMENT TO INSPECT THE ADMINISTRATIVE RECORD AT EPA IN NEW YORK CITY, PLEASE CONTACT RICHARD YUE AT (212) 264-9399. THE ADMINISTRATIVE RECORD IS ALSO ON FILE AT THE PUERTO RICO ENVIRONMENTAL QUALITY BOARD, LAND POLLUTION CONTROL AREA, 431 PONCE DE LEON AVENUE, HATO REY, PUERTO RICO 00919. TO MAKE AN APPOINTMENT TO INSPECT THE ADMINISTRATIVE RECORD AT EQB, PLEASE CONTACT MR. SANTOS CABRERA AT (809) 767-8181 EXT. 2351.

FOR CITIZENS RESIDING NEAR THE HUMACAO MUNICIPALITY, A PUBLIC INFORMATION REPOSITORY HAS BEEN ESTABLISHED BY THE FACILITY FOR ALL CITIZENS INTERESTED IN BECOMING INVOLVED DURING THE PERMITTING PROCESS. THE PUBLIC INFORMATION REPOSITORY WILL HAVE COPIES OF THE ADMINISTRATIVE RECORD DOCUMENTS, AND OTHER INFORMATION MATERIAL RELEVANT TO THE FACILITY WHICH IS AVAILABLE FOR PUBLIC REVIEW. THE REPOSITORY WILL ALSO INCLUDE THE NAME AND TELEPHONE NUMBER OF EPA AND EQB'S CONTACT OFFICE, AND THE MAILING ADDRESS TO WHICH COMMENTS AND INQUIRIES MAY BE DIRECTED DURING THE PERMIT REVIEW PROCESS. THE REPOSITORY WILL BE MAINTAINED THROUGHOUT THE PERMITTING PROCESS AT THE FOLLOWING LOCATION: THE PUBLIC LIBRARY OF THE MUNICIPALITY OF HUMACAO, ROAD NO. 3, KM. 77.5, HUMACAO, PUERTO RICO. TELEPHONE NUMBER: (809) 850-6446. A PUBLIC MEETING WILL BE HELD ON FEBRUARY 8, 1995, BETWEEN 6:00 PM TO 10:00 PM, AT THE CARACOLILLO RESTAURANT, ROAD NO. 3, KM. 74.5, HUMACAO, PUERTO RICO, 00791, TELEPHONE NUMBER: (809) 850-0833. THE PURPOSE OF THE PUBLIC MEETING IS TO ANSWER ANY QUESTIONS THE PUBLIC MAY HAVE REGARDING THE RCRA PERMIT RENEWAL APPLICATION. THIS NOTICE ALSO PROVIDES THE CITIZENS INTERESTED IN RECEIVING RELEVANT PERMITTING INFORMATION AND FUTURE PUBLIC NOTICES ON THE DRAFT AND FINAL PERMIT DETERMINATION AN OPPORTUNITY TO BE INCLUDED IN THE FACILITY OR EPA'S MAILING LIST.

FINALLY, THIS NOTICE ALSO SERVES THE INITIAL NOTIFICATION THAT SQUIBB MAY REQUEST A TEMPORARY EMERGENCY PERMIT TO TREAT HAZARDOUS WASTE IN THE EXISTING NON-PERMITTED CALORIC 1 INCINERATOR. IF ISSUED, THE EMERGENCY PERMIT WOULD AUTHORIZE SQUIBB TO TREAT HAZARDOUS WASTE IN THE CALORIC 1 INCINERATOR WHILE THE TRANE UNIT IS USED TO PERFORM TRIAL BURN TESTS TO DETERMINE APPLICABLE PERMIT OPERATING CONDITIONS. SQUIBB MUST DEMONSTRATE TO EPA AND EQB THAT THE TEMPORARY AUTHORIZATION IS NECESSARY FOR THE FACILITY'S HAZARDOUS WASTE MANAGEMENT ACTIVITIES AND WILL MINIMIZE THE OVER-ACCUMULATION OF HAZARDOUS WASTE ON-SITE, THEREFORE, ALLOWING FOR SAFER MANAGEMENT OF ON-SITE HAZARDOUS WASTE.

ANY WRITTEN COMMENTS CONCERNING THE PERMIT RENEWAL PROCESS OR TEMPORARY EMERGENCY PERMIT, REQUESTS FOR INFORMATION, AND REQUESTS TO BE ON THE EPA'S MAILING LIST SHOULD BE MADE TO:

MR. ANDREW BELLINA, P.E.
CHIEF, HAZARDOUS WASTE FACILITIES BRANCH
U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION II
26 FEDERAL PLAZA, ROOM 1037
NEW YORK, NEW YORK 10278

al frente

Insisten en defensa del Incinerador

Por: Magaly Monserrate Cerpa

Varios ejecutivos de la Squibb Manufacturing, entre los que se encontraba el gerente general de la planta de Humacao, insistieron en la seguridad y confiabilidad de sus incineradores y reiteraron que la compañía cumple con los estrictos controles reglamentarios de la Ley Federal de Desperdicios Peligrosos, durante una entrevista realizada por este rotativo en sus facilidades.

En la reunión que se produjo por invitación de la Squibb, el gerente de Asuntos Ambientales, Ing. Julio Ortíz, rechazó algunos de los argumento que han sido esbozados por detractores de los actuales planes de esta compañía, en las reuniones y manifestaciones que recientemente ha realizado el grupo opositor.

Ortíz comenzó por aclarar el comentario de que engañaban a la comunidad al decirles que estaban solicitando un permiso para disponer de desperdicios líquidos cuando el documento de solicitud indica que se trata de desperdicios sólidos peligrosos. Al respecto, indicó, que se trataba de un mal entendido producto del desconocimiento de la Reglamentación, que bajo la clasificación de Desperdicios Sólidos Peligrosos, cobija también a los líquidos.

"No hemos engañado a nadie, vamos a trabajar como hasta la fecha lo hemos hecho, con desperdicios líquidos, pero la Reglamentación no contempla una clasificación aparte para éstos, que no sea dentro de la de Desperdicios Sólidos Peligrosos". "Debe quedar claro que no vamos a procesar sólidos", arguyó.

Rivera también descartó de plano el comentario de que estuvieran contemplando trasportar hasta las facilidades de Humacao los desperdicios de las plantas de Barceloneta y Mayaguez, para ser procesados en los incineradores de acá.

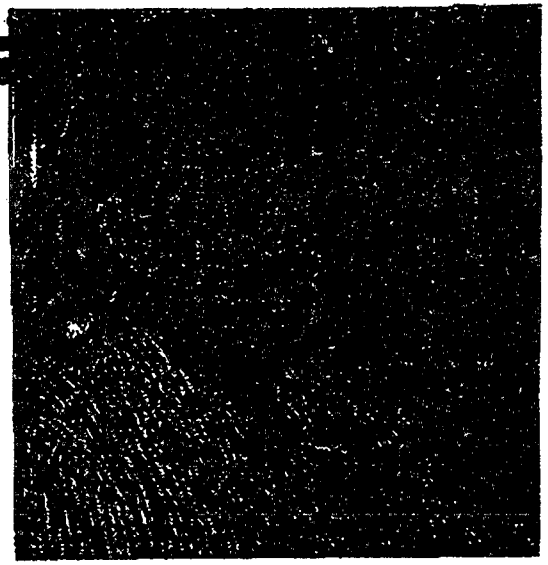
Sobre la interrogante mas neurálgica relacionada con el nuevo incinerador, el impacto al ambiente y a la salud de los vecinos de la zona que tendrá esta nueva operación, aseguró que no se produciría aumento alguno en las emisiones.

En este tema, entró Héctor Totti, el gerente general de la planta, para señalar que "por el contrario" con este incinerador y los cambios que proponen hacer en el área de disposición, se minimizan los desperdicios sólidos peligrosos que genera la planta".

"La nueva reglamentación federal nos obliga a instituir un programa agresivo de minimización de estos desperdicios. Lo que estamos haciendo responde a la necesidad de avanzar en la tecnología para seguir cumpliendo con las restricciones federales y estatales de disposición de desperdicios peligrosos", expresó Totti.

Otro aspecto de la controversia en la que los propios ejecutivos coincidieron a generado confusión, por lo que intentaron explicarla, es la mezcla de dos procedimientos a un mismo tiempo.

Sobre ésto, Ortíz Torres explicó que cuando en el 1990 tramitaron la renovación del permiso para disponer de desperdicios sólidos peligrosos incluyeron los incineradores Trane y Brule pero no así el Caloric-1, que se encontraba en diseño. Poco después solicitaron a la EPA la inclusión de este último incinerador (para desperdicios sólidos peligrosos) pero esta agencia se dilató en su respuesta. Esa es la razón, por la que actualmente cuando se tramita nuevamente la renovación del referido permiso (que por ley tiene que hacerse cada cuatro años) se aprovecha para solicitar nuevamente la inclusión de este incinerador y el nuevo Caloric-2. Por instrucciones de la EPA, en lugar de hacer dos documentos, ambas cosas se incluyen en uno.



El gerente general, Héctor Totti, comentó sobre el interés de la Squibb de que se cree una especie de concilio en la comunidad, a través del cual se puedan dilucidar los "asuntos actuales y futuros, que puedan surgir con relación a la operación de la planta.

Agregó que estos dos incineradores, el Caloric 1 y el [illegible] deberán estar sustituyendo eventualmente al Trane (de desperdicios peligrosos) y al Brule (de desperdicios [illegible] peligrosos). El primero que deberá salir de operación se el Brule; en septiembre de este año y posteriormente (a una fecha que no se especificó) el Trane.

Con esta nueva tecnología, reiteró Totti, lo que persigue es minimizar los desperdicios líquidos de manera que la operación de la planta sea cada vez menos impactante al ambiente. "En esto, aseguró, invertimos la mayor parte de nuestro presupuesto para mejoras. Un 70 por ciento de éste, está destinado a pruebas y labores conducentes a disminuir este impacto. Esto lo venimos haciendo desde hace años, por ejemplo en nuestra área de experimentación con nuevos solventes, conocidos como environmental friendly", concluyó.

Anexo 7

Squibb Manufacturing, Inc.
P.O. Box 609 Humacao, Puerto Rico 00792-0609
Tel. (809) 852-1255 • Fax (809) 852-3800

20 de enero de 1995

Hon. Joel Rosario Hernández
Representante
Cámara de Representantes
Apartado 2228
San Juan, PR 00902

Señor Representante:

Squibb, en su compromiso de mantener a la comunidad informada, por este medio le entrega copia de la solicitud de renovación de permiso para sus unidades de manejo de desperdicios líquidos peligrosos y del análisis de riesgo realizado como parte de la misma. Esta solicitud fue radicada ante la Agencia Federal de Protección Ambiental (por sus siglas en inglés "EPA") y la Junta de Calidad Ambiental ("JCA").

Squibb es una farmacéutica dedicada a la manufactura de productos para el consumo humano. Entre ellos se producen Mycolog, Corgard, Capoten, y Zerit--un producto para el tratamiento del SIDA. La planta ha estado en operación desde los años setenta. Esta consiste de varios edificios de producción, y facilidades de apoyo tales como laboratorios de control de calidad y de desarrollo e investigación, utilidades, área de recobro y reuso de solventes, área de tratamiento de aguas usadas, área de manejo de desperdicios líquidos peligrosos, y otras.

En los procesos de manufactura se utilizan compuestos orgánicos, incluyendo solventes, como es usual en este tipo de industria. Se generan residuos líquidos en los diferentes procesos de manufactura, los cuales son reciclados en nuestra planta de forma óptima para minimizar su impacto en el ambiente. Aquellos residuos que no son reutilizables se clasifican como desperdicios líquidos peligrosos para disposición mediante incineración, la mejor tecnología para disponer de éstos. Los mismos consisten principalmente de una mezcla de agua (85% a 98%) y pequeñas cantidades de solventes.

Desde sus comienzos en la década de 1970, Squibb opera unidades de incineración dentro de sus predios para el manejo de estos desperdicios. Estas unidades han sido autorizadas por la EPA y la JCA. Respondiendo al desarrollo de la tecnología cada vez más avanzada, a través de los años Squibb ha mejorado los incineradores incorporando unidades más modernas.

En estos momentos, Squibb está renovando el permiso para sus unidades de manejo de desperdicios líquidos peligrosos. Estas incluyen tanques de almacenamiento e incineradores. Se incorporan dos modernos incineradores, que sustituirán uno que ya fue cerrado y otro programado para cierre durante este año.

Annex 8

APPENDIX I -- EXAMPLES OF ADDITIONAL RCRA PUBLIC PARTICIPATION TOOLS (FACT SHEETS, PUBLIC INVOLVEMENT PLANS, NEWS RELEASES)

United States
Environmental Protection
Agency

Region 10
1200 Sixth Avenue
Seattle, WA 98101

Alaska
Idaho
Oregon
Washington

EPA News Release

90 - 14

contact: Dawnee Dahm
EPA Region 10
Hazardous Waste Program
442-2867

March 12, 1990

FOR IMMEDIATE RELEASE

EPA AND DEQ ANNOUNCE HAZARDOUS WASTE PERMIT FOR TEKTRONIX

A draft hazard waste permit has been issued for public comment which would allow Tektronix to operate hazardous waste storage units, to administer "post-closure" care to closed hazardous waste disposal units, and to carryout corrective activities for the closed hazardous and solid waste disposal units at its Beaverton facility.

The draft permit will be available for public review and comment until April 23, 1990.

Tektronix manages hazardous waste generated as by-products of manufacturing operations at its Beaverton facility and routinely manages wastes from other Tektronix facilities.

The draft permit requires Tektronix to take corrective action for tricholoethylene (TCE) contaminated groundwater at the facility and to monitor and maintain six closed surface impoundments for at least 30 years. The permit also sets out operational requirements for Tektronix's hazardous waste storage units. These storage units include tanks and containers.

Copies of the permit are available at the Oregon Department of Environmental Quality, 811 S.W. Sixth Avenue, Portland and at the Beaverton City Library, 12500 S.W. Allen Blvd.

(more)

Public comments on the draft permit will be accepted until April 23, 1990. A public hearing will be held if enough interest is expressed. Comments should be sent to:

Fred Bromfeld
DEQ
811 S.W. Sixth Avenue
Portland, OR 97204

Dawnee Dahm
EPA Region 10, HW-112
1200 Sixth Avenue
Seattle, Washington 98101

#

United States
Environmental Protection
Agency

Office of Public Affairs
Region 5
230 South Dearborn Street
Chicago, Illinois 60604

Illinois Indiana
Michigan Minnesota
Ohio Wisconsin

EPA

Public Involvement Plan
Ohio Technology Corporation
Proposed Incineration Facility

April 1989—Revised

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

PUBLIC INVOLVEMENT PLAN

OHIO TECHNOLOGY CORPORATION

PROPOSED INCINERATION FACILITY

NOVA, OHIO

APRIL 1989

EPA WORK ASSIGNMENT NUMBER 96-5Q00.0

Prepared for: U.S. Environmental Protection Agency
Region V
230 South Dearborn Street
Chicago, Illinois 60604

Prepared by: ICF Technology, Inc.
35 East Wacker Drive
Suite 800
Chicago, Illinois 60601
Associate Firm, REM IV Contract No. 68-01-7251

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I. INTRODUCTION

In 1976, Congress passed the Resource Conservation and Recovery Act (RCRA) to regulate the generation, treatment, storage, and disposal of municipal and industrial solid wastes that are generated across the country. The RCRA law requires that before a facility can treat, store, or dispose of any hazardous waste, it must obtain a permit from either the United States Environmental Protection Agency (U.S. EPA) or an authorized state government agency.[1] In addition to reviewing technical information, federal and state agencies encourage public involvement during the permitting process to ensure that residents understand proposed plans for handling hazardous wastes in their communities, and to provide an opportunity for residents to voice any concerns they may have.

This public involvement plan identifies some community concerns regarding Ohio Technology Corporation's application to build and operate a hazardous waste incinerator facility in Nova, Ohio. The plan details specific activities that U.S. EPA will engage in to disseminate information to the Nova community and to encourage public involvement as the Ohio Technology Corporation application is reviewed. The plan consists of the following sections:

- Description of the proposed facility;
- Community information;
- Community concerns;
- Objectives of the public involvement program;
- Public involvement activities; and an
- Implementation schedule.

The objectives and activities discussed in this plan are based on an assessment of community concerns collected during interviews with local

---

[1]In many instances, authority for implementing RCRA has been given to the states by U.S. EPA. The State of Ohio, however, does not have such authority and all RCRA laws are currently enforced in Ohio by U.S. EPA.

officials, several residents, and local community opposition groups conducted by U.S. EPA and contractor personnel in August 1988. Background information included in the plan was obtained from reviewing state and federal files; interviews with state, federal, and local officials; and local community opposition groups.

This plan has been prepared in accordance with U.S. EPA's Guidance on Public Involvement in the RCRA Permitting Program (Draft, January 1986).

II. DESCRIPTION OF THE PROPOSED FACILITY

A. Location and Description of Facility

Ohio Technology Corporation (OTC) proposes to construct and operate a hazardous waste and toxic substance treatment facility in Nova, Ohio, located in Troy Township, Ashland County. The property purchased by OTC in 1987 consists of approximately 280 acres of rural farm land along Township Road 791, one mile east of Nova and approximately 12 miles northeast of the City of Ashland (see Figures 1 and 2). The Nova Reservoir is located on the southwest portion of the property. Of the 280 acres, approximately 40 acres would be used for the facility.

The proposed facility includes construction of an incinerator called a Hybrid Thermal Treatment System developed by IT Corporation. The system involves a modularly designed rotary kiln incinerator for the destruction of a wide variety of organic wastes. As designed, fumes resulting from the kiln are burned in a secondary combustion chamber. In Nova, the proposed incinerator would be operated to burn both general hazardous wastes and polychlorinated biphenyls (PCBs). The Hybrid Thermal Treatment System would be designed to incinerate liquid wastes, viscous fluids, solids, soil, and other contaminated debris.

The proposed facility is designed not to discharge wastewater from the facility operating areas, but would be designed to treat wastewater on the site and reuse wastewater in the incineration process. Debris resulting from the incineration process, including processed solids and incinerator ash, are proposed to be disposed of in a RCRA licensed disposal facility off the site.

Access to the proposed OTC facility would be gained from Township Road 791. Trucks entering the facility would include tractor-trailer trucks carrying wastes contained in drums. Tanker trucks containing bulk liquids also would enter the facility. Fully loaded trucks would weigh

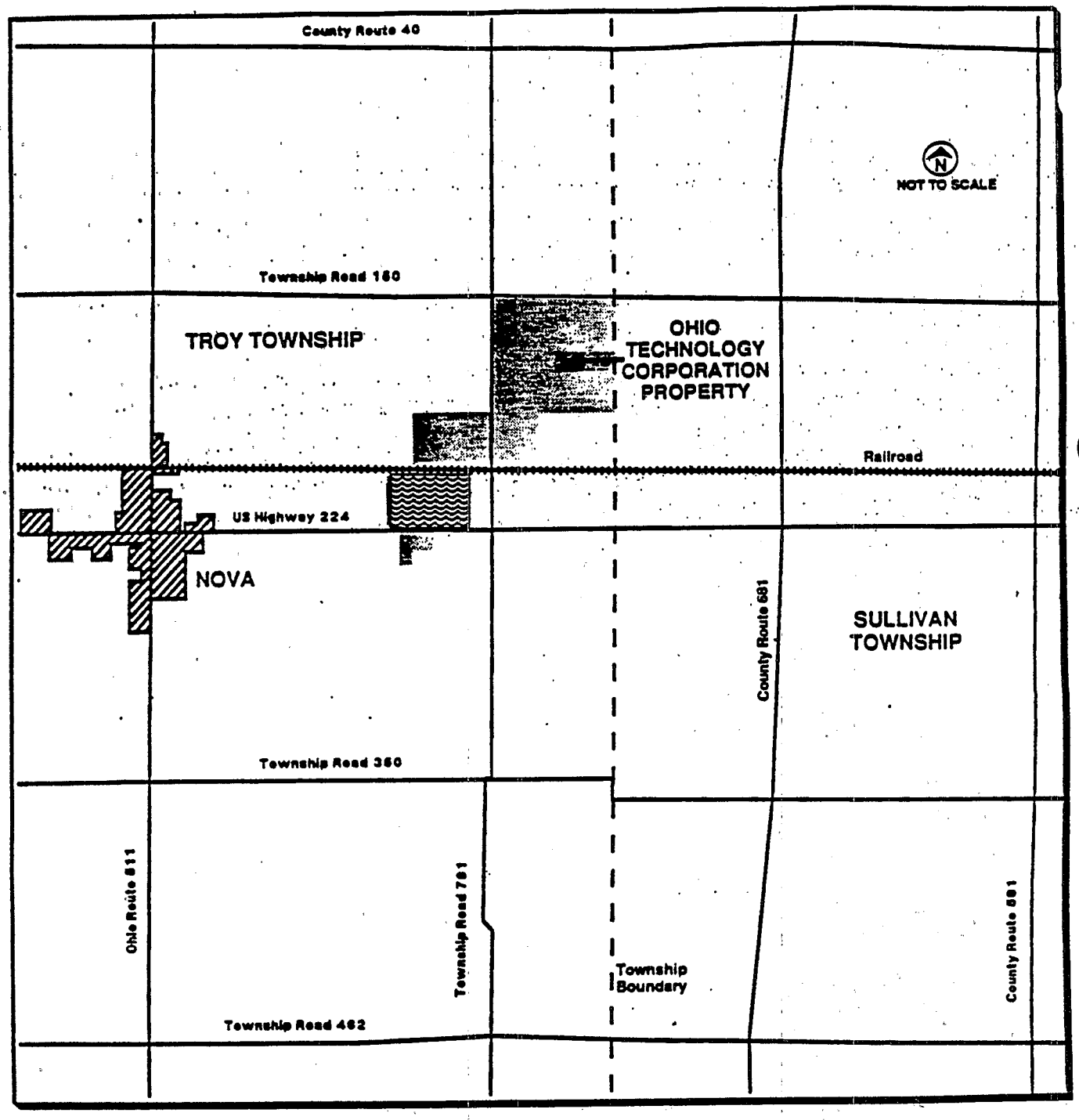

Figure 2
Proposed Facility Area Map

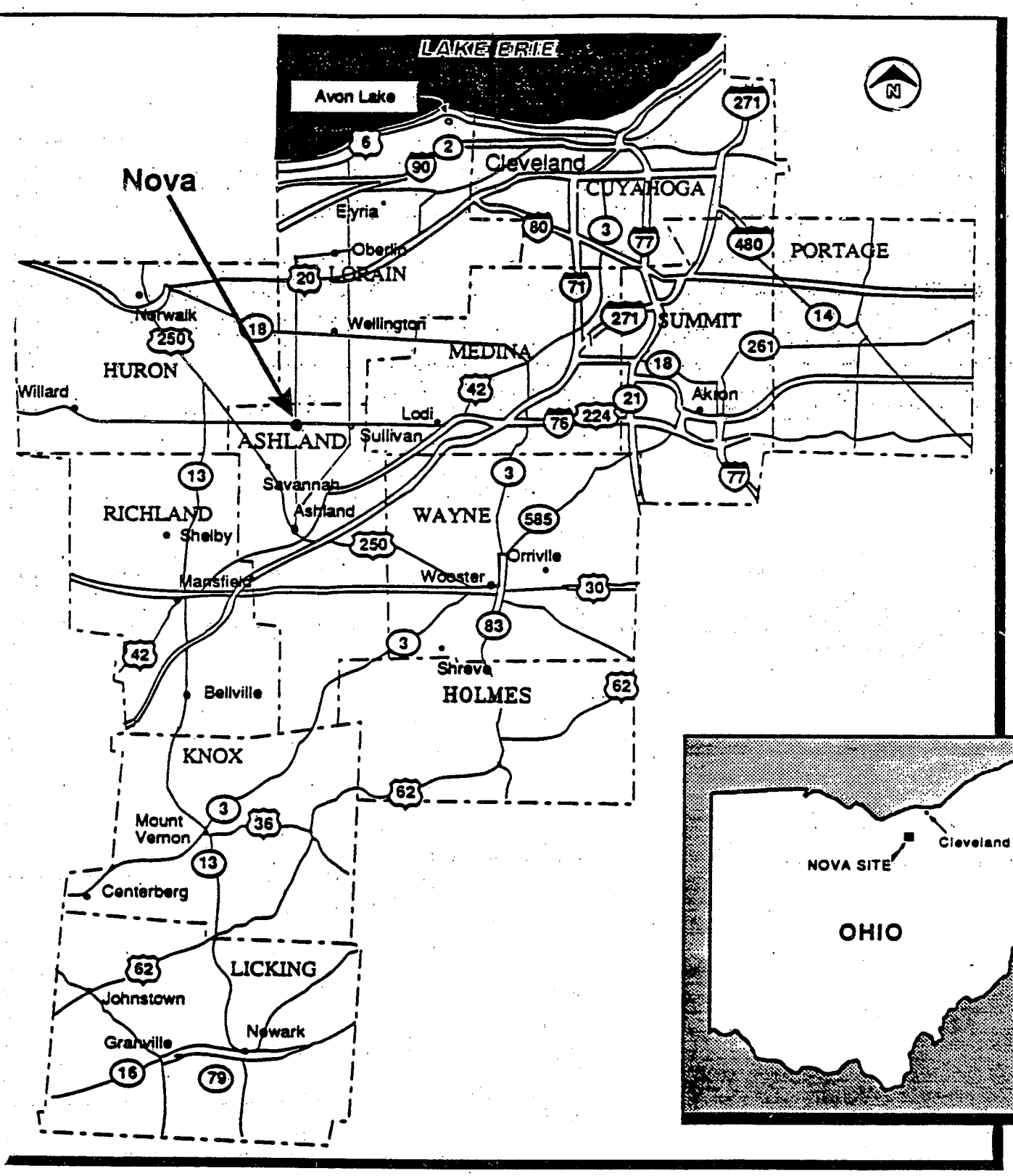

Figure 1
Proposed Facility Location Map

approximately 30,000 to 50,000 pounds. An average of eight to 12 trucks would enter the facility per day.

B. Owner/Operator Information

The current owner of the property is OTC which is also named as the proposed owner of the incineration facility in the RCRA permit application. IT Corporation would operate the facility. OTC's headquarter offices are located in Cleveland, Ohio and IT Corporation's regional offices are located in Monroeville, Pennsylvania. According to an OTC official, the facility as proposed could reach its capacity by accepting wastes from within Ohio, although the facility is designed to be a regional hazardous waste treatment facility.

C. Regulatory Agencies

In order to obtain the required permits to construct and operate the incineration facility, OTC must submit permit applications to the Ohio Environmental Protection Agency (OEPA) and the U.S. EPA. Because OTC desires to build a facility that will burn both hazardous waste and PCBs, U.S. EPA permits are required from under both RCRA and the Toxic Substance Control Act (TSCA). The RCRA permit is required for incineration of hazardous wastes, and the TSCA permit is required for incineration of wastes containing PCBs.

In addition, OTC must apply for and be issued permits from the State of Ohio. The primary permits required are a permit to install and a permit to operate a hazardous waste facility, both of which would be issued by the Ohio Hazardous Waste Facility Board. All proposed facilities in Ohio must receive these permits before any construction can begin. The application for the permits must be submitted for review to OEPA's Division of Solid and Hazardous Waste Management before a ruling on the applications is approved or denied by the Hazardous Waste Facility Board. In addition, OTC must receive an Air Permit to Install from OEPA's Division of Air Pollution, and a National Pollutant Discharge Elimination

System (NPDES) permit -- a provision of the Clean Water Act -- from the Division of Water Pollution Control. The air permit addresses the potential air emissions that could result from operations from the proposed incinerator, and the NPDES permit addresses potential discharges to water.

Currently, OTC has submitted permit applications to both OEPA and U.S. EPA. By law, permit applications must be reviewed for completeness and technical adequacy before the permits are either granted or denied.

III. COMMUNITY INFORMATION

A. Community Profile

Located in Troy Township, Nova is a rural, unincorporated town with a population of approximately 200 people. According to several residents interviewed, approximately 50% of the population are full-time farmers, and the remainder farm half time in addition to having jobs in other parts of the region.

Nova residents describe themselves as people not interested in urbanization. Several expressed pride in their families that have a long regional heritage, and have continued to live in the Nova area generation after generation. Several residents have recently moved into the area away from more urban surroundings, preferring the clean air and rural atmosphere. According to residents interviewed, Nova residents view their population as one consisting of diverse individuals who possess a broad range of interests, all of which add to the character of the community.

Troy Township has a population of 450 people and is governed by a board consisting of three trustees and one clerk. Trustee and clerk elections are held every two years. The next election will be held in November 1989. The township chairperson is appointed every January by the trustees. The township administration also includes a Township Zoning Commission and a Zoning Board of Appeals. Both the Commission and Board

of Appeals consist of five members of the community who are appointed by the township trustees to serve four-year terms.

Ashland County is governed by three county commissioners who each serve four-year terms. County Commissioner elections are held every two years. The commissioners elect a president each January.

B. Public Involvement to Date

In the Nova community, public involvement in issues surrounding the proposed facility has to date been primarily channeled through community groups. The next few paragraphs characterize the major community groups involved.

1. STOP IT

According to residents interviewed, community interest and concern over the proposed facility began when OTC purchased its property at an auction in 1987. Soon after the property was purchased, the community learned that OTC planned to install and operate a hazardous waste incinerator on the property. Concerned over the potential impact of the incinerator on the Nova community, Nova residents formed a citizens group called Nova's Right to Know in July 1987. The intent of the group was to collect information about the proposed project from Ohio Technology, International Technology, and local, state, and federal government agencies. In September 1987, the group changed its name to STOP IT ("IT" stands for IT Corporation, the proposed operator of the facility) because the group's constituency broadened beyond the Nova community. STOP IT is managed by a director, three co-chairpersons, and an executive committee. Currently, membership in the group consists of approximately 400 people.

STOP IT activities have included establishing an information center in Nova, holding public meetings, working with the state legislature, coordinating with national and international environmental groups, and disseminating information to its membership and other interested parties.

The goal of STOP IT is to prevent the proposed incinerator from being built. According to group members, STOP IT does not want to negotiate a permit; the organization does not want any permits issued to OTC at all. STOP IT is a highly organized group whose leadership possesses a strong commitment to its position. STOP IT has conducted various activities to heighten awareness of the proposed incinerator, and has worked to increase support for its position in Ashland County and other surrounding counties. According to an August 1988 STOP IT newsletter, the group's networking activities have resulted in the formation of other STOP IT chapters in Ashland, Parma, and Wellington. When U.S. EPA granted an extension for completion of the application to OTC in May 1988, U.S. EPA received over 400 telephone calls in protest. The telephone calling was largely organized by STOP IT. U.S. EPA responded in writing to each telephone call.

2. Citizens Against Pollution

In August 1987, residents from communities near the proposed facility formed a grassroots citizens group called Citizens Against Pollution (CAP). News of the proposed facility in Nova motivated the formation of the group which is run by a director and a board of trustees. With offices in Huntington, Ohio, the group consists of chapter representatives from neighboring communities such as Sullivan, Nova, Homerville, Medina, Ruggles, Spencer, and Elyria. CAP's major issue is the proposed incinerator, although the group's focus has widened over the past year to address several other environmental issues in Ohio, and is viewed as a growing grassroots environmental organization in the state. Adopting a global ecosystem philosophy, CAP representatives indicated that they would like to see a moratorium placed on incineration technologies until the global impact of incineration can be adequately evaluated. According to a CAP representative, the group is interested in working with both OEPA and U.S. EPA to "stop the environmental degradation of Ohio."

3. The Amish Communities

One of the distinct features of the proposed facility is its proximity to several Amish settlements. The Lodi and Ashland settlements are the closest to the OTC property, but the proposed facility has captured the interest of Amish settlements throughout the region, including Holmes County, the largest Amish settlement in the world.

In April 1988, leaders of the Amish community traveled to Columbus, Ohio and participated in a press conference conducted with support from STOP IT. The purpose of the conference was to present over 4,000 petition signatures from the Amish community in opposition to the proposed facility. Invited to the press conference were OEPA, U.S. EPA, the Ohio Hazardous Waste Facility Board, and state and federal government representatives. In a written statement, the Amish contingency voiced their concerns:

> We are meeting here today because of a concern. The old Order Amish are thankful to God for the privilege to live in a country where we can live, work and share our lives with our neighbors and fellowman.
>
> We still adhere to and believe in the Golden Rule: Do unto others as you would that others do unto you.
>
> It is with this in mind that we have over 4,000 signatures protesting a proposed toxic waste incinerator site in Ashland County.
>
> Living close to this site is an Amish community of over 100 families that would be severely disrupted and handicapped if this site was approved. Without any doubt these people would have to relocate.
>
> Also from information we have received we would be subject to toxic emissions in our area.
>
> So we plead with meekness to please accept our protests with an open mind and sincere concern.

The involvement of the Amish in this manner -- a people not known for their political activism -- generated significant media attention and was reported by the Chicago Tribune, U.S.A. Today, and the New York Times.

Leaders of the Amish settlements keep informed about the status of the project, and are in contact with both STOP IT and CAP.

Public involvement over the last year can be characterized as significant. The work of the citizens groups has served to heighten awareness of the proposed project all over the region. In April 1988, the Troy Township Trustees polled their constituents and concluded that 94% of the responders were opposed to the proposed facility. In addition, several communities and organizations from a wide geographical area have adopted ordinances and resolutions in opposition to the proposed facility (see Appendix A). Although opposition to the proposed facility is widely known and publicized, there is some evidence of support for OTC's project within the region. Newspaper reports indicate, however, that although there may be support for the facility, the strength of the opposition to the facility has caused proponents to keep their views to themselves.

Political interest in the proposed project has also grown over the last year. Responding to letters of concern from their constituents, U.S. Senator Howard Metzenbaum, U.S. Senator John Glenn, Congressman Don Pease, State Representative Ron Amstutz, and State Senator Dick Schafrath have all taken positions in opposition to the proposed facility. In addition, Cleveland's mayor, George Voinovich, has opposed the project. Many residents have written their concerns to both U.S. EPA and OEPA.

IV. COMMUNITY CONCERNS

The following community concerns were expressed by Nova area residents and local officials during interviews conducted in August 1988.

A) Lack of trust in the proposed operator of the facility. Residents interviewed expressed concern regarding IT Corporation's involvement in the proposed project. Nova area residents and members of STOP IT and CAP feel strongly that IT Corporation is not a reliable company to be operating the proposed facility. The citizens groups have distributed information about IT Corporation, including a list of

violations of State of California environmental regulations and the Louisiana State Ethics Code. Members of STOP IT cite a recent Forbes article which discusses management and financial problems of IT Corporation, and the fact that the company insures itself against environmental liabilities as proof of IT Corporation's instability (see "Warning -- Hazardous Management," Forbes, Volume 142, Number 2, July 25, 1988, Page 60). Residents also are concerned that IT Corporation will purchase OTC and that OTC is merely acting as a "front" for IT Corporation.

B) Effects of proposed facility on quality of life. Residents interviewed stressed their concern regarding the impact of the proposed facility on the quality of life in the area. Residents said that the major reason why people move into rural areas and stay in these areas is the clean air, and non-urbanized, undeveloped characteristics of these regions. These residents feel that construction and operation of an incinerator in the area would destroy the appeal of the area, negatively impact property values, and drive people away. Moreover, residents and members of the Amish community pointed out that siting an incinerator in the Nova area is counter-culture to the Amish way of life. CAP stressed the fact that the Amish communities increase the tourist appeal of the area. According to newspapers reports, the Amish community has hinted to the possibility that the Amish settlements in the area may relocate if the incinerator is licensed and built. Community interviews with Amish representatives, however, indicated that this would be a last resort.

C) Effects of proposed facility on environmental quality in the region. All residents interviewed expressed the greatest concern about the impacts of the proposed facility on the environment. The community is very concerned about air emissions from the proposed incinerator and feels strongly that there would be a threat of toxic air contamination. CAP and STOP IT also spoke about the fact that the facility would be located near the headwaters of the Black and Vermilion rivers. The groups feel that these rivers would be endangered by contamination resulting from operation of the incinerator. The Amish leaders voiced their concern that air

emissions would contaminate rainwater which is a primary water source through cisterns and wells on many of the Amish properties. The Amish are concerned about how their livestock and crops may be affected by the proposed incinerator. Such a concern is echoed by other farmers in the area who view the proposed incinerator as a threat to their livelihoods.

D) Inappropriateness of site selection. Most people interviewed questioned why Nova was chosen as the site for OTC's project. These people feel that it is inappropriate for an incinerator to be located in a rural community where natural resources are a significant aspect of the economy. Two residents interviewed, one that breeds Navajo Churro sheep (an endangered species) and another that propagates native American seeds were particulary concerned that an incinerator in the area could endanger their projects. The Amish leaders expressed similar concerns and asked why incinerators had to be cited in places where people lived. They suggested that a better location would be in a desert, or some other unpopulated area.

E) Waste management in Ohio. Both CAP and STOP IT said that they wanted to obtain more information about the waste management industry in Ohio. These groups feel that there are plenty of incinerators in the area, and that building another one is not necessary. The groups are interested in exploring alternative waste management technologies to incineration. Their interests in this area reflect their concerns that OTC and IT are not acting in the best interest of the community or the state, and are proposing the incinerator for their own financial benefit.

F) Safety of the proposed incinerator. Residents and local officials brought up several safety issues. Most people interviewed said they are concerned about having trucks filled with contaminated material driving through the area. According to several residents, the roads in the area have several sharp curves which could lead to accidents by trucks traveling to the facility. In addition, residents cited air and fugitive emissions, and public health effects of long-term exposure to such emissions as major concerns.

Residents who oppose incineration altogether as a waste management technology believe that too little information is known about the synergistic effect of several chemicals burning at once, and feel that such an occurrence is a health threat to the area.

Many of the people interviewed wanted clarification on monitoring of the incinerator should it become operational. These residents wanted to know who would conduct the monitoring and how often it would be done. STOP IT and CAP expressed reservations about monitoring programs and said that the proposed incinerator would not be adequately monitored. These groups suspect that officials would only monitor for a narrow range of contaminants.

CAP representatives shared their frustration about the safety issue and rhetorically asked why the burden of making the incinerator safe rested with the residents. They expressed distrust in the ability of government officials to protect the environment and public health.

G) Emergency response capabilities in the area. Several concerned residents and local officials felt that siting the facility in the Nova area places the region in peril should an accident occur. Nova itself has no emergency response capabilities and relies on the City of Ashland and other communities for such assistance. The community is concerned that should an accident occur, there would be no efficient and comprehensive way of responding. Moreover, the Amish representatives expressed concern that should an accident occur, emergency communication with the settlements and evacuation would be impossible due to their lack of telephones, electricity, and modern transportation systems.

H) Confusion regarding the permitting process. Most of all the residents and local officials agreed that the permitting process is confusing. Many expressed frustration about the many levels of government involved and wanted clarification on the authorities of the federal, state, and local governments. In March 1988, OEPA held an informational session for Nova area residents. At the session, several division

representatives from OEPA and U.S. EPA answered questions and provided information on the permitting process. Community members and OEPA officials indicated that the session was informative, although residents said that some confusion still remains about the permitting process.

I) Poor response from government officials. While many residents appeared satisfied with the information provided by government officials, several residents and the citizens groups felt that both the state and federal government officials should provide more information regarding the permitting process and should be more accessible. STOP IT complained about being "hung up on" by U.S. EPA officials, and said they were frustrated that U.S. EPA had not acknowledged much of the information sent to them by STOP IT. CAP representatives expressed the same concerns.

J) Frustration over limited opportunities for public involvement. Most people interviewed did not understand the extent to which formal opportunities for public involvement exist during the permitting process. Those residents and local officials that are more aware of public opportunities feel that they are limited and that they do not serve the interests of the communities. Most people interviewed, including the Amish leaders, asked about effective ways of becoming involved in the process so that their concerns can be officially considered before the agencies make any final decisions.

V. OBJECTIVES OF THE PUBLIC INVOLVEMENT PROGRAM

Based on the concerns voiced by area residents and local officials, the following are the objectives of the public involvement program during the permitting process:

A) Establish accessibility among U.S. EPA personnel to the community. As the Nova community works toward becoming informed about the issues surrounding the proposed facility, it will be very important for U.S. EPA personnel to be available to answer questions and provide information. Both STOP IT and CAP already are frustrated with the

difficulty they have in contacting U.S. EPA personnel. Maintaining good positive contact with concerned citizens in the Nova community will strengthen U.S. EPA's credibility and allow people to become more involved in the process.

B) Coordinate with OEPA to make sure the community understands the permitting process and opportunities for public involvement. Community interviews reflected the confusion that residents and local officials have about the permitting process and opportunities for public involvement. A crucial component of the public involvement program is to make certain that interested residents and local officials have adequate opportunities to understand and be involved in the permitting process and the opportunities for their involvement. Because so many levels of government are involved in the process, U.S. EPA should work closely with OEPA to provide the community with adequate information and opportunities to ask questions of appropriate government officials.

C) Provide specific information on issues of interest to ensure a strong level of understanding by the community. Both STOP IT and CAP are working hard to acquire information that will put many of the issues of concern into perspective. Much of CAP and STOP IT's activities will involve disseminating information to all interested parties. U.S. EPA and OEPA should work together to provide the community with accurate information on subjects such as incineration technology, alternative waste management practices, emergency response procedures, monitoring practices, and environmental impacts of waste management practices.

VI. PUBLIC INVOLVEMENT ACTIVITIES

Specific public involvement activities related to the OTC RCRA permit application are required by Title 40 of the Code of Federal Regulations, Part 124 and RCRA Section 7004. The public involvement activities described below include required activities (indicated by an asterisk), as well as other activities intended to address community concerns and to carry out the objectives established for the public involvement program.

A) Designate U.S. EPA contact to respond to questions from the community. U.S. EPA has assigned one member of the Office of Public Affairs (OPA) staff in the Region V office in Chicago to be the central U.S. EPA liaison for the community (see Appendix B). This person will respond to community requests for information and will field telephone requests for information to other appropriate U.S. EPA personnel. The OPA's name and telephone number will appear on all correspondence between U.S. EPA and the community in addition to U.S. EPA's toll-free number. The OPA official also will be the central contact for local media to acquire information regarding the proposed incinerator, and will keep an up-to-date mailing list of interested individuals.

B) Establish local information repositories for interested parties to review material. In Nova as well as in other nearby communities (see Appendix C), information repositories will be established to provide the community with copies of the permit applications, applicable laws, and other relevant information. As new information is developed, the information repositories will be updated.

C) Coordinate with OEPA to provide fact sheets on issues of concern regarding the proposed facility. U.S. EPA will coordinate closely with OEPA to provide the community with fact sheets that summarize the permitting process in a clear and easy to read format. The first fact sheet will include information on the state and federal permitting process, and on the role of local government and opportunities for public involvement. In addition, separate fact sheets will be distributed to provide information on other topics of concern expressed by the community These fact sheets will cover incineration technology, monitoring practices of the U.S. EPA and OEPA, alternative waste management practices, and current information on environmental impacts of incinerators. The fact sheets will be printed and distributed to individuals on U.S. EPA's current mailing list.

D) Conduct availability sessions to answer specific questions. After the fact sheets are prepared and distributed, U.S. EPA in cooperation with OEPA will hold at least three availability sessions in the community. The availability sessions will be designed to accommodate small groups and will consist of representatives of OEPA and U.S. EPA who will be available to answer specific questions of the community. The sessions will be held in different geographic areas of the region and will accommodate members of the Amish community. Notices announcing the availability sessions will be published in local newspapers.

E) Notify the community about progress made on application review. As progress is made on processing of the permit application, or if the schedule for reviewing the application alters significantly, U.S. EPA will notify the community by providing a written update to individuals on the mailing list and media representatives.

*F) Develop and distribute fact sheet on draft permit or denial. It is required by RCRA regulations that one fact sheet, or "Statement of Basis," be distributed that describes both the facility and the permit that is being proposed for that facility. Such a fact sheet will be developed and distributed to individuals on the mailing list, media, and any other interested parties in advance of the public comment period.

*G) Conduct a public comment period on draft permit or denial. RCRA regulations require that the public must be notified through a local newspaper and broadcast over local radio stations that a draft permit has been prepared. A forty-five day period is also required under RCRA regulations to accept public comments. U.S. EPA may extend the public comment period if necessary. U.S. EPA will distribute a press release to local media and a notice to the mailing list announcing the beginning of the public comment period.

*denotes required activity

H) Hold public hearing on draft permit or denial: RCRA regulations require that a public hearing be held if an individual organization or community requests one, or if the Regional Administrator determines that one is needed. The purpose of having a public hearing is to officially accept and record public comments. For this site, U.S. EPA has decided to hold a public hearing. U.S. EPA will hold such a hearing and will publicize it via a press release to local media, and advertisements in local newspapers. A notice also will be sent to the mailing list. After the hearing has been held, a tape or transcript will be placed in the information repositories.

*I) Prepare Response to Comments to address community concerns. RCRA regulations require that a response to comments be prepared at the conclusion of the public comment period. This document will consist of a summary of the written comments received, the oral comments presented at the hearing, and a response to those comments prepared by U.S. EPA. The Response to Comments will be placed in local information repositories for public review.

*denotes required activity

VI. TIME LINE FOR IMPLEMENTING PUBLIC INVOLVEMENT ACTIVITIES

The following is a time line for public involvement activities through issuance of a final decision on the Ohio Technology Corporation's RCRA permit application. Should a permit be issued, U.S. EPA would continue the public involvement program.

Activity	Approval of the Public Involvement Plan	Completion of Technical Review	Issuance of Draft Permit (if applicable)	Issuance of Final Permit (if applicable)
1. Designate Contact	X			
2. Establish Information Repositories	X			
3. Fact Sheets	X ----------	X	X	
4. Availability Sessions	X ----------	X ----------	X ----------	X
5. Updates	X ----------	As Needed ----------		X
6. Public Comment Period			X ----------	X
7. Public Hearing			X	
8. Responsiveness Summary				X

APPENDIX A

LOCAL GOVERNMENTS AND ORGANIZATIONS ISSUING WRITTEN STATEMENTS OF OPPOSITION TO THE PROPOSED INCINERATOR

[obtained from state and federal files]

Government Body	Date resolution adopted
Village of Savannah	December 15, 1987
City of Avon Lake	December 14, 1987
Troy Township	September 28, 1987
Village of Lodi	October 19, 1987
Ashland County Soil and Water Conservation District	April 26, 1988
Russia Township	March 22, 1988
City of Elyria	March 21, 1988

Local Organization	Date of written position
Cinnamon Lake Association, Inc.	December 16, 1987
Ashland County Farm Bureau Inc.	May 16, 1988
Episcopal Diocese of Ohio	July 12, 1988
Lodi Rotary Club	January 20, 1988

Lodi Chamber of Commerce	January 20, 1988
Ruritan Club of Lodi	January 20, 1988

APPENDIX B

LIST OF CONTACTS, INTERESTED PARTIES, AND MEDIA

1. Federal Elected Officials

Senator John Glenn (202) 224-3353
503 Senate Hart Office Building
Washington, DC 20510-3501

District Office (216) 522-7095
Federal Courthouse
201 Superior Avenue
Cleveland, OH 44114

Senator Howard Metzenbaum (202) 224-2315
140 Senate Russel Office Building
Washington, DC 20510-3502

District Office (216) 522-7272
Celebreeze Federal Building
Room 2915
1240 East Ninth Street
Cleveland, OH 44199

Congressman Donald Pease (202) 225-3401
2410 Rayburn House Office Building
Washington, DC 20515

District Office (419) 325-4184
The Centre
Suite 101
42 East Main Street
Ashland, OH 44805-2336

2. State Elected Officials

Governor Richard Celeste (614) 466-3555
Office of the Governor
Statehouse
Columbus, OH 43216

State Senator Richard Schafrath (614) 466-8086
Ohio Senate
Statehouse
Columbus, OH 43216

Local Address (419) 994-4161
424 West Main Street
Loudonville, OH 44842

State Representative Ronald Amstutz (614) 466-1474
Ohio House of Representatives
Statehouse
Columbus, OH 43216

Local Address (216) 262-7371
2243 Friar Tuck Circle
Wooster, OH 44691

3. Local Government Officials

Ashland County Commissioners (419) 289-0000
Court House
West Second Street
Ashland, OH 44805

Marilyn Byers, President
C.R. "Dick" Myers
Robert Valentine

Ashland County Board of Health (419) 289-0000
c/o Ashland County Health Department
110 Cottage Street
Ashland, OH 44805

Gloria Weirick, President

Ashland County Regional Planning Commission (419) 289-0000
110 Cottage Street
Ashland, OH 44805

Mike Wolfson, Director

Ashland County Disaster Services (419) 289-6511
c/o Ashland City Fire Department
274 Cleveland Avenue
Ashland, OH 44805

John Augustine, Director

Troy Township Trustees

Donald Biddinger, Chairman	(419) 652-3463
Ralph Smith, Vice Chairman	(419) 652-3258
Richard Robertson	(419) 652-3361
Mary Judith Fox, Clerk	(419) 652-3187

Troy Township Zoning Inspector

Willard Smith (419) 652-3362

Troy Township Zoning Commission

Leslie White	(419) 652- 2
Richard Hawley	(419) 652-3021
Delmar Rife	(419) 625-3851
Janet Cleugh	(419) 652-3760
John M. Gorman	(419) 652-3354

Troy Township Zoning Board of Appeals

James R. Callihan	(419) 652-2225
Dean Sheppard	(419) 652-3838
Tod Crumrine	(419) 652-3194
Janice Schneiter	(419) 652-3181
Eugene Fowler	(419) 652-3808

4. **Federal Government Agencies**

U.S. Environmental Protection Agency
Region V
230 South Dearborn Street
Chicago, IL 60604

Valdas Adamkus, Regional Administrator	(312) 353-2000
Anne Rowan, Public Participation Coordinator Office of Public Affairs	(312) 886-7857
Wen Huang, Environmental Engineer RCRA Permit Branch	(312) 886-6191
Charles Slaustas, Supervisor RCRA Permit Branch	(312) 886-6190
Lisa Pierard, Ohio Section Chief RCRA Permit Branch	(312) 353-4789

Sheldon Simon, Regional PCB Coordinator (312) 886-6087
Pesticides and Toxic Substances
Branch
John Connell, Chief (312) 886-6832
PCB Compliance Section
Offices of the Environmental Sciences
Division

5. **State Government Agencies**

Ohio Environmental Protection Agency
P.O. Box 1049
1800 WaterMark Drive
Columbus, OH 43266-0149

Richard Shank, Director (614) 644-2782
Linda Whitmore, Public Involvement Coordinator
Public Interest Center (614) 644-2160
Robert Babik, Environmental Engineer (614) 644-2949
Division of Solid and
Hazardous Waste Management

Ohio Hazardous Waste Facility Board (614) 644-2742
P.O. Box 1049
1700 Water Mark Drive
Columbus, OH 43266-0149

James Adair III, Executive Director

<u>Boardmembers</u>:

Richard C. Sahli, Deputy Director
Legal and Governmental Affairs
Ohio Environmental Protection Agency

Warren W. Tyler, Chairman
Ohio Water Development Authority
Charles E. Mauzer. Assistant Director
Ohio Department of Natural Resources
Thomas Sweeney, Ph.D., Assistant Vice
President of Research and Graduate Studies
The Ohio State University
W.B. Clapham Jr., Ph.D., Associate Professor
of Geology
Cleveland State University

6. **Citizens Groups**

STOP IT (419) 652-3000
P.O. Box 134
Nova, OH 44859

Dave Schlaufman, Director (419) 652-3862
Vern Hurst, Co-chairperson
Diana Schlaufman, Co-chairperson

Citizens Against Pollution (216) 647-6127
P.O. Box 122 (Mon, Wed, Fri)
Sullivan, OH 44880

Ardith Jordan, Trustee

7. **Media**

Newspapers

Ashland Times Gazette
40 East Second Street
Ashland, OH 44805
(419) 281-0581

New London Record
P.O. Box 110
New London, OH 44851
(419) 929-3411

Akron Beacon-Journal
44 East Exchange Street
Akron, OH 44328
(216) 375-8111

Elyria Chronicle-Telegram
P.O. Box 4010
225 East Avenue
Elyria, OH 44035
(216) 329-7000

Cleveland Plain Dealer
1801 Superior Avenue
Cleveland, OH 44114
(216) 344-4500

Mansfield News Journal
P.O. Box 25
70 West Fourth Street
Mansfield, OH 44901
(419) 522-3311

Wellington Enterprise
P.O. Box 38
Wellington, OH 44090
(216) 647-3171

Television

WAKC-TV
853 Copley Road
Akron, OH 44320
(216) 535-7831

WEAO-TV
275 Martinel Drive
Kent, OH 44240
(216) 678-1656

WEWS-TV
3001 Euclid Avenue
Cleveland, OH 44115
(216) 431-5555

WBNX-TV
P.O. Box 2091
Akron, OH 44309
(216) 928-5711

WQHS-TV
2681 West Ridgewood
Parma, OH 44134
(216) 888-0061

WJW-TV
5800 South Marginal Road
Cleveland, OH 44103
(216) 431-8888

WKYC-TV
1403 East Sixth Street
Cleveland, OH 44114
(216) 344-3333

WUAB-TV
8443 Day Drive
Cleveland, OH 44129
(216) 845-6043

WVIZ-TV
4300 Brockpart Road
Cleveland, OH 44134
(216) 398-2800

Radio

WNCO-Radio
P.O. Box 311
Ashland, OH 44805
(419) 289-2605

WRDL-Radio
Ashland College
401 College Avenue
Ashland, OH 44805
(419) 289-2480

WLKR-Radio
P.O. Box 547
Norwalk, OH 44857
(419) 668-8151

WCLW-Radio
711 McPherson Street
Mansfield, OH 44906
(419) 525-2331

WMAN-Radio
P.O. Box 8
Mansfield, OH 44901
(419) 524-2211

WVNO-Radio
2900 Park Avenue West
Mansfield, OH 44906
(419) 529-5900

WCWS-Radio
College of Wooster
Wooster, OH 44691
(216) 263-2240

WWST-WQKT Radio
South Hillcrest Drive
Wooster, OH 44691
(216) 264-5122

8. Owner/Operator

Ohio Technology Corporation (owner) (216) 464-2121
3550 Lander Road
Cleveland, OH 44124

John Tracy, Principal Manager

International Technology Corporation (operator) (412) 243-3230
Regional Office
William Penn Plaza
2790 Mosside Boulevard
Monroeville, PA 15146-2792

Brian Borofka, Site Assessment Group Leader

Headquarters (213) 378-9933
23456 Hawthorne Boulevard
Torrence, CA 90509

APPENDIX C

LIST OF INFORMATION REPOSITORY LOCATIONS AND PUBLIC MEETING FACILITIES

1) Information Repository Locations

Ashland Public Library
224 Claremont Avenue
Ashland, OH 44805
(419) 289-8188
Contact:
Constance Wolfson, Librarian

New London Public Library
67 South Main Street
New London, OH 44851
(419) 929-3981
Contact:
Melissa Karnosh, Librarian

Troy Township Trustees
Nova, Ohio
(419) 652-3200
Contact:
Ralph Smith

2) Public Meeting Facilities

Mapleton Middle School
(Ruggles Troy School)
U.S. Highway 224
Nova, OH 44859
(419) 652-3540
Contact:
John Neighbors, Principal
Capacity: Approximately 250

Mapleton High School
County Road 620
Polk, OH 44861
(419) 945-2188
Contact:
Mr. Schneider, Principal
Capacity: Approximately 600

Citizens Against Pollution
Corner School House
Sullivan, OH 44880

APPENDIX D

LIST OF PERSONS CONTACTED FOR PREPARATION OF THE PUBLIC INVOLVEMENT PLAN

(for U.S. EPA and Ohio EPA use only)

Ashland County Board of Commissioners	(419) 289-0000
Court House	
West Second Street	
Ashland, OH 44805	
J. Myron Leininger	
Marilyn Byers	
C. Jay Welsh	
Troy Township Trustees	
Donald Biddinger	(419) 652-3463
Ralph Smith	(419) 652-3258
Richard Robertson	(419) 652-3361
Ohio Environmental Protection Agency	
P.O. Box 1049	
1800 WaterMark Drive	
Columbus, OH 43266-0149	
Linda Whitmore, Public Involvement Coordinator	(614) 644-2160
Public Interest Center	
Michael Greenberg, Public Information Specialist	(614) 644-2160
Public Interest Center	

Robert Babik, Environmental Engineer (614) 644-2949
Division of Solid and
Hazardous Waste Management

U.S. Environmental Protection Agency
Region V
230 South Dearborn Street
Chicago, IL 60604

Anne Rowan, Public Participation Coordinator/RCRA (312) 886-7857
Office of Public Affairs
Nancy Sullivan, Public Affairs Specialist/TSCA (312) 886-6687
Office of Public Affairs
Margaret McCue, RCRA Public Participation Manager (312) 886-6694
Office of Public Affairs
George Harper, Ohio Section Chief (312) 353-4789
RCRA Permit Branch
Wen Huang, Environmental Engineer (312) 886-6191
RCRA Permit Branch
Charles Slaustas, Supervisor (312) 886-6190
RCRA Permit Branch
Sheldon Simon, Regional PCB Coordinator (312) 886-6087
Pesticides and Toxic Substances Branch

Local Residents and Interested Individuals

Mike Stanfield
962 County Route 40
Nova, OH 44859
(419) 652-3133

Gladys Thomas
838 U.S. Highway 224
Nova, OH 44859
(419) 652-3818

Elaine Drotliff
836 Township Road 150
Nova, OH 44859
(419) 652-3122

Diana Schlaufman
946 Township Road 150
Nova, OH 44859
(419) 652-3862

David Schlaufman
946 Township Road 150
Nova, OH 44859
(419) 652-3862

Frank Rickett
402 Township Road 791
Sullivan, OH 44880
(419) 652-3238

Lois Kinter
Box 15
U.S. Highway 224 West
Nova, OH 44859
(419) 652-3892

Judith Casteel
7730 Firestone Road
Homerville, OH 44235
(419) 625-2141

Joanne Slorgie
129 Broadway Street
Lodi, OH 44254
(216) 948-2482

Linda Martz
Mansfield News-Journal
P.O. Box 25
40 West Fourth Street
Mansfield, OH 44901
(419) 522-3311

Vern Hurst
995 Township Road 150
Nova, OH 44859
(419) 652-3337

Tod Crumrine
173 State Route 511
Nova, OH 44859
(419) 652-3194

Bob Janca
12595 New London E Road
Homerville, OH 44235
(419) 648-2853

John Nethers, Ph.D.
Professor of History
Department of Social Sciences
Bixler Hall -- Ashland College
Ashland, OH 44805
(419) 289-5381

Anne Slorgie
129 Broadway Street
Lodi, OH 44254
(216) 948-2482

Phil Dague
210 Township Road 2150
Jeromesville, OH 44840
(419) 368-3281

Sue Grycza
Ashland Times-Gazette
40 East Second Street
Ashland, OH 44805
(419) 281-0581

Leroy J. Keim
Lodi, OH

David Yoder
Firestone Road
Homerville, OH

Ardith Jordan
Mary Beth Derekito
Mary Warner
Eli Troyer

APPENDIX J -- HAZARDOUS WASTE FACILITY PERMITTING PROCESS FACT SHEET (1996)

United States
Environmental Protection
Agency

Solid Waste
and Emergency Response
(5305W)

EPA530-F-96-007
June 1996

EPA

The Hazardous Waste Facility Permitting Process

What Are Hazardous Wastes?

Hazardous wastes can be liquids, solids, or sludges. They can be by-products of manufacturing processes or discarded commercial products. If hazardous wastes are not handled properly, they pose a potential hazard to people and the environment. To ensure that companies handle waste safely and responsibly, EPA has written regulations that track hazardous wastes from the moment they are produced until their ultimate disposal. The regulations set standards for the hazardous waste management facilities that treat, store, and dispose of hazardous wastes.

What Is a Hazardous Waste Management Facility?

Hazardous waste management facilities receive hazardous wastes for treatment, storage, or disposal. These facilities are often referred to as treatment, storage, and disposal facilities, or TSDFs.

- *Treatment* facilities use various processes (such as incineration or oxidation) to alter the character or composition of hazardous wastes. Some treatment processes enable waste to be recovered and reused in manufacturing settings, while other treatment processes dramatically reduce the amount of hazardous waste.
- *Storage* facilities temporarily hold hazardous wastes until they are treated or disposed of.
- *Disposal* facilities permanently contain hazardous wastes. The most common type of disposal facility is a landfill, where hazardous wastes are disposed of in carefully constructed units designed to protect ground-water and surface-water resources.

What Laws and Regulations Govern TSDFs?

EPA has written detailed regulations to make sure that TSDFs operate safely and protect people and the environment. EPA wrote these regulations to implement the Resource Conservation and Recovery Act (RCRA) of 1976 and the Hazardous and Solid Waste Amendments of 1984. The U.S. Congress passed these laws to address public concerns about the management of hazardous waste.

EPA can authorize states to carry out the RCRA program. To receive authorization, state requirements must be as strict, or stricter, than the federal requirements. Federal or state agencies that implement RCRA are known as "permitting agencies."

Printed on paper that contains at least 20 percent postconsumer fiber.

What Is a RCRA Permit?

A RCRA permit is a legally binding document that establishes the waste management activities that a facility can conduct and the conditions under which it can conduct them. The permit outlines facility design and operation, lays out safety standards, and describes activities that the facility must perform, such as monitoring and reporting. Permits typically require facilities to develop emergency plans, find insurance and financial backing, and train employees to handle hazards. Permits also can include facility-specific requirements such as groundwater monitoring. The permitting agency has the authority to issue or deny permits and is responsible for monitoring the facility to ensure that it is complying with the conditions in the permit. According to RCRA and its regulations, a TSDF cannot operate without a permit, with a few exceptions.

Who Needs a RCRA Permit?

All facilities that currently or plan to treat, store, or dispose of hazardous wastes must obtain a RCRA permit.

- *New TSDFs* must receive a permit before they even begin construction. They must prove that they can manage hazardous waste safely and responsibly. The permitting agency reviews the permit application and decides whether the facility is qualified to receive a RCRA permit. Once issued, a permit may last up to 10 years.
- *Operating TSDFs* with expiring permits must submit new permit applications six months before their existing permits run out.
- *TSDFs operating under Interim Status* must also apply for a permit. Congress granted "interim status" to facilities that already existed when RCRA was enacted. Interim status allows existing facilities to continue operating while their permit applications are being reviewed.

Who Does Not Need a RCRA Permit?

There are certain situations where a company is not required to obtain a RCRA a permit.

- *Businesses that generate hazardous waste* and transport it off site without storing it for long periods of time do not need a RCRA permit.
- *Businesses that transport hazardous waste* do not need a RCRA permit.
- *Businesses that store hazardous waste* for short periods of time without treating it do not need a permit.

What Are the Steps in the Permitting Process?

Step 1 *Starting the Process*

Before a business even submits a permit application, it must hold an informal meeting with the public. The business must announce the "preapplication" meeting by putting up a sign on or near the proposed facility property, running an advertisement on radio or television, and placing a display advertisement in a newspaper. At the meeting, the business explains the plans for the facility, including information about the proposed processes it will use and wastes it will handle. The public has the opportunity to ask questions and make suggestions. The business may choose to incorporate the public's suggestions into its application. The permitting agency uses the attendance list from the meeting to help set up a mailing list for the facility.

PUBLIC NOTICE

Step 2 *Applying for a Permit*

After considering input from the preapplication meeting, the business may decide to submit a permit application. Permit applications are often lengthy. They must include a description of the facility and address the following:

- How the facility will be designed, constructed, maintained, and operated to be protective of public health and the environment.
- How any emergencies and spills will be handled, should they occur.
- How the facility will clean up and finance any environmental contamination that occurs.
- How the facility will close and clean up once it is no longer operating.

FINAL REISSUED DENIE

Step 3 *Receipt and Review of the Application*

When the permitting agency receives a permit application, it sends a notice to everyone on the mailing list. The notice indicates that the agency has received the application and will make it available for public review. The permitting agency must then place a copy of the application in a public area for review.

Simultaneously, the permitting agency begins to review the application to make sure it contains all the information required by the regulations. The proposed design and operation of the facility are also evaluated by the permitting agency to determine if the facility can be built and operated safely.

Step 4 *Revisions, Revisions, Revisions*

After reviewing the application, the permitting agency may issue a Notice of Deficiency (NOD) to the applicant. NODs identify and request that the applicant provide any missing information. During the application review and revision process, the permitting agency may issue several NODs. Each time the permitting agency receives a response from the applicant, it reviews the information and, if necessary, issues another NOD until the application is complete. Given the complex and technical nature of the information, the review and revision process may take several years.

Step 5 *Drafting the Permit for Public Review*

When the revisions are complete, the agency makes a preliminary decision about whether to issue or deny the permit. If the agency decides that the application is complete and meets appropriate standards, the agency issues a draft permit containing the conditions under which the facility can operate if the permit receives final approval. If the permitting agency determines that an applicant cannot provide an application that meets the standards, the agency tentatively denies the permit and prepares a "notice of intent to deny."

The permitting agency announces its decision by sending a letter to everyone on the mailing list, placing a notice in a local paper, and broadcasting it over the radio. It also issues a fact sheet to explain the decision. Once the notice is issued, the public has 45 days to comment on the decision. Citizens also may request a public hearing by contacting the permitting agency. The permitting agency may also hold a hearing at its own discretion. The agency must give 30-day public notice before the hearing.

Step 6 *The End Result: A Final Permit Decision*

After carefully considering public comments, the permitting agency reconsiders the draft permit or the notice of intent to deny the permit. The agency must issue a "response to public comments," specifying any changes made to the draft permit. The agency then issues the final permit or denies the permit.

Even after issuing a permit, the permitting agency continues to monitor the construction and operation of the facility to make sure they are consistent with state and federal rules and with the application.

Several additional steps can also take place after the original permit is issued:

- ***Permit Appeals.*** Facility owners and the public both have a right to appeal the final permit decision. The appeal is usually decided upon by administrative law judges.
- ***Permit Modifications.*** If a facility changes its management procedures, mechanical operations, or the wastes it handles, then it must secure a permit modification. For modifications that significantly change facility operations, the public must receive early notice and have a chance to participate and comment. For minor modifications, the facility must notify the public within a week of making the change.
- ***Permit Renewals.*** The permitting agency can renew permits that are due to expire. Permit holders that are seeking a permit renewal must follow the same procedures as a facility seeking a new permit.
- ***Permit Terminations.*** If a facility violates the terms of its permit, the permitting agency can terminate the permit.

FINAL REISSUED DENIED

How Can the Public Participate?

Members of the public have valid concerns about hazardous waste management. They and other interested parties can contribute valuable information and ideas that improve the quality of both agency decisions and permit applications. EPA believes that public participation is a vital component of the permitting process. Accordingly, EPA has written regulations that create opportunities for the public to learn about RCRA activities and give input during the permitting process. The preapplication meeting, public comment and response periods, and public hearings are all instances where citizens can engage companies and regulators in a dialogue. Furthermore, EPA encourages permitting agencies, permit holders or applicants, and other interested parties to provide additional public participation activities where thev will be helpful.

EPA also realizes that some of the most important public participation activities happen outside the formal permitting process. Citizens can contact environmental, public interest, and civic and community groups that have an interest in the facility and become involved in their activities. The permit holder or applicant may also create informal opportunities for public input and dialogue.

The permitting process gives citizens a number of opportunities to express their ideas and concerns. Here are several steps you can take to ensure that your voice is heard:

- Know whom to call at the permitting agency. Early in the process, call the agency to determine the contact for the project. This person's name also should be on fact sheets and other printed materials.
- Ask to have your name put on the facility mailing list for notices, fact sheets, and other documents distributed by the agency.
- Do your own research by talking to local officials, contacting research or industry organizations, reading permitting agency materials, and interacting with interested groups in the community.
- Submit written comments that are clear, concise, and well documented. Remember that, by law, permitting agencies must consider all significant written comments submitted during a formal comment period.
- Participate in public hearings and other meetings. Provide testimony that supports your position. Remember that a public hearing is not required unless a citizen specifically requests one in writing.
- If any material needs further explanation, or if you need to clear up some details about the facility or the permitting process, request an informational meeting with the appropriate official. You also may want to call the facility to meet with the staff or to request a tour or other information.
- Follow the process closely. Watch for permitting agency decisions and review the agency's responses to public comments. Remember that citizens may have an opportunity to appeal agency decisions.
- Remember that your interest and input are important to the permitting agency.

In Conclusion

The permitting process for a hazardous waste management facility requires a significant amount of time and effort. Each participant plays a distinct and essential role. *Permit applicants* must carefully consider the RCRA regulations when developing and submitting their applications and planning public involvement activities. The *permitting agency* must review the permit application to ensure that it is complete, adequate, and protective of public health and the environment. The agency must also coordinate this review to ensure community involvement. The *public* should become familiar with the permitting process and participate in it so that community concerns are heard and acted upon. This coordination of efforts will help to ensure that the environment and citizens of the United States are protected by proper management of hazardous wastes.

For More Information

For more information, call the RCRA Hotline at 800 424-9346 or TDD 800 553-7672 (hearing impaired). In the Washington, DC, area, call 703 412-9810 or TDD 703 412-3323. You can request the documents *RCRA Public Participation Manual* or *RCRA Expanded Public Participation Rule* (brochure). You can also obtain contact people and phone numbers for your state or regional hazardous waste agency. Additional information can be found in Title 40 *Code of Federal Regulations*, Parts 124, 270, and 271.

The *RCRA Expanded Public Participation Rule* brochure and this fact sheet are accessible on the Internet. Go to either *gopher.epa.gov* or *http://www.epa.gov*, and then Offices and Regions, Office of Solid Waste and Emergency Response, Office of Solid Waste.

APPENDIX K -- RCRA EXPANDED PUBLIC PARTICIPATION RULE (1995) AND BROCHURE

530-Z-95-012

Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with Global Positioning System (GPS) equipment. In consideration of the above, the applicable Standard Instrument Approach Procedures (SIAPs) will be altered to include "or GPS" in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS procedure is developed, the procedure title will be altered to remove "or GPS" from these non-localizer, non-precision instrument approach procedure titles.) Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on December 1, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.27 NDB, NDB/DME; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

****Effective JAN 04, 1996*

Madera, CA Madera Muni, VOR or GPS RWY 30, Amdt 9 CANCELLED
Madera, CA Madera Muni, VOR RWY 30, Amdt 9
Webster City, IA, Webster City Muni, NDB or GPS RWY 32, Amdt 7 CANCELLED
Webster City, IA, Webster City Muni, NDB RWY 32, Amdt 8
Augusta, KS, Augusta Muni, VOR/DME RNAV or GPS RWY 36, Orig-A CANCELLED
Augusta, KS, Augusta Muni, VOR/DME RNAV RWY 36, Orig-A
Olathe, KS, Johnson County Executive, VOR or GPS RWY 35, Amdt 10 CANCELLED
Olathe, KS, Johnson County Executive, VOR RWY 35, Amdt 10
Eastport, ME, Eastport Muni, NDB or GPS RWY 15, Orig CANCELLED
Eastport, ME, Eastport Muni, NDB RWY 15, Orig
Harrisonville, MO, Lawrence Smith Memorial, VOR/DME or GPS RWY 35, Orig CANCELLED
Harrisonville, MO, Lawrence Smith Memorial, VOR/DME RWY 35, Orig
Omaha, NE, Millard, VOR/DME RNAV or GPS RWY 12, Amdt 6 CANCELLED
Omaha, NE, Millard, VOR/DME RNAV RWY 12, Amdt 6
Sidney, NE, Sidney Muni, VOR/DME OR TACAN or GPS RWY 30 Amdt 4 CANCELLED
Sidney, NE, Sidney Muni, VOR/DME OR TACAN RWY 30 Amdt 4
Clinton, OK, Clinton-Sherman, NDB or GPS RWY 17R, Amdt 10 CANCELLED
Clinton, OK, Clinton-Sherman, NDB RWY 17R, Amdt 10
Pauls Valley, OK, Pauls Valley Muni, NDB or GPS RWY 35, Amdt 2 CANCELLED
Pauls Valley, OK, Pauls Valley Muni, NDB RWY 35, Amdt 3
Gainesville, TX, Gainesville Muni, NDB or GPS RWY 17, Amdt 8 CANCELLED
Gainesville, TX, Gainesville Muni, NDB RWY 17, Amdt 8

[FR Doc. 95-30098 Filed 12-8-95; 8:45 am]

BILLING CODE 4910-33-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 124 and 270

[FRL-5319-4 RIN 2050-AD97]

RCRA Expanded Public Participation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is issuing new regulations under the Resource Conservation and Recovery Act (RCRA). The new regulations will improve the process for permitting facilities that store, treat, or dispose of hazardous wastes by providing earlier opportunities for public involvement in the process and expanding public access to information throughout the permitting process and the operational lives of facilities.

EFFECTIVE DATE: June 11, 1996.

ADDRESSES: Supporting materials are available for viewing in the RCRA Information Center (RIC) located at 1235 Jefferson Davis Highway, Arlington VA. The Docket Identification Number is F-95-PPCF-FFFFF (the docket number for the proposed rule is F-94-PPCP-FFFFF). The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, the public must make an appointment by calling (703) 603-9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $.15/page. The index and some supporting materials are available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 1-800-424-9346 or TDD 1-800-553-7672 (hearing impaired). In the Washington metropolitan area, call 703-412-9810 or TDD 703-412-3323.

For more detailed information on specific aspects of this rulemaking, contact Patricia Buzzell, Office of Solid Waste (5303W), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (703) 308-8632, email address buzzell.tricia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Internet Access

An abstract and fact sheet on this rule are available on the Internet. Follow these instructions to access the information electronically:

Gopher: gopher.epa.gov
WWW: http://www.epa.gov

Dial-up: (919) 558–0335.

From the main EPA Gopher menu, select: EPA Offices and Regions/Office of Solid Waste and Emergency Response (OSWER)/Office of Solid Waste (RCRA)/ Hazardous Waste/Permits and Permitting.

FTP: ftp.epa.gov
Login: anonymous
Password: Your Internet address

Files are located in /pub/gopher/OSWRCRA

Preamble Outline

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B. Shortcomings of the Current Program
C. How Today's Rule will Improve the Program
D. The Rule: From Proposal to Final
III. Applicability of Today's Rule
IV. Review of Public Comments, Responses, and Changes from the Proposed Rule
A. Equitable Public Participation and Environmental Justice
B. Pre-Application Meeting and Notice
C. Notice at Application Submittal
D. Information Repository
E. Trial Burn Notices
V. State Authority
A. Applicability of Today's Rule in Authorized States
B. Schedules and Requirements for Authorization
VI. Permits Improvement Team
VII. Regulatory Assessment Requirements
A. Executive Order 12866
B. Regulatory Flexibility Act
C. Paperwork Reduction Act
D. Unfunded Mandates Reform Act
E. Enhancing the Intergovernmental Partnership

I. Statutory Authority

EPA is issuing these regulations under the authority of sections 2002, 3004, 3005 and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA).

II. Background

A. Overview of the RCRA Permitting Program

In RCRA, Congress gave EPA the authority to write regulations, or "rules," to govern, among other things, the permitting of hazardous waste management facilities. EPA is issuing today's regulations to enhance public participation in the hazardous waste facility permitting process.

Under RCRA, EPA is responsible for regulating the "cradle to grave" management of hazardous wastes. Hazardous wastes come in many shapes and forms. They may be liquids, solids, or sludges. They may be the by-products of manufacturing processes, or simply commercial products—such as household cleaning fluids or battery acid—that have been discarded. EPA determines if wastes are hazardous by judging, among other things, the characteristics of the wastes and their potential to cause harm to human health and the environment when not properly managed. RCRA regulations identify hazardous wastes based on their characteristics and also provide a list of specific hazardous wastes (refer to 40 CFR 261 for more information). To manage hazardous waste in an environmentally sound manner, companies often need to store it, treat it (for instance, by burning it or mixing it with stabilizing chemicals), and/or dispose of it into specially built landfills. In most cases, a business that stores, treats, or disposes of hazardous waste, needs a permit under RCRA.

Section 3004 of RCRA requires owners and operators of facilities that treat, store, or dispose of hazardous wastes to comply with standards that are "necessary to protect human health and the environment." EPA or EPA-authorized States implement these standards by issuing RCRA permits to facilities that treat, store, or dispose of hazardous wastes. In some circumstances, existing facilities may continue to operate without a full RCRA permit under the "interim status" provision of RCRA § 3005(e). In RCRA, Congress gave EPA broad authority to provide for public participation in the RCRA permitting process. Section 7004(b) of RCRA requires EPA to provide for, encourage, and assist public participation in the development, revision, implementation, and enforcement of any regulation, guideline, information, or program under the Act.

Under RCRA section 3006, States may seek EPA authorization to administer and enforce the RCRA program in lieu of EPA. Once a State adopts today's rule and receives EPA authorization for the rule, the State will become the primary implementor of the rule (see Section V. below for more information). In today's preamble, we refer to the primary implementing agency for this rule as "the permitting agency" or "the agency." "The Director" refers to the head of the primary implementing agency. We refer to EPA as "EPA" or "the Agency."

B. Shortcomings of the Current Program

Many stakeholders have expressed the concern that the current RCRA permitting process does not involve the public at an early stage in the process, does not provide adequate information, and does not provide an equitable opportunity to participate. EPA is responding to these concerns in today's rule. In fact, EPA has emphasized the need for more public involvement in all its activities. The Agency's Hazardous Waste Minimization and Combustion Strategy calls for the development of mechanisms to ensure that local communities are fully informed about the RCRA decision-making process and have an opportunity to participate in that process. Recommendations from the National Performance Review, the RCRA Implementation Study, and the Permits Improvement Team have all emphasized the need for expanded public participation in permitting. A number of sources outside the Agency (e.g., environmental groups, and business trade associations) have also supported enhanced public participation.

C. How Today's Rule Will Improve the Program

Today's final rule will require a prospective applicant to hold an informal public meeting before submitting an application for a RCRA permit. Also, the regulations will require the applicant to advertise the meeting in the newspaper, through a broadcast announcement (e.g., by radio or television), and on a sign posted at or near the property. This meeting will provide a chance for the community to interact with and provide input to a facility owner or operator before the owner or operator submits a permit application. The rule also directs the permitting agency to mail a notice to interested people when the facility submits its application. The notice will tell members of the public where they can examine the application at the same time that the agency reviews it.

In some cases, RCRA permits can be the subject of intense debate. When permits raise a lot of public interest, the public's demand for information increases. Today's rule will give the permitting agency the authority to require a facility owner or operator to set up an information repository at any time during the permitting process or the permit life. We anticipate that agencies will use this authority only in those permitting cases that raise a lot of public interest, or in other cases where the public needs more access to information. The repository will hold all information and documents that the permitting agency decides are necessary to fulfill the purposes for which the repository was established. Finally, today's rule will require combustion facilities (i.e., incinerators and other

facilities that burn hazardous wastes) to notify the public before they hold a trial burn.[1]

EPA anticipates that these regulations will provide an opportunity for the public to participate earlier in the permitting process. In addition, the rule will give the public increased access to facility and permitting information. Finally, we hope that the rule will help people become involved in the permitting process and increase understanding of hazardous waste management facilities.

D. The Rule: From Proposal to Final

EPA proposed the RCRA Expanded Public Participation and Revisions to Combustion Permitting Procedures rule on June 2, 1994 (59 FR 28680–28711). The proposed rule contained changes and additions to the RCRA public participation regulations (40 CFR 124) and RCRA Subtitle C permitting regulations (40 CFR 270).

Today, EPA is finalizing the public participation portion of the proposal (with a number of changes in response to comments received by the Agency during the comment period for the proposed rule—see Section IV below), which includes changes to both Parts 124 and 270. The Agency is not finalizing the proposed revisions to combustion permitting procedures at this time.

EPA decided to separate the two portions for a number of reasons. First, the public comments on the proposed rule were more favorable towards the public participation changes. On the other hand, the commenters were less satisfied with the proposed combustion permitting changes, particularly those changes regarding the trial burn. The Agency is currently considering and addressing the commenters' concerns on the proposed combustion permitting changes. In the meantime, EPA sees no reason to delay the important changes to the public participation provisions.

Moreover, EPA is committed to issuing comprehensive emissions standards for combustion facilities under RCRA and the Clean Air Act. The Agency anticipates issuing a proposed rule on these standards in the fall of 1995. Due to potential overlap between the procedures in the emissions standards proposed rule and the combustion permitting procedures in the June 2, 1994 proposed rule, EPA has decided to take more time to consider the permitting provisions in the June 2 proposal. We intend to find the best possible solution to coordinate these two rulemakings.

Finally, EPA realized that the proposed rule may have caused some confusion. A few commenters pointed to the different character of the public participation changes and the combustion permitting changes. The commenters expressed concern over combining these two dissimilar portions in the same rule. Moreover, a number of commenters seemed to be confused over the applicability of the rule. In particular, since the combustion permitting provisions would apply only to combustion facilities, and the proposed rule was an outgrowth of the Combustion Strategy, a number of commenters seemed confused over the applicability of the public participation procedures to all RCRA TSDFs.

III. Applicability of Today's Rule

Today's rule promulgates changes and additions to Parts 124 and 270 in the Code of Federal Regulations (CFR). The Part 124 changes, which include new and earlier public involvement steps and procedures, apply to every facility that has or is seeking a RCRA subtitle C permit to treat, store, or dispose of hazardous waste, unless exempted under a specific section. The changes to Part 270, in §§ 270.2, 270.14, and 270.30, also apply to every facility. The changes to §§ 270.62 and 270.66, however, apply only to combustion facilities.

The rule does not require RCRA facilities that are already involved in the permitting process to step back in the process to comply with the new requirements. Instead, the rule will apply to a facility according to what stage of the process the facility is in when the rule becomes effective. For instance, if a facility has submitted its part B permit application before the effective date of this rule, then the rule does not require the facility to hold a pre-application meeting under § 124.31. This facility would, however, have to comply with all requirements relating to steps in the permitting process that it has not yet undertaken.

IV. Review of Public Comments, Responses, and Changes From the Proposed Rule

The following (IV. A through E) is a section-by-section summary of the most significant comments on the proposed rule, EPA's responses to those comments, and an explanation of any changes from the proposed rule to the final. All of the public comments and EPA's comprehensive response to comments document on this rulemaking are available through the RCRA Docket (see the paragraph entitled ADDRESSES, above).

The most significant changes in the final rule involve our decision to use guidance, instead of rule language, to encourage facilities to strive toward some of the important goals in the proposed rule. EPA recognized in the proposal that some of the proposed regulatory provisions were very general and requested comment on how they could be effectively implemented (see, e.g., 59 FR 28702). In response, commenters argued that several portions of the proposed regulatory language were vague and would spawn disputes, controversy, and litigation. The commenters suggested that EPA relocate some of the proposed regulatory text to the preamble as guidance.

EPA found these comments persuasive in certain instances. The development of today's rule has, from the start, involved a balance between promoting broader, more equitable public participation while maintaining the flexibility for individual permit writers, facilities, and communities to adopt the most appropriate, site-specific approach consistent with the principles of fairness and openness. Some of the principles underlying the proposed and final rules are inherently difficult to prescribe through regulation. For example, it is possible to require an applicant to hold a meeting; it is much more difficult to require through regulation that the meeting be conducted in an equitable fashion, since the steps required to accomplish this objective will necessarily vary from situation to situation. Although the final rule retains most of the proposed regulatory changes, EPA concluded that, in certain instances, the need to maintain flexibility is inconsistent with a national regulatory approach. In these instances, as explained more fully in the sections below, EPA has decided to proceed by using guidance, rather than regulations, to encourage facilities to adopt and strive towards a number of the goals in the proposed rule. The Agency will provide some guidance in today's preamble; however, we also anticipate releasing a guidance document, in the near future, to help permitting agencies and facilities to implement today's rule.

The Agency believes that facility owners, State environmental agencies, tribes, and private citizens are often in the best position to determine what modes of communication and

[1] The owner or operator of a combustion unit must conduct a trial burn as part of the permitting process for a combustion unit. The trial burn is a demonstration period held by the owner or operator of a combustion unit to test the unit's ability to meet the regulatory performance standards for treatment of hazardous wastes. The permitting agency uses the results of the trial burn to establish operating conditions in the RCRA permit.

participation will work best in their communities. The final rule provides the flexibility necessary to find the best local solutions to ensure equal opportunities for all members of the community.

A. Equitable Public Participation and Environmental Justice

Proposed § 124.30 and Preamble. In section 124.30 of the proposed rule, entitled "Equitable Public Participation," EPA proposed to require facilities and permitting agencies to "make all reasonable efforts" to ensure equal opportunity for the public to participate in the permitting process. The proposed rule language defined "reasonable efforts" as including the use of multilingual fact sheets and interpreters at meetings and hearings, when the "affected community contains a significant non-English speaking population."

In the preamble to the proposed rule (see 59 FR 28686), EPA solicited comments on several key environmental justice issues for the RCRA permitting program: (1) The siting of hazardous waste facilities; (2) the manner in which EPA should respond when confronted with a challenge to a RCRA permit based on environmental justice issues; (3) environmental justice concerns in corrective action cleanups; and (4) how EPA programs can take account of "cumulative risk" and "cumulative effects" associated with the siting of a hazardous waste management facility. The Agency noted that, while it did not expect to address these issues in this rulemaking, public input on these topics would be helpful.

Synopsis of Major Comments on § 124.30 and Preamble. The major comments on this section of the proposal involved definitions. Commenters asked the Agency to define many of the terms in § 124.30, including "all reasonable efforts," "significant," "non-English speaking" and "affected community." The commenters were concerned about the disputes, controversy, and litigation that could arise from these undefined terms. Other commenters supported the concept of equitable public participation, particularly as an approach to addressing any environmental justice concerns that might be present.

The Agency received a number of comments supporting expanded public participation as an effective approach to addressing environmental justice issues. Commenters stated that additional opportunities for public involvement and access to information will increase the probability that all communities will have input into the permitting process, and should strengthen involvement of those who have felt disenfranchised from the process. Some commenters urged EPA to avoid a one-size-fits-all approach and allow flexibility for State, local, and facility leadership to make suitable determinations about how to address environmental justice issues.

EPA's Response to Commenters. EPA is committed to the principles of equitable public participation and equal treatment of all people under our environmental statutes and regulations. The regulatory changes we are making today will enhance the RCRA public participation process for all citizens. We urge all permitting agencies, permit holders, and applicants, to make all reasonable efforts to provide equal access to information and participation in the RCRA permitting process.

While we continue to promote equitable public participation, we have decided to address the objectives of § 124.30 in guidance rather than through regulatory language. In response to the concerns expressed by many commenters, we are not including § 124.30 in the final rule. The Agency agrees with the commenters who expressed concern that the language in the proposal was ambiguous, making compliance with the requirements difficult to evaluate and enforce, and could engender disputes and litigation without advancing the objectives of today's rulemaking.

As we noted earlier, EPA continues to support the principles embodied in § 124.30 of the proposed rule. We encourage permitting agencies and facilities to follow the spirit of that section and use all reasonable means to ensure that all segments of the population have an equal opportunity to participate in the permitting process and have equal access to information in the process. These means may include, but are not limited to, multilingual notices and fact sheets, as well as translators, in areas where the affected community contains significant numbers of people who do not speak English as a first language.

In lieu of a regulation, the Agency will take additional steps to encourage equitable public participation in RCRA permitting. In the near future, EPA will issue further guidance to assist facilities, permitting agencies, and communities in implementing the expanded public participation requirements in today's rule. In this guidance document, EPA plans to discuss additional options for increasing public participation by going beyond the regulatory requirements. The guidance document will address, in more detail, the approaches to equitable public participation that we are emphasizing in this preamble.

EPA believes that this rule presents significant opportunities to be responsive to environmental justice concerns in the context of public involvement. Prior to the promulgation of today's rule, the permitting process did not formally involve the public until the permitting agency issued a draft permit or an intent to deny a permit. In many cases, communities around RCRA facilities felt that the draft permit stage was too late to enter the process, that the facility and the permitting agency had already made all the major decisions by that point, and any comments the public offered would have no real effect. Insufficient opportunity for communities to become involved in environmental decision-making is a contributing factor to environmental justice concerns. The provisions in today's rule will address many of these concerns by expanding public participation and access to permitting information.

EPA continues to see public participation as an important activity that empowers communities to become actively involved in local waste management activities. The Agency believes that this rulemaking is an important step in empowering all communities, including communities of color and low-income communities.

EPA agrees with the commenters who stated that the expanded public participation requirements in today's rule will be useful tools for addressing environmental justice concerns. Today's rule provides all communities with a greater voice in decision making and a stronger opportunity to influence permit decisions early in the process. EPA also agrees with the commenters who stated that environmental justice issues should be addressed at a local level and on a site-specific basis. Local agencies and leaders have an important role to play in addressing environmental justice concerns. States and EPA Regional offices are the principal implementors of the RCRA permitting program, and have been directed to develop mechanisms that respond effectively to environmental justice concerns during permitting activities (RCRA Implementation Plan (RIP), 1995). In the RIP, EPA asked RCRA implementing agencies to continue their commitment to seek opportunities to address patterns of disproportionately high and adverse environmental effects and human health impacts on low-income communities and communities of color that may result from hazardous waste management activities. The States and Regions have been involved in

environmental justice pilot projects, which have included, among other activities, increasing public involvement by tailoring outreach activities to affected communities.

EPA and its Office of Solid Waste and Emergency Response (OSWER) also remain committed to addressing environmental justice concerns beyond those related to public participation. The preamble to the proposed rule (see 59 FR 28686) discussed OSWER's environmental justice efforts. Elliott P. Laws, OSWER Assistant Administrator, formed the OSWER Environmental Justice Task Force ("EJ Task Force") to begin addressing many of these issues. EPA released the "OSWER Environmental Justice Task Force Draft Final Report" (OSWER 9200.3–16 Draft) and its separate executive summary (OSWER 9200.3–16–1 Draft) on April 25, 1994. Since that time, the EPA Regional offices and the OSWER program offices have been implementing the recommendations outlined in the EJ Task Force's draft final report. The report was distributed to the National Environmental Justice Advisory Council (NEJAC) for comment. In June 1995, after careful consideration of all comments, EPA released the "OSWER Environmental Justice Action Agenda." The Action Agenda provides a concise summary of OSWER's current strategy and describes the implementation process for ensuring that major issues, identified by the NEJAC and others, continue to be recognized and addressed. A full report on implementation progress and accomplishments, entitled "Waste Programs Environmental Justice Accomplishments Report," was released concurrently with the Action Agenda. All of these documents are "living documents" and, as such, are a part of the process of continuously addressing environmental justice concerns. This process represents OSWER's commitment to adhere to the principles of Executive Order 12898, in which the President directed federal agencies to identify and address the environmental concerns and issues of minority and low-income communities. Furthermore, in an effort to make environmental justice an integral part of the way we do business, the Agency issued a policy directive, in September 1994 (OSWER 9200.3–17), that requires all future OSWER policy and guidance documents to consider environmental justice issues.

During the public comment period on the proposed rule, EPA received a large number of comments on preliminary recommendations that the EJ Task Force had developed regarding several other (i.e., beyond today's public involvement rule) key environmental justice issues facing the RCRA permitting program. The comments ranged from general observations to more detailed suggestions, particularly with regard to siting criteria, cumulative risk assessments, and the need to base decisions on sound science.

We are disseminating the comments that deal with these environmental justice issues in the following manner: (1) We are forwarding the comments on RCRA facility siting to the Office of Solid Waste's (OSW) RCRA Siting Workgroup and to the NEJAC's Waste and Facility Siting Subcommittee's Siting Workgroup; (2) we are forwarding the comments on issues affecting RCRA corrective action to the RCRA Subpart S Workgroup, which is developing a rule to establish corrective action requirements for releases of hazardous wastes or hazardous waste constituents to any environmental medium, including ground water, from any solid waste management unit, including regulated units; (3) we are sharing the comments on cumulative risk, multiple exposure, and synergistic effects with the EPA Science Policy Council, the group actively working to address these issues; and (4) the comments on how EPA should respond to RCRA permit challenges based on environmental justice issues are being addressed by OSWER with assistance from the Office of General Counsel, Office of Civil Rights, and any other appropriate party.

EPA also received several comments that did not approve of the Agency's decision to discuss and solicit comments on the more technical environmental justice issues in the context of a RCRA public involvement rule. Many commenters argued that these issues are broad, far-reaching, and impact a much larger constituency than the intended audience for the public participation rulemaking.

EPA acknowledges the breadth of these issues. The preamble to the proposed rule has not been the only forum for discussing these issues. As we discussed above, EPA has received and considered comments from additional stakeholders, including States, the NEJAC, environmental groups, environmental justice groups, and regulated industries in developing the "OSWER Environmental Justice Action Agenda." Furthermore, since the Action Agenda is a living document, OSWER will continue to seek external comments, suggestions and experiences as we strive to ensure environmental justice in all our programs.

B. Pre-Application Meeting and Notice

1. Applicability (Proposed § 124.31(d)). EPA proposed to exempt permit modifications, permit renewals, and permit applications submitted for the sole purpose of conducting post-closure activities from the requirements in § 124.31.

Synopsis of Major Comments on § 124.31(d). A number of commenters stated that the rule should require facilities seeking permit renewals to hold a pre-application meeting. Other commenters recommended that the pre-application meeting requirements apply to facilities making significant changes during the renewal process, or that the permitting agency should have discretion in applying the requirement to renewals. Opposing these commenters, several commenters supported the requirement as proposed and urged EPA to keep the exemption for renewals since many renewal applications simply continue "business as usual." In these cases, said the commenters, the community will have adequate opportunity to participate in the renewal process; for instance, at the draft permit stage.

EPA's Response to Commenters. EPA has decided to expand § 124.31 to cover facilities that make a significant change at permit renewal. For the purposes of § 124.31, a "significant" change in facility operations is a change that is equivalent to a class 3 modification in § 270.42, e.g., operating conditions change significantly.

The Agency believes that this approach is a common sense compromise that will ensure adequate public participation in the necessary cases. At the same time, the regulated community will have the assurance that facilities undergoing minor changes will be spared unnecessary administrative burden.

EPA will continue the exemption for facilities that submit permits for the purpose of conducting post-closure activities. As we stated in the proposed rule, the goals of the pre-application meeting (e.g., establishing an early dialogue between the facility and the public) do not apply at most post-closure facilities. EPA's experience is that the public has usually been concerned with permit decisions relating to active hazardous waste management operations, as opposed to decisions relating to closed facilities. In addition, most post-closure activities are mandatory (e.g., maintenance of a closed unit) and involve fewer discretionary judgments than are involved in issuing an operating permit. The existing public participation

requirements in Part 124 (e.g., the notice and comment period at the draft permit stage) will continue to apply. Since closure and post-closure plans are included in the permit application, and become part of the permit, they will be available for public review and comment along with the application and the draft permit. Any changes to these plans after permit issuance will follow the modification procedures in § 270.42; which also have public notice requirements. We think that the existing process provides sufficient public involvement in post-closure permitting.

While we are retaining the exemption for post-closure permit applications in the final rule, we have tried to clarify our intent in the applicability requirements. Specifically, we have clarified that the exemption applies to facilities seeking permits solely to conduct post-closure activities, as well as to facilities seeking permits to conduct post-closure activities along with corrective action. Our intent in the proposal, which remains our intent in the final rule, was to distinguish post-closure facilities from facilities with operating units. However, someone could have read the proposed rule as not providing an exemption for post-closure facilities with remaining corrective action obligations (which post-closure facilities often have). Because the rationale for exempting post-closure activities applies whether or not the facility is also performing corrective action, EPA has added language to §§ 124.31(a) and 124.33(a) to clarify our intent.

2. Meeting Requirements (Proposed § 124.31(a)–(b)). In these two paragraphs, EPA proposed to require the permit applicant to hold at least one meeting with the public before submitting the part B permit application. The proposed rule listed topics that the applicant must cover and required the applicant to submit a record of the meeting and a list of attendees.

Synopsis of the Major Comments on § 124.31(a)–(b). The commenters generally expressed support for the pre-application meeting. Few commenters opposed EPA's proposal to have a meeting early in the process, though many suggested changes to the proposed rule itself.

Several commenters thought that the pre-application stage is too early for a public meeting. Some commenters stated that neither the applicant nor the agency could provide the public with accurate and complete information about the facility at such an early stage. Moreover, they noted, the application could change dramatically between the pre-application meeting and application submittal.

Some commenters asked EPA to clarify the record-keeping requirements in the final rule. A number of commenters opposed the requirement, with some commenters opposing the term "record" because it would qualify the meeting summary as an official document and make it subject to litigation. Other commenters opposed the rule's requirement that the applicant submit the record as a component of the part B permit application.

Concerning whether the permitting agency should conduct, or even attend, the meeting, the comments varied. Some commenters supported agency attendance because the agency would provide the meeting with credibility and a source of accurate information. Other commenters expressed concern that agency attendance would interfere with the "open and informal dialogue" between the facility owner and the public.

Finally, many commenters supported alternatives to the pre-application meeting. Numerous commenters backed the idea of combining pre-application meetings with the siting meetings that many States already require. A few commenters noted that EPA should allow such a combination only where the State meeting fulfills all the requirements of the pre-application meeting. Another group of commenters supported other options, such as using an Intent-to-Submit form in place of the meeting or holding the meeting after application submittal.

EPA's Response to Commenters. Section 124.31(b) of the final rule requires the facility to hold a meeting prior to submitting the part B permit application; however, the rule language no longer lists specific topics that the facility must cover in the meeting, requiring instead that the facility solicit questions from the community and inform the community about proposed hazardous waste management activities. After the meeting, the facility must prepare a "summary" of the meeting and submit it as a component of the part B permit application. The agency should use its judgement in deciding whether to attend the meeting.

EPA disagrees with the commenters who stated that the pre-application stage is too early to hold a meeting with the public. The most important goal we hope to achieve from the pre-application meeting requirement is the opening of a dialogue between the permit applicant and the community. We believe that the applicant should open this dialogue at the beginning of the process. The meeting will give the public direct input to facility owners or operators; at the same time, facility owners or operators can gain an understanding of public expectations and attempt to address public concerns in their permit applications (see the discussion two paragraphs below). We hope that this requirement will help address the public concern that public involvement occurs too late in the RCRA permitting process. Although the Agency agrees with the commenters that the early timing of the meeting may prevent the agency and the applicant from having complete information, we believe that the benefits of early public involvement and early access to information outweigh the drawbacks of incomplete information.

In any case, EPA does not intend for the pre-application meeting to be a forum for examining technical aspects of the permit application in extensive detail; such technical examination is more suited to the draft permit stage. Instead, the pre-application meeting should provide an open, flexible, and informal occasion for the applicant and the public to discuss various aspects of a hazardous waste management facility's operations. We anticipate that the applicant and the public will share ideas, educate each other, and start building the framework for a solid working relationship. Of course, the public retains the opportunity to submit comments throughout the process.

EPA has also revised the pre-application meeting requirements in the final rule to make them more straightforward and more flexible than the requirements in the proposed rule. The Agency is trying to provide flexibility in the way that permit applicants hold pre-application meetings. To this end, we have removed the list of required discussion topics, proposed in § 124.31(a). In addition, we have removed from the rule provisions that the commenters considered vague, including the requirement that the applicant describe the facility "in sufficient detail to allow the community to understand the nature of the operations to be conducted at the facility and the implications for human health and the environment." We agree with commenters that such a requirement would be difficult to implement and enforce.

While we have removed such requirements from the final rule, we expect permit applicants to follow the spirit of the proposed requirements. For instance, we encourage permit applicants to address, at the level of detail that is practical at the time of the meeting, the topics we identified in § 124.31(a) of the proposed rule: the

type of facility, the location, the general processes involved, the types of wastes generated and managed, and implementation of waste minimization and pollution control measures. The discussions may also include such topics as the transportation routes to be used by waste transporters and planned procedures and equipment for preventing or responding to accidents or releases. These are examples of the types of issues that might be of particular concern to a community and about which the community might be able to provide useful suggestions to the applicant. The applicant might then be able to incorporate that information into the proposed facility design or operations, either as part of the initial application, if time allows, or at subsequent stages in the process (e.g., in submitting revisions to its application, or in responding to a Notice of Deficiency issued by the permitting agency). By learning about and addressing public concerns up front, the applicant may be able to prevent misunderstanding from escalating into community opposition.

Moreover, the applicant should make a good faith effort to provide the public with sufficient information about the proposed facility operations. While we do not expect applicants to go into extensive detail at the pre-application stage, they should provide the public with enough information to understand the facility operations and the potential impacts on human health and the environment. In addition, as we emphasized in the preamble to the proposed rule (59 FR 28691), the permit applicant should encourage full and equitable public participation by selecting a meeting date, time, and place that are convenient to the public.

The final rule requires the applicant to submit a "summary" of the pre-application meeting as a component of the part B permit application. EPA shares the concern of several commenters that "the record" could be subject to litigation, for instance, on the basis of inaccuracy. EPA's intent in this rule is to foster communication and mutual understanding, not to create divisiveness and additional points of dispute in the permitting process. Thus, we have deleted the word "record" and replaced it with "summary" in the final rule. We do not intend for the meeting summary to be a verbatim account of the meeting; the Agency is aware of how difficult it is to keep a word-for-word record of a public meeting. Applicants should make a good faith effort to provide an accurate summary of the meeting and a list of all attendees who wish to identify themselves (see § 124.31(b) of the final rule).

In accordance with our intent in the proposed rule, we are requiring the permit applicant, in the final rule, to submit the summary as a component of the part B permit application. Since the part B application is available for review by the public, requiring the meeting summary to be part of the application assures that people who are unable to attend the meeting will have an opportunity to learn what transpired at the meeting. In the proposed rule, however, the Agency neglected to add the summary to the list of part B requirements in § 270.14(b). We have added this reference in the final rule.

The pre-application meeting summary will be useful to the permitting agency. The summary will alert the agency to important community concerns, areas of potential conflict, and other issues that may be relevant to agency permitting decisions. In addition, the meeting attendee list will help generate a mailing list of interested citizens. (The permitting agency is responsible for developing a representative mailing list for public notices under § 124.10). The list of attendees from the pre-application meeting will assist the permitting agency in identifying people or organizations to include on the mailing list so that it represents everyone who demonstrates an interest in the facility and the permit process. It has been EPA's experience that mailing lists often are not fully developed until the permitting agency issues the draft permit for public comment. Since EPA seeks to increase public participation earlier in the process, generation of a mailing list should precede such activities. A mailing list developed pursuant to § 124.10 could also be available to enhance public participation in other Agency or community-based initiatives.

The actual timing of the meeting is flexible in the final rule. The Agency believes that flexibility is necessary because the optimal timing for the meeting will vary depending on a number of factors, including the nature of the facility and the public's familiarity with the proposed project and its owner/operator.

In today's rule, we require the facility to conduct the pre-application meeting. We believe that the applicant should conduct the meeting in an effort to establish a dialogue with the community. We encourage permitting agencies to attend pre-application meetings, in appropriate circumstances, but the agency should not run the pre-application meeting. Although agency attendance may, at times, be useful in gaining a better understanding of public perceptions and issues for a particular facility, it may undercut some of the main purposes of the meeting, such as opening a dialogue between the facility and the community, and clarifying for the public the role of the applicant in the permitting process.

In the proposed rule, EPA solicited comments (see 59 FR 28702) on the option of allowing a State siting meeting to substitute for the pre-application meeting. EPA is not including this option in the final rule, because doing so would defeat some of the purposes of the pre-application meeting (e.g., establishing an open dialogue on a range of RCRA permitting issues that may differ from siting issues). Some commenters suggested that siting meetings and pre-application meetings be combined. There is nothing in today's rule to preclude States and permit applicants from working together to combine these meetings. EPA encourages them to do so, provided that the combined meetings fulfill the pre-application meeting requirements in today's rule.

3. Notice of the Pre-Application Meeting (§ 124.31(c)). Paragraph (c) of proposed § 124.31 required the facility to give notice of the pre-application meeting at least 30 days prior to the meeting "in a manner that is likely to reach all affected members of the community." EPA proposed to require the facility to give the notice in three ways: as a display advertisement in a newspaper of general circulation; as a clearly-marked sign on the facility property; and as a radio broadcast. Each of these notices had to include the date, time and location of the meeting, a brief description of the purpose, a brief description of the facility, and a statement asking people who need special access to notify the applicant in advance.

Synopsis of the Major Comments on § 124.31(c). Most commenters expressed general support for the expanded notice requirements, but questioned specific aspects of the proposal. The commenters also asked for flexibility in choosing the types of notice that would best reach different communities.

The newspaper advertisement requirement brought up the most controversy. Some commenters challenged as vague the provision that the facility publish the notice in the local paper and also in papers of adjacent counties.

A number of commenters pointed out problems with requiring a large sign at the facility. Some commenters mentioned that nobody would pass near enough to some rural facilities to see the

sign. Other commenters reminded EPA that some communities have ordinances that ban large signs. The commenters urged that the rule be more flexible and allow applicants to place signs at nearby intersections or on town bulletin boards. Other commenters recommended that the agency approve the sign or grant waivers where communities ban signs.

The commenters did not express many objections to the radio requirement, but asked for overall flexibility in the notice requirements.

EPA's Response to Commenters. In response to these comments, EPA has enhanced the flexibility of the final rule. Instead of requiring the applicant to provide three specific types of public notice, as in the proposed rule, the final rule specifies only one type of notice (i.e., the display advertisement). The other notices must fall within broader categories—one must be a broadcast announcement and one must be a sign—but are otherwise flexible.

We have decided to retain the display ad requirement because of the expanded public notice it will provide; at the same time, we have increased the flexibility of the requirement by moving some of the proposed rule's more general provisions out of rule language and into guidance, both in today's preamble (see below) and in the future guidance document for implementing this rule.

Section 124.31(d) requires the applicant to keep documentation of the public notice and provide the documentation to the permitting agency upon request. The reason for this requirement is to provide proof of the public notice that can be verified by the permitting agency. We do not want this requirement to be burdensome for the facility. Instead, we encourage the facility to keep a simple file for the notice requirements. Items for inclusion in the file may include: copies of the newspaper announcement, a receipt or affidavit of the radio announcement, a photograph of the sign, or a receipt of purchase for the sign.

The Agency expects that applicants and permit holders will make a good faith effort to announce the pre-application meeting to as many members of the affected community as possible.

• The newspaper advertisement. The applicant must print a display advertisement in a newspaper of general circulation in the community. The display ad should be located at a spot in the paper calculated to give effective notice to the general public. The ad should be large enough to be seen easily by the reader. In addition to the display ad, we also encourage facilities to place advertisements in free newspapers and community bulletins.

In some cases, potential interest in the facility may extend beyond the host community. Under these circumstances, we encourage the applicant either to publish the display ad so that it reaches neighboring communities or to place additional ads in the newspapers of those communities.

• The visible and accessible sign. The final rule requires the applicant to post the notice on a clearly-marked sign at or near the facility. If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass, on foot or by vehicle, by the site. The Agency anticipates that the signs will be similar in size to zoning notice signs required by local zoning boards. If a sign on the facility grounds is not practical or useful—for instance, if the facility is in a remote area—then the applicant should choose a suitable alternative, such as placing the sign at a nearby point of significant vehicular or pedestrian traffic. In the case that local zoning restrictions prohibit the use of such a sign in the immediate vicinity of the facility, the facility should pursue other available options, such as placing notices on a community bulletin board or a sign at the town hall or community center. EPA intends the requirement that the sign be posted "at or near" the facility to be interpreted flexibly, in view of local circumstances and our intent to inform the public about the meeting. In addition to the requirements of § 124.31, we encourage the applicant to place additional signs in nearby commercial, residential, or downtown areas.

• The broadcast media announcement. The final rule requires the applicant to broadcast the notice at least once on at least one local radio or television station. EPA expects that the applicant will broadcast the notice at a time and on a station that will effectively disseminate the notice. The applicant may employ another medium with prior approval of the Director. We encourage the applicant to consult the preamble to the proposed rule (59 FR 28690) for recommendations on choosing the best circumstances for the broadcast announcement.

EPA will soon issue a guidance document to assist facilities and agencies in implementing the expanded public participation requirements. The guidance document will include more detailed discussions on the approaches to broad and equitable public notice that we are emphasizing in today's preamble.

C. *Notice at Application Submittal (§ 124.32)*

1. Applicability (Proposed § 124.32(c)). The proposed rule required the permitting agency to send a notice to the facility mailing list upon receipt of a permit application. EPA proposed that the rule apply to all new and interim status facilities, but not to permit modifications or applications submitted for the sole purpose of conducting post-closure activities.

Synopsis of Major Comments on Proposed § 124.32(c). The commenters generally supported this provision of the proposed rule. A few commenters recommended that EPA apply the provision to modifications, post-closure permits, and interim status facilities.

EPA's Response to Commenters. The final rule retains the applicability standards of the proposed rule. We continue to believe that the notice at application submittal is an effective means to let the community know that the permitting agency has received a permit application. The notice allows members of the community to keep track of new or existing facilities and to review, concurrently with the permitting agency, the permit application, which will be available for review at a location specified by the permitting agency (either in the vicinity of the facility or at the permitting agency's office). We suggest that the permitting agency consult the public when choosing a suitable location to place the application materials for public review.

The notice requirement does not apply to permit modifications or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility. The permit modification requirements in § 270.42 already include provisions for providing public notice of modification requests. We explain the exemption for post-closure activities in section B.1. above.

2. Responsibility and Timing (Proposed § 124.32(a) and (b)). The proposed rule directed the permitting agency to give the notice "within a reasonable period of time after the application is received by the Director." The proposed rule also listed the information that must go in the notice.

Synopsis of Major Comments on Proposed § 124.32(a) and (b). Many of the commenters provided suggestions on who should be responsible for the notice at application submittal. The majority of these commenters supported EPA's proposal, agreeing that the Director should issue the notice. A few commenters expressed concern over the

timing of the notice. They suggested that EPA rewrite the rule to require the Director to issue the notice within 30 days of application submittal.

EPA's Response to Commenters. These provisions have not changed from the proposed rule to the final rule. EPA maintains its position that the permitting agency should be responsible for providing the public notice at application submittal. Providing the notice will demonstrate clearly that the permitting agency's role in the process has begun.

We anticipate that the permitting agencies will issue timely notices and, thus, we have decided not to prescribe a time frame for agency issuance of the notice at permit application.

D. Information Repository

1. Applicability/Use/Responsibility (Proposed §§ 124.33(a) and 270.30(m)). EPA proposed to give the Director the authority to require the facility to establish and maintain an information repository during the permitting process (§ 124.33(a)) or during the life of a permit (§ 270.30(m)). The purpose of the repository, as proposed, was to make information available to the public during the permit issuance process and during the life of a permit.

Synopsis of Comments on Proposed §§ 124.33(a) and 270.30(m). A number of the comments asked EPA for exemptions from the repository "requirement," especially for boilers and industrial furnaces (BIFs) and federal facilities that must fulfill similar standards under other rules. Many commenters asked for flexibility, suggesting that EPA allow the Director to decide when to require a repository. Some commenters suggested that the Director use this authority only in cases where the community shows true need or public interest when the facility is high. Making a contrary point, a group of commenters argued that the repository should be mandatory for all facilities. Another group of commenters insisted that the permitting agency should be responsible for the repository, or at least split the responsibility with the facility.

EPA's Response to Commenters. In the final rule, EPA has rewritten §§ 124.33(a) and 270.30(m) to better reflect our original intent in proposing the information repository requirement. Our intent was for permitting agencies to use the information repository requirement sparingly. We anticipate that the Director will require such a repository only in special cases where a significant amount of public concern has surfaced or where the community has unique information needs.

Many commenters suggested exemptions from the "information repository requirement." However, the information repository is not a requirement that applies to a pre-determined group of facilities. Instead, the information repository is a public involvement tool that today's rule makes available to permitting agencies for use on a case-by-case basis. Accordingly, there is no need for exemptions from §§ 124.33 or 270.30(m).

Some of the confusion over this section may be the result of the language in the proposed rule. We have reworded §§ 124.33 and 270.30(m) in the final rule to make clear that the Director shall assess a variety of factors, including the status of existing repositories and the community's proximity to a copy of the administrative record, when considering whether or not to require a repository at any facility. So, for instance, if the Director determines that public interest warrants a repository at hypothetical Facility X, but finds that a BIF repository already existing at the facility is responsive to the public interest, then the Director may determine that the facility has no need for a repository under §§ 124.33 or 270.30(m). Or, if the existing repository does not completely satisfy the need that the Director identified, then the Director may specify additional steps that the facility must take to make the repository meet the public need. At Facility X, for instance, the Director may require the facility to make available more information on the general permitting standards, or on the permit application and technical standards for the other units on site, aside from the BIF unit. The facility could then add this information to the existing repository if the repository meets the requirements of §§ 124.33 or 270.30(m).

2. Contents (Proposed § 124.33(b) and (e)). The proposed rule language required the repository to contain all "documents, reports, data, and other information deemed sufficient by the Director for public understanding," as well as information on public involvement activities and how to get on the facility mailing list.

Synopsis of the Major Comments on Proposed § 124.33(b) and (e). A number of commenters recommended specific documents and types of documents (e.g., the permit application, all relevant fact sheets) that EPA should require in the information repository provisions. Some commenters insisted that the content requirements in the proposed rule were too vague. Other commenters thought that EPA should ban certain materials (e.g., public relations literature) from the information repository.

EPA's Response to Commenters. We have changed the repository content requirements in the final rule. The new provision requires the repository to hold "all documents, reports, data, and information deemed necessary by the Director to fulfill the purposes for which the repository is established." We have tried to be as flexible as possible in this section since the permitting agency could require a facility to establish a repository at any stage during any permit process or for any time during the life of the facility. Moreover, the requirement to establish a repository will be imposed by the Director on a case-by-case basis; after taking into account the site-specific factors in each case, the Director will decide what materials are appropriate for the repository.

The final rule gives the Director the authority to limit the contents of the repository. While the rule creates no outright bans on materials, EPA anticipates that the Director will use his or her discretion to ensure that repository materials are relevant to permitting activities and to prevent parties from placing inappropriate materials in the repository. We encourage permitting agencies, in the spirit of equitable public participation and access to information, to consult the public regarding what materials would be most useful to members of the surrounding community.

3. Location (Proposed § 124.33(c)). The proposed rule stated that the facility should choose the location for the repository in a place with suitable public access. If the Director opposed the site, then the Director could choose a more appropriate location. The proposed rule also required the repository to be open during reasonable hours and to give the public access to photocopy service (or an alternative means for people to obtain copies).

Synopsis of Public Comments on § 124.33(c). Several commenters expressed concern over the geographic location of the repository. Other commenters asked that EPA rewrite the rule to allow for on-site repositories.

EPA's Response to Commenters. EPA has tried to be flexible in revising the final rule. While we expect that the Director will only infrequently require a repository, we anticipate that those situations will all be different. For this reason, we have avoided writing narrow prescriptions for the location of the repository. Instead, § 124.33(d) of the final rule retains the provision allowing the facility to choose the location. We encourage facilities, in the spirit of

equitable public participation and access to information, to involve the public when suggesting a location for the repository. The Director has the discretion to choose a more suitable location if he or she finds that the one chosen by the facility is unsuitable based on access, location, hours of availability, or other relevant criteria. The Director should exercise this authority sparingly; we are anticipating that, in the great majority of cases, the facility will choose a suitable location. EPA encourages facilities to establish repositories off-site (i.e., within the community where the facility is located) whenever an off-site repository is feasible and would be more readily accessible to the public. Today's rule does not, however, preclude the use of on-site repositories.

4. Timing and Duration (Proposed § 124.33(f)). The proposed rule required the facility to maintain and update the repository for a time period determined by the Director. The proposal also stated that the Director could require the repository at any time during the application process for a RCRA permit or during the active life of a facility.

Synopsis of the Major Comments on Proposed § 124.33(f). The commenters submitted a variety of comments concerning the timing and duration of the repository. Some commenters thought that permitting agencies need flexibility in applying the repository requirement. Others thought that EPA should require the repository to open and close at specific points during the permitting process. One group of commenters insisted that EPA include a provision in the rule to allow for automatic closure of the repository once the permit is issued, denied, or appealed.

EPA's Response to Commenters. In the final rule, EPA clarifies its intent that the Director have the discretion to apply the repository requirement at any time during the permitting process or the life of a facility. Given that it is within the Director's discretion whether to establish a repository at all, we believe that it would be inappropriate to prescribe specific timing and duration requirements that are triggered by the creation of a repository; rather, the Director should decide on questions of timing and duration on a case-by-case basis. The final rule continues the proposed rule's provision that the Director determine the duration of the repository. The final rule provides that the Director can close the repository, based on the same standards (found in paragraph (a)) that the Director uses when assessing the need for a repository.

E. Trial Burn Notices

1. Notice of the Trial Burn for Permitted Combustion Facilities (Proposed §§ 270.62(b)(6) and 270.66(d)(3)). Permits for new hazardous waste combustion facilities must include a plan, approved by the permitting agency as part of the permit, that describes how the facility will conduct the trial burn. However, because construction of a new facility may take a considerable period of time, the trial burn itself might not take place until several years after permit issuance. The proposed rule required the permitting agency to give public notice of the impending trial burn for permitted incinerators and BIFs. Under the proposed rule, the permitting agency would send a notice to the facility mailing list and appropriate units of State and local governments announcing the scheduled commencement and completion dates for the trial burn. The notice would also provide the public with contact information at the permitting agency and the facility and a location where members of the public could review the approved trial burn plan. The proposal required the permitting agency to mail the notice within a reasonable time period prior to the trial burn.

Synopsis of the Major Comments on Proposed §§ 270.62(b)(6) and 270.66(d)(3). We received both positive and negative comments on the proposed notice of trial burn for permitted combustion facilities. The supporters noted the importance of informing the public of the anticipated time period for conducting the burn, because a significant amount of time may elapse between issuing the permit and conducting the trial burn.

Those who opposed the trial burn notice asked what benefit would accrue from public notice of an impending, scheduled trial burn for a new (permitted) facility. One commenter asked EPA to discuss the purpose for requiring this notice from a new facility, considering that the schedule is set out in the permit and the trial burn plan is already open for public comment as part of the draft permit. Some commenters thought that the other permitting events already provide sufficient opportunity for public comment. Other commenters opposed the requirement that the permitting agency give the trial burn notice, claiming that delays would ensue when the agency could not publish the notice on time.

EPA's Response to Commenters. EPA has decided to finalize the trial burn notice provisions for permitted facilities as proposed. The Agency agrees with the commenters who noted the importance of keeping the community up to date on permitting activities at the facility. Several years may pass between the approval of the trial burn plan and the actual date of the trial burn. During the intervening time, the public may not necessarily remain up to date on activities at the facility. The trial burn is a significant step in the process of a combustor moving toward full operation; experience has shown that the public is often interested in knowing when the burn will occur so that citizens can review the trial burn results. Thus, we remain committed to giving notice of the impending trial burn at permitted facilities.

The final rule requires the permitting agency to send the notice to the facility mailing list. While we do not specify a time period during which the permitting agency should send out the notice, we anticipate that permitting agencies will typically notify the public at least 30 days before the trial burn.

The final rule does not provide for a comment period after the permitting agency gives notice of the trial burn dates. A number of commenters asked EPA what the purpose of such a notice would be, if not to open a comment period. Other commenters asked the Agency to make clear whether or not the rule would require a comment period during the trial burn stage. EPA decided that a comment period during the trial burn phase would not be necessary or appropriate. The public has already had the opportunity to be involved with, and comment on, the trial burn plan during the draft permit stage. Our intent in providing for the notice at this stage is to make the public aware of an impending trial burn. The notice will serve as an update, rather than the opening of a comment period.

Finally, EPA has clarified in §§ 270.62(b)(6) and 270.66(d)(3) that a new hazardous waste combustion facility applying for a permit may not commence its trial burn until after the permitting agency has issued the required notice. It was clear from the proposal that we intended for the permitting agency to issue the notice before the trial burn. However, the proposed rule language did not explicitly state the obvious corollary, which was that the facility may not commence the trial burn until after the notice.

EPA does not believe that the notice requirement established by today's rule will delay trial burns. The notice requirement is straightforward and easy to implement; we do not anticipate that permitting agencies will fail to issue the required notices in a timely fashion.

Because the notice is purely informational, EPA will be flexible in interpreting the requirement that the notice be mailed a reasonable time before the commencement of the trial burn. Ideally, the Agency anticipates that permitting agencies will mail the notice at least thirty days before the trial burn. However, as long as the notice is mailed sufficiently in advance of the scheduled trial burn so that the recipients would be expected to receive the notice prior to the commencement date, EPA would consider the notice timely.

It is EPA's intent that the trial burn notice requirements in §§ 270.62(b)(6) and 270.66(d)(3) apply only to initial trial burns, and not to subsequent trial burns that may be conducted as part of the permit modification procedures. EPA believes that the trial burn notices required by today's rule are not necessary in these latter circumstances, since the amount of time between modification approval and the subsequent trial burn is typically much shorter than the amount of time that may elapse between permit issuance and the initial trial burn. Moreover, the modification procedures in § 270.42 include provisions for involving the public throughout the modification submittal and approval process (e.g., through notices or public meetings). Of course, if there are substantial unforeseen delays between the approval of the modification request and the trial burn, EPA suggests that the permitting agency issue a notice in accordance with the procedures set forth in today's rule.

2. Notice of Planned Trial Burn Plan Approval for Interim Status Combustion Facilities (Proposed § 270.74(b) and (c)(3)). Trial burns at interim status facilities generally take place before permit issuance so that the permitting agency can set operating conditions in the permit based on the results of the trial burn. The proposed rule required the permitting agency to give public notice of the tentative approval of a trial burn plan for interim status incinerators and BIFs. The notice requirements are the same as those proposed for permitted incinerators and BIFs, except for an additional provision that the notice contain a schedule of activities that are required prior to permit issuance, including the permitting agency's anticipated schedule for trial burn plan approval and the actual trial burn.

Synopsis of Major Comments on § 270.74(b) and (c)(3). Many of the comments described in section E.1. above with regard to the trial burn notice for permitted incinerators and BIFs also are relevant to the trial burn notice for interim status incinerators and BIFs (e.g., comments on the timing of the notice). A number of commenters raised the issue of a comment period on the trial burn plan for interim status facilities. A few commenters supported the idea, some opposed it, and several more asked EPA to clarify whether or not we would require a comment period on the tentatively approved trial burn plan. One commenter noted that this additional information was critical for interim status facilities where the public has not yet had an opportunity for involvement.

EPA's Response to Commenters. EPA has decided to finalize the provisions for interim status facilities with two slight changes from the proposal. First, the final rule provides for notice of the Director's intention to approve a trial burn plan, rather than his or her "tentative approval." In response to commenter concerns that the notice could be an extra time-consuming step in the process, EPA has changed the language to better reflect its intent that the notice occurs in the final stages of review, rather than being a separate step following completion of review.

Second, we proposed to place the notice requirements in a newly created § 270.74, which contained interim status combustion permitting requirements. However, since EPA is not finalizing the combustion permitting sections of the proposed rule at this time, we have integrated the notice requirements with the regulations for the permitting of interim status combustion facilities, i.e., § 270.62(d) for incinerators and § 270.66(g) for BIFs.

Although the Agency has not changed the trial burn plan notice requirements for interim status combustors in the final rule, the requirements are in a different format than in the proposal. First, the notice requirements are now located in the centers of the paragraphs (§ 270.62(d) for incinerators and § 270.66(g) for BIFs) along with other permitting requirements. Since the notice contents for interim status facilities differ from the contents for permitted facilities with regard to announcing planned approval of the trial burn plan, we are amending §§ 270.62(d) and 270.66(g) to list the specific information that the permitting agency must include in the notices for interim status combustors. Second, we do not list the timing and distribution requirements for the notice for interim status facilities, as we did in the proposed rule. Instead, each of these paragraphs refers the reader to another paragraph (§ 270.62(b) and § 270.66(d), respectively) that covers the notice of the trial burn for permitted facilities. For instance, § 270.62(d) states that the agency shall issue the notice "in accordance with the timing and distribution requirements of (b)(6) of this section." The requirements in (b)(6) are the new notice requirements that we are issuing today for permitted combustion facilities (see section E.1. above). In following the standards in (b)(6), the permitting agency will send the notice to the facility mailing list and the appropriate units of State and local government within a reasonable period of time before the trial burn. Section 270.66(g) takes the same approach for BIFs by referring to paragraph (d) of that section.

For permitted combustion facilities, EPA has clarified in §§ 270.62(b)(6) and 270.66(d)(3) that a facility applying for a permit may not commence its trial burn until after the permitting agency has issued the required notice. EPA does not believe that comparable clarifying language is necessary in §§ 270.62(d) or 270.66(g) for the notice of planned approval of a trial burn plan for an interim status facility. EPA believes it is clear under these provisions that the permitting agency will not approve a plan and, consequently, the facility cannot commence its trial burn, until issuance of the required notice.

The role of the notice for interim status BIFs and incinerators is much the same as the notice for permitted facilities, i.e., to keep the public informed throughout the trial burn stage. The final rule does not require a comment period after the permitting agency gives notice of the planned approval of the trial burn plan and the trial burn dates for interim status facilities. The trial burn notice, like the other notices required by this rule, is primarily intended to keep the community informed while not slowing down the permitting process. Since interim status facilities are already operating, and continue to operate while the permitting agency evaluates the permit application, EPA does not believe it would generally be in the public interest to delay the evaluation process in order to provide a formal response to comments on the trial burn plan. However, if members of the public submit significant information or views relating to the trial burn plan, the Director should consider this information, and may choose to respond in writing at the time of plan approval. In addition, a formal comment period will, of course, still take place after draft permit issuance.

EPA believes that the final rule strikes the appropriate balance between public

involvement and the efficiency of the permitting process. The notice alerts the public of the impending trial burn, and of the opportunity to review the trial burn plan. Since EPA is not yet finalizing the other revisions to combustion permitting procedures proposed in § 270.74, trial burn plans for interim status combustors may not always be available for review with the rest of the application. Through today's notice requirement, the public will still have an opportunity to stay informed and to review the plan before the Director approves it.

EPA is currently considering and addressing the comments it received on the revised combustion permitting procedures. If those procedures are finalized and go into effect as proposed, including the provision requiring facilities to submit trial burn plans with permit applications, the public will have the opportunity to review and submit opinions or suggestions on the proposed trial burn plan at any time after the facility submits the application. At that time, EPA will have the opportunity to consider any such submissions in the process of reviewing the plan. Accordingly, EPA is not requiring a comment period for the planned trial burn plan approval in this rule, since such a requirement could likely be rendered unnecessary in the future.

V. State Authority

A. Applicability of Today's Rule in Authorized States

The overall effect of today's final rule is to increase the stringency of the RCRA permitting process. Therefore, States that are authorized to administer and enforce the RCRA program in lieu of EPA under section 3006 of RCRA are required to modify their programs by adopting equivalent requirements if necessary (see § 271.21(e)). States must submit their proposed program modifications to EPA for approval according to the schedules set forth in section V.B. below.

EPA is promulgating today's rule pursuant to statutory authority that existed prior to the Hazardous and Solid Waste Amendments (HSWA) of 1984. As we explained in more detail in the proposed rule (59 FR 28703–04), EPA will implement §§ 124.31 (the pre-application meeting), 124.32 (the notice at application submittal), and 124.33 (the information repository) of this rule in authorized States only when EPA is processing permit applications for hazardous waste management units over which it has the basic permit issuance authority (e.g., BIFs in States not yet authorized to issue BIF permits). EPA has added language to §§ 124.31(a), 124.32(a), and 124.33(a) of the final rule to clarify that EPA will implement these sections only for such applications. For all other permit applications in authorized States, the requirements of these sections will not take effect until the States adopt and become authorized for this rule.[2]

Under this approach, EPA will be implementing §§ 124.31, 124.32, and 124.33 only where it is the basic permitting authority for the unit. EPA will, of course, implement these sections in non-authorized States. EPA will also implement these sections in authorized States when the permit application in question contains one or more hazardous waste management units for which the State is not authorized to issue RCRA permits and, thus, EPA has basic permit issuance authority. For example, EPA will implement today's rule when processing an application that includes a BIF if the State is not authorized to issue BIF permits. The facility with the BIF unit will be subject to all the applicable requirements in today's rule.

However, if the State is authorized to issue RCRA permits for all of the hazardous waste management units in an application, then EPA will not implement the requirements in §§ 124.31, 124.32, and 124.33. EPA will not implement those provisions in such a case, even though EPA may retain authority to issue a HSWA "rider" relating to the units in the application (e.g., authority to control air emissions from certain units under 40 CFR Part 264 Subparts AA, BB, and CC), or relating to the facility as a whole (e.g., corrective action authority under 40 CFR § 264.101). For example, EPA will not implement §§ 124.31, 124.32, and 124.33 when processing the corrective action portion of a tank storage permit application in an authorized State.

The Agency believes that this arrangement best implements the intent of today's rule. EPA designed the pre-application meeting, the notice at application submittal, and repository requirements to enhance communication and understanding between the public, the facility owners and operators, and the permitting agency. These requirements will foster a dialogue between facilities and communities with a focus on fundamental permitting issues. EPA believes that these interactions are properly part of the application process for the basic permit to conduct hazardous waste management operations, and not part of the process to evaluate and issue additional conditions through a HSWA rider. Accordingly, and consistent with the proposal, we have explicitly tied these requirements to the basic permit issuance authority for hazardous waste management units.

For most units in most States, the basic permit issuance authority rests with the State. Accordingly, EPA strongly urges authorized States to adopt this rule in an expeditious manner. Specifically, EPA encourages States that have not yet adopted the BIF rule to adopt the new public participation procedures concurrently with their BIF rules, rather than deferring adoption to the somewhat later deadline that applies to today's rule.

In adopting today's rule, authorized States should not include in their approved regulations the limiting language added to the final applicability sections of §§ 124.31, 124.32 and 124.33. This language includes both the limitation of the sections' applicability to "all applications seeking RCRA permits for hazardous waste management units over which EPA has permit issuance authority" and the definition of the phrase "hazardous waste management units over which EPA has permit issuance authority." Obviously, the reference to EPA would be inappropriate in a State rule. Moreover, even if the State changed the language to refer to the State environmental agency, the provision would be unnecessary because authorized States process RCRA permit applications and administer RCRA permits only at facilities with units over which they have permit issuance authority. Accordingly, EPA recommends that States not include in their regulations limiting language similar to that in today's final rulemaking.

[2] EPA is not including similar limiting language, like the language in §§ 124.31, 124.32, and 124.33, in the other provisions of today's rule. With respect to § 270.14, the requirement to submit the summary of the pre-application meeting with the Part B permit application expressly references § 124.31. Accordingly, where the regulations do not require a meeting, it is clear that the applicant does not need to provide a meeting summary. With respect to the information repository requirement of § 270.30(m), EPA will follow the general principles applicable to the inclusion of the § 270.30 "boilerplate" provisions in HSWA portions of RCRA permits (*see, e.g., In re General Motors Corp.*, RCRA Appeal Nos. 90–24, 90–25, at 23 (EAB Nov. 6, 1992)). Finally, §§ 270.62 and 270.66 apply only where EPA has permit issuance authority over incinerators and BIFs, respectively, so there is no need to limit the applicability of the specific requirements added to these sections today.

B. Schedules and Requirements for Authorization

40 CFR 271.21(e) requires States with final authorization to modify their programs to reflect federal program changes and submit the modifications to EPA for approval. The deadlines for State modifications are set out in § 271.21(e)(2) and depend upon the date of promulgation of final rules by EPA. Thus, because EPA has promulgated today's rule before June 30, 1996, States must modify their programs, if necessary, to adopt this rule before July 1, 1997 (or July 1, 1998 if a State statutory change is needed). States then must submit these program modifications to EPA according to the schedules in § 271.21(e)(4). Once EPA approves the modifications, the State requirements become RCRA Subtitle C requirements.

States with authorized RCRA programs may already have requirements similar to those we are proposing today. EPA has not assessed these State regulations against the final federal regulations to determine whether they meet the tests for authorization. Thus, similar provisions of State law are not authorized to operate in lieu of today's RCRA requirements until the State submits them to EPA, who then evaluates them against the final EPA regulations. Of course, States may continue to administer and enforce their existing standards in the meantime.

In developing today's final rule, EPA considered impacts on existing State programs. The public participation requirements may be viewed as performance objectives the Agency wants States to meet in their own authorized programs. It is not EPA's intent to restrict States from conducting similar activities that accomplish the same objectives. Therefore, EPA intends to be flexible in reviewing State program submissions and evaluating them against the requirements for authorization.

VI. Permits Improvement Team

In July 1994, EPA created a group of EPA, State, Tribal and local government officials (Permits Improvement Team) to examine and propose improvements to EPA's permit programs. As part of its efforts, the Permits Improvement Team is examining ways to streamline the permitting process, exploring possible alternatives to individual permits, and evaluating ways to enhance public involvement in the permitting process. The Team plans to develop recommendations in each of these areas, discuss them with stakeholders, and submit them to Agency management for consideration.

The public participation requirements that EPA is promulgating in today's rule are appropriate for the RCRA permitting program as it currently exists. If, however, the nature of the RCRA permitting program changes as a result of the Permits Improvement Team's efforts, then the Agency may amend these procedures, or develop additional procedures. For example, the Team is considering recommending several alternatives to individual permits, such as establishing general permits for RCRA non-commercial storage and treatment units. The process of issuing general permits is very different from the current RCRA permitting process; thus, different approaches for involving the public may be appropriate.

VII. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866, (58 FR 51735, October 4, 1993) the Agency must determine whether a regulatory action is "significant" and, therefore, subject to review by the Office of Management and Budget (OMB) and to the requirements of the Executive Order, which include assessing the costs and benefits anticipated as a result of the regulatory action.

The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The Agency has determined that this rule is not a significant rule under Executive Order 12866. Pursuant to the terms of Executive Order 12866, this section of the preamble summarizes the potential economic impacts of the RCRA Expanded Public Participation rule.

Based upon the economic impact analysis for today's rule, the Agency's best estimate is that the expanded public participation requirements would result in an incremental national annual cost of $180,000 to $500,000.

A complete discussion of the economic impact analysis is available in the regulatory docket for today's rule in a report entitled "Economic Impact Analysis for the RCRA Expanded Public Participation Rule."

Cost Analysis. Today's rule includes several requirements that would result in direct costs to facilities submitting initial permit applications or submitting permit renewal applications that propose a significant change for facility operations (see § 124.31). The analysis estimates the costs to all affected facilities of (1) preparing a public notice announcing the intention to hold a public meeting; (2) disseminating the public notice in a local newspaper, over a broadcast medium, and by posting a sign; and (3) holding a public meeting and preparing a meeting summary.

In addition, the rule gives the Director the discretion to require a facility to set up an information repository, based on the level of public interest or other factors. This requirement can apply anywhere in the permitting process, or at any time during the active life of a facility.

The total cost per facility of the above requirements is approximately $5,000 to $14,000. Over the next ten years, EPA estimates that between 300 to 450 facilities will incur these costs. The resulting total national annual cost, assuming a discount rate of 7% is estimated to be between $180,000 to $500,000 per year.

Summary of Benefits. The RCRA permitting program was developed to protect human health and the environment from the risks posed by the treatment, storage, and disposal of hazardous waste. By improving and clarifying the permitting process, today's rule produces environmental benefits that result from a more efficient permitting process. The following is an explanation of how each of the provisions of today's rule provides benefits.

The main benefit of the expanded public participation requirements of today's rule is to provide earlier opportunities for public involvement and expand public access to information throughout the permitting process and the operational lives of facilities. EPA believes that these requirements will give applicants and permitting agencies a better opportunity to address public concerns in making decisions about the facility and in subsequent permitting activities.

Providing the public with an expanded role in the permit process, by promoting community participation and

input throughout the permitting process, will also help foster continued community involvement after facilities become permitted.

In addition, expanding public involvement opportunities could, in some cases, streamline the permitting process, since the public will raise issues, and the applicant can address the issues, at an earlier stage in the process. Currently, the public is not formally involved in the permitting process until the draft permit stage, which occurs after the permitting agency and the permit applicant have discussed crucial parts of the part B permit application. The Agency anticipates that the earlier participation provided in this rule will address the public concern that major permit decisions may be made before the public has the opportunity to get involved in the process. This earlier involvement may well reduce costs associated with delays, litigation, and other products of disputes.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 requires federal agencies to consider "small entities" throughout the regulatory process. Section 603 of the RFA requires agencies to perform an initial screening analysis to determine whether small entities will be adversely affected by the regulation. If the analysis identifies affected small entities, then the agency must consider regulatory alternatives to mitigate the potential impacts. Small entities as described in the Act are only those "businesses, organizations and governmental jurisdictions subject to regulation."

In developing today's rule for expanding public involvement in the RCRA permitting process, EPA was sensitive to the needs and concerns of small businesses. The provisions set forth the minimum requirements necessary to fulfill the public involvement objectives in this rule. Additional examples of activities that facilities may choose to conduct are provided in the preamble for the proposed rule (59 FR 28680) and will be included in a future guidance document, rather than in this rule. EPA's intent is to provide flexibility for a facility to determine, in view of the facility-specific circumstances, the appropriate level of public involvement activities. In addition, EPA recognizes that, in some situations, an information repository could become resource-intensive for a facility or for the local community. EPA has addressed this concern by clarifying, in the final rule, that the information repository is not mandatory for all facilities. The rule makes clear our intent that the Director reserve the use of the information repository option only for the limited number of facilities that raise high levels of public interest or whose communities have a special need for more access to information.

EPA conducted a small entity impact screening analysis for the proposed rule and determined that there were no small entities significantly impacted (see 59 FR 28680–28711, Section VI.C.). Because the public participation requirements have not increased since the proposal, EPA has determined that the final rule also does not significantly impact small entities.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2050–0149.

This collection of information is estimated to have a public reporting burden averaging 89.60 hours per response, and to require 34.60 hours per recordkeeper annually. This total includes time for reviewing instructions, searching existing data sources, gathering and maintaining the necessary data, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch (2136), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

Display of OMB Control Numbers. EPA is also amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. This amendment updates the table to accurately display those information requirements contained in this final rule. This display of the OMB control number and its subsequent codification in the Code of Federal Regulations satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR 1320.

The ICR was previously subject to public notice and comment prior to OMB approval. As a result, EPA finds that there is "good cause" under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to amend this table without prior notice and comment. Due to the technical nature of the table, further notice and comment would be unnecessary.

D. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (the UMRA), P.L. 104–4, EPA generally must prepare a written statement, including a cost-benefit analysis, for rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the UMRA, EPA must identify and consider alternatives, including the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must develop, under section 203 of the UMRA, a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them about compliance with the regulatory requirements.

For the reasons explained in Section VI.A. above, EPA has determined that this rule does not contain a federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. Rather, EPA projects the total annual costs imposed by today's rule to be less than $500,000. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

In addition, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. As stated above, the total costs of the rule are very low. These minimal costs will be incurred by owners and operators of hazardous waste treatment, storage and disposal facilities, which are principally private entities, and federal government agencies. Accordingly, this rule does not impose any requirements that might significantly or uniquely affect small governments.

E. Enhancing the Intergovernmental Partnership

Executive Order 12875. Executive Order 12875 on enhancing the intergovernmental partnership charges federal agencies with establishing meaningful consultation and collaboration with State and local governments on matters that affect them. In most cases, State governments are the level of government that regulates hazardous waste.

EPA has consulted with State officials to develop today's rule. EPA invited several States, representing various parts of the country, to participate in this rulemaking process. These States reviewed and provided feedback on the draft proposal over a period of eight months, and the draft final rule over a period of five months. In addition, these States participated in monthly workgroup meetings via conference call. Their participation and immediate feedback in the workgroup process added considerable value to the rulemaking effort.

EPA contacted additional States in an effort to receive their specific feedback on general permitting and public involvement techniques. EPA solicited State input during a session of the 3rd Annual RCRA Public Involvement National Conference, in which sixteen State representatives participated. The State participants provided numerous helpful suggestions and ideas. In addition, the Agency utilized existing State groups, such as the Association of State and Territorial Solid Waste Management Officials (ASTSWMO), to solicit input on the proposed rule at various stages in the development process. State personnel at the Commissioner level provided input to EPA at bi-monthly meetings of the EPA-State Task Force on Hazardous Waste Management. Through early involvement in the process, State representatives made valuable contributions to the development of today's rule. EPA also received comments from several States following publication of the proposed rule. Many of the States' concerns are addressed by the final rule.

The Relationship of Today's Rule with Indian Policy. Currently, EPA has the responsibility for ensuring the implementation and enforcement of the Subtitle C hazardous waste regulatory program on Indian lands. This responsibility includes the issuance of hazardous waste permits. However, consistent with EPA's Indian Policy of 1984, the Agency will look directly to, and work with, Tribal governments in determining the best way to implement the public involvement requirements in Indian country. This Indian policy recognizes the sovereignty of federally-recognized Tribes and commits EPA to a government-to-government relationship with the Tribes.

List of Subjects

40 CFR Part 9

Reporting and recordkeeping requirements.

40 CFR Part 124

Administrative practice and procedure, Hazardous Waste, Reporting and recordkeeping requirements.

40 CFR Part 270

Administrative practice and procedure, Hazardous waste, Reporting and recordkeeping requirements, Permit application requirements, Waste treatment and disposal.

Dated: October 18, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations, is amended as follows:

PART 9—OMB APPROVALS UNDER THE PAPERWORK REDUCTION ACT

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1321, 1326, 1330, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 et seq., 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. Section 9.1 is amended by adding the new entries to the table to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR Citation	OMB Control No.
* * * * *	
PART 124—PROCEDURES FOR DECISIONMAKING	
124.31	2050–0149
124.32	2050–0149
124.33	2050–0149
PART 270—EPA-ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM	
270.62	2050–0149
270.66	2050–0149
* * * * *	

PART 124—PROCEDURES FOR DECISIONMAKING

1. The authority citation for part 124 continues to read as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*; Safe Drinking Water Act, 42 U.S.C. 300(f) *et seq.*; Clean Water Act, 33 U.S.C. 1251 *et seq.*; and Clean Air Act, 42 U.S.C. 1857 *et seq.*

2. Subpart B is amended by adding text to read as follows:

Subpart B—Specific Procedures Applicable to RCRA Permits

Sec.

124.31 Pre-application public notice and meeting.

124.32 Public notice requirements at the application stage.

124.33 Information repository.

Subpart B—Specific Procedure Applicable to RCRA Permits

§ 124.31 Pre-application public meeting and notice.

(a) *Applicability.* The requirements of this section shall apply to all RCRA part B applications seeking initial permits for hazardous waste management units over which EPA has permit issuance authority. The requirements of this section shall also apply to RCRA part B applications seeking renewal of permits for such units, where the renewal application is proposing a significant change in facility operations. For the purposes of this section, a "significant change" is any change that would qualify as a class 3 permit modification under 40 CFR 270.42. For the purposes of this section only, "hazardous waste management units over which EPA has permit issuance authority" refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR part 271. The requirements of this section do not apply to permit modifications under 40 CFR 270.42 or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b) Prior to the submission of a part B RCRA permit application for a facility, the applicant must hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary

opportunity for attendees to provide their names and addresses.

(c) The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under paragraph (b) of this section, and copies of any written comments or materials submitted at the meeting, to the permitting agency as a part of the part B application, in accordance with 40 CFR 270.14(b).

(d) The applicant must provide public notice of the pre-application meeting at least 30 days prior to the meeting. The applicant must maintain, and provide to the permitting agency upon request, documentation of the notice.

(1) The applicant shall provide public notice in all of the following forms:

(i) *A newspaper advertisement.* The applicant shall publish a notice, fulfilling the requirements in paragraph (d)(2) of this section, in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the Director shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the Director determines that such publication is necessary to inform the affected public. The notice must be published as a display advertisement.

(ii) *A visible and accessible sign.* The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in paragraph (d)(2) of this section. If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass by the site.

(iii) *A broadcast media announcement.* The applicant shall broadcast a notice, fulfilling the requirements in paragraph (d)(2) of this section, at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval of the Director.

(iv) *A notice to the permitting agency.* The applicant shall send a copy of the newspaper notice to the permitting agency and to the appropriate units of State and local government, in accordance with § 124.10(c)(1)(x).

(2) The notices required under paragraph (d)(1) of this section must include:

(i) The date, time, and location of the meeting;

(ii) A brief description of the purpose of the meeting;

(iii) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location;

(iv) A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and

(v) The name, address, and telephone number of a contact person for the applicant.

§ 124.32 Public notice requirements at the application stage.

(a) *Applicability.* The requirements of this section shall apply to all RCRA part B applications seeking initial permits for hazardous waste management units over which EPA has permit issuance authority. The requirements of this section shall also apply to RCRA part B applications seeking renewal of permits for such units under 40 CFR 270.51. For the purposes of this section only, "hazardous waste management units over which EPA has permit issuance authority" refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR part 271. The requirements of this section do not apply to permit modifications under 40 CFR 270.42 or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b) Notification at application submittal.

(1) The Director shall provide public notice as set forth in § 124.10(c)(1)(ix), and notice to appropriate units of State and local government as set forth in § 124.10(c)(1)(x), that a part B permit application has been submitted to the Agency and is available for review.

(2) The notice shall be published within a reasonable period of time after the application is received by the Director. The notice must include:

(i) The name and telephone number of the applicant's contact person;

(ii) The name and telephone number of the permitting agency's contact office, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;

(iii) An address to which people can write in order to be put on the facility mailing list;

(iv) The location where copies of the permit application and any supporting documents can be viewed and copied;

(v) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice; and

(vi) The date that the application was submitted.

(c) Concurrent with the notice required under § 124.32(b) of this subpart, the Director must place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the permitting agency's office.

§ 124.33 Information repository.

(a) *Applicability.* The requirements of this section apply to all applications seeking RCRA permits for hazardous waste management units over which EPA has permit issuance authority. For the purposes of this section only, "hazardous waste management units over which EPA has permit issuance authority" refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR part 271.

(b) The Director may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the Director shall consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the Director determines, at any time after submittal of a permit application, that there is a need for a repository, then the Director shall notify the facility that it must establish and maintain an information repository. (See 40 CFR 270.30(m) for similar provisions relating to the information repository during the life of a permit).

(c) The information repository shall contain all documents, reports, data, and information deemed necessary by the Director to fulfill the purposes for which the repository is established. The Director shall have the discretion to limit the contents of the repository.

(d) The information repository shall be located and maintained at a site chosen by the facility. If the Director finds the site unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the Director shall specify a more appropriate site.

(e) The Director shall specify requirements for informing the public about the information repository. At a minimum, the Director shall require the facility to provide a written notice about the information repository to all individuals on the facility mailing list.

(f) The facility owner/operator shall be responsible for maintaining and

updating the repository with appropriate information throughout a time period specified by the Director. The Director may close the repository at his or her discretion, based on the factors in paragraph (b) of this section.

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

1. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

2. Section 270.2 is amended by revising the definition for "Facility mailing list" to read as follows:

§ 270.2 Definitions.

* * * * *

Facility mailing list means the mailing list for a facility maintained by EPA in accordance with 40 CFR 124.10(c)(1)(ix).

* * * * *

3. Section 270.14 is amended by adding paragraph (b)(22) to read as follows:

§ 270.14 Contents of part B: General requirements.

* * * * *

(b) * * *

(22) A summary of the pre-application meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under § 124.31(c).

4. Section 270.30 is amended by adding paragraph (m) to read as follows:

§ 270.30 Conditions applicable to all permits.

* * * * *

(m) *Information repository.* The Director may require the permittee to establish and maintain an information repository at any time, based on the factors set forth in 40 CFR 124.33(b). The information repository will be governed by the provisions in 40 CFR 124.33(c) through (f).

5. Section 270.61(b)(5) introductory text is amended by removing the reference § 124.11(b) and adding in its place § 124.10(b).

* * * * *

6. In § 270.62, paragraphs (b)(6) through (10) are redesignated as paragraphs (b)(7) through (11), and new paragraph (b)(6) is added as follows:

§ 270.62 Hazardous waste incinerator permits.

* * * * *

(b) * * *

(6) The Director must send a notice to all persons on the facility mailing list as set forth in 40 CFR 124.10(c)(1)(ix) and to the appropriate units of State and local government as set forth in 40 CFR 124.10(c)(1)(x) announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Director has issued such notice.

(i) This notice must be mailed within a reasonable time period before the scheduled trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the permitting agency.

(ii) This notice must contain:

(A) The name and telephone number of the applicant's contact person;

(B) The name and telephone number of the permitting agency's contact office;

(C) The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

(D) An expected time period for commencement and completion of the trial burn.

* * * * *

7. Paragraph (d) of § 270.62 is revised as follows:

§ 270.62 Hazardous waste incinerator permits.

* * * * *

(d) For the purpose of determining feasibility of compliance with the performance standards of § 264.343 of this chapter and of determining adequate operating conditions under § 264.345 of this chapter, the applicant for a permit for an existing hazardous waste incinerator must prepare and submit a trial burn plan and perform a trial burn in accordance with § 270.19(b) and paragraphs (b)(2) through (b)(5) and (b)(7) through (b)(10) of this section or, instead, submit other information as specified in § 270.19(c). The Director must announce his or her intention to approve the trial burn plan in accordance with the timing and distribution requirements of paragraph (b)(6) of this section. The contents of the notice must include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the permitting agency; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for agency approval of the plan and the time period during which the trial burn would be conducted. Applicants submitting information under § 270.19(a) are exempt from compliance with 40 CFR 264.343 and 264.345 and, therefore, are exempt from the requirement to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in paragraph (b)(7) of this section, with part B of the permit application. If completion of this process conflicts with the date set for submission of the part B application, the applicant must contact the Director to establish a later date for submission of the part B application or the trial burn results. Trial burn results must be submitted prior to issuance of the permit. When the applicant submits a trial burn plan with part B of the permit application, the Director will specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted.

8. In § 270.66, paragraphs (d) (3) through (5) are redesignated as paragraphs (d) (4) through (6), and new paragraph (d)(3) is added to read as follows:

§ 270.66 Permits for boilers and industrial furnaces burning hazardous waste.

* * * * *

(d) * * *

(3) The Director must send a notice to all persons on the facility mailing list as set forth in 40 CFR 124.10(c)(1)(ix) and to the appropriate units of State and local government as set forth in 40 CFR 124.10(c)(1)(x) announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Director has issued such notice.

(i) This notice must be mailed within a reasonable time period before the trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the permitting agency.

(ii) This notice must contain:

(A) The name and telephone number of applicant's contact person;

(B) The name and telephone number of the permitting agency contact office;

(C) The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

(D) An expected time period for commencement and completion of the trial burn.

* * * * *

9. Paragraph (g) of § 270.66 is revised as follows:

§ 270.66 Permits for boilers and industrial furnaces burning hazardous waste.

* * * * *

(g) *Interim status boilers and industrial furnaces.* For the purpose of determining feasibility of compliance with the performance standards of § 266.104 through 266.107 of this chapter and of determining adequate operating conditions under § 266.103 of this chapter, applicants owning or operating existing boilers or industrial furnaces operated under the interim status standards of § 266.103 of this chapter must either prepare and submit a trial burn plan and perform a trial burn in accordance with the requirements of this section or submit other information as specified in § 270.22(a)(6). The Director must announce his or her intention to approve of the trial burn plan in accordance with the timing and distribution requirements of paragraph (d)(3) of this section. The contents of the notice must include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the permitting agency; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for agency approval of the plan and the time periods during which the trial burn would be conducted. Applicants who submit a trial burn plan and receive approval before submission of the part B permit application must complete the trial burn and submit the results specified in paragraph (f) of this section with the part B permit application. If completion of this process conflicts with the date set for submission of the part B application, the applicant must contact the Director to establish a later date for submission of the part B application or the trial burn results. If the applicant submits a trial burn plan with part B of the permit application, the trial burn must be conducted and the results submitted within a time period prior to permit issuance to be specified by the Director.

[FR Doc. 95–29896 Filed 12–8–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[SC–029–1–7177a; FRL–5316–5]

Approval and Promulgation of Implementation Plans: Approval of Revisions to the South Carolina State Implementation Plan (SIP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the South Carolina State Implementation Plan (SIP) to incorporate new permitting regulations and to allow the State of South Carolina to issue Federally enforceable state construction and operating permits (FESCOP). On July 12, 1995, the State of South Carolina through the Department of Health and Environmental Control (DHEC) submitted a SIP revision which updates the procedural rules governing the issuance of air permits in South Carolina and fulfills the requirements necessary for a state FESCOP program to become Federally enforceable. In order to extend the Federal enforceability of South Carolina's FESCOP program to hazardous air pollutants (HAPs), EPA is also approving South Carolina's FESCOP program pursuant to section 112 of the Clean Air Act as amended in 1990 (CAA) so that South Carolina may issue Federally enforceable construction and operating permits for HAPs.

DATES: This final rule will be effective February 11, 1996, unless adverse or critical comments are received by January 10, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to Scott Miller at the EPA Regional office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Scott Miller, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365. The telephone number is (404) 347–3555 extension 4153. Reference file SC029.

SUPPLEMENTARY INFORMATION: On July 12, 1995, the State of South Carolina through the DHEC submitted a SIP revision designed to allow South Carolina to issue FESCOP which conform to EPA requirements for Federal enforceability as specified in a **Federal Register** notice, "Requirements for the preparation, adoption, and submittal of implementation plans; air quality, new source review; final rules." (See 54 FR 22274, June 28, 1989). This voluntary SIP revision allows EPA and citizens under the Act to enforce terms and conditions of state-issued minor source construction and operating permits. Construction and operating permits that are issued under the State's minor source construction and operating permit program that is approved into the State SIP and under section 112(l) will provide Federally enforceable limits to an air pollution source's potential to emit. Limiting of a source's potential to emit through Federally enforceable construction and operating permits can affect a source's applicability to Federal regulations such as title V operating permits, New Source Review (NSR) preconstruction permits, Prevention of Significant Deterioration (PSD) preconstruction permits for criteria pollutants and Federal air toxics requirements. EPA notes that the State will continue to issue construction and operating permits that are not intended to be Federally enforceable under regulations found at South Carolina Air Pollution Control Regulation (SCAPCR) 61–62.1 Section II.A and Section II.B.

In the aforementioned June 28, 1989, **Federal Register** document, EPA listed five criteria necessary to make a state agency's minor source construction and operating permit program Federally enforceable and, therefore, approvable into the SIP. This revision satisfies the five criteria for Federal enforceability of the State's minor source construction and operating permit program.

The first criterion for a State's construction and operating permit program to become Federally enforceable is EPA's approval of the permit program into the SIP. On July 12, 1995, the State of South Carolina submitted through the DHEC a SIP revision designed to meet the five criteria for Federal enforceability. This action will approve these regulations

ies before applying for a permit to conduct these activities.

2. The permitting agency must **announce the submission of a permit application** by sending a notice to everyone on the facility mailing list. The announcement will tell community members where they can examine the application while the agency reviews it.

3. The permitting agency may require a facility to **set up an information repository (or library)** at any point during the permitting process. The repository should include relevant documents, such as the permit application, reports, and any other information the permitting agency wishes to make available.

4. The permitting agency must **notify the public prior to a trial (or test) burn** at a combustion facility (i.e., an incinerator or other facility that burns hazardous waste) by sending a notice to everyone on the facility mailing list.

For More Information

Copies of the rule and relevant documents can be obtained by calling the RCRA Hotline at 800 424-9346 or TDD 800 553-7672. In the Washington, DC, area, call 703 412-9810 or TDD 703 412-3323. Documents can also be obtained by writing the RCRA Information Center (RIC), U.S. Environmental Protection Agency, Office of Solid Waste, 401 M Street, SW. (5305W) Washington, DC 20460.

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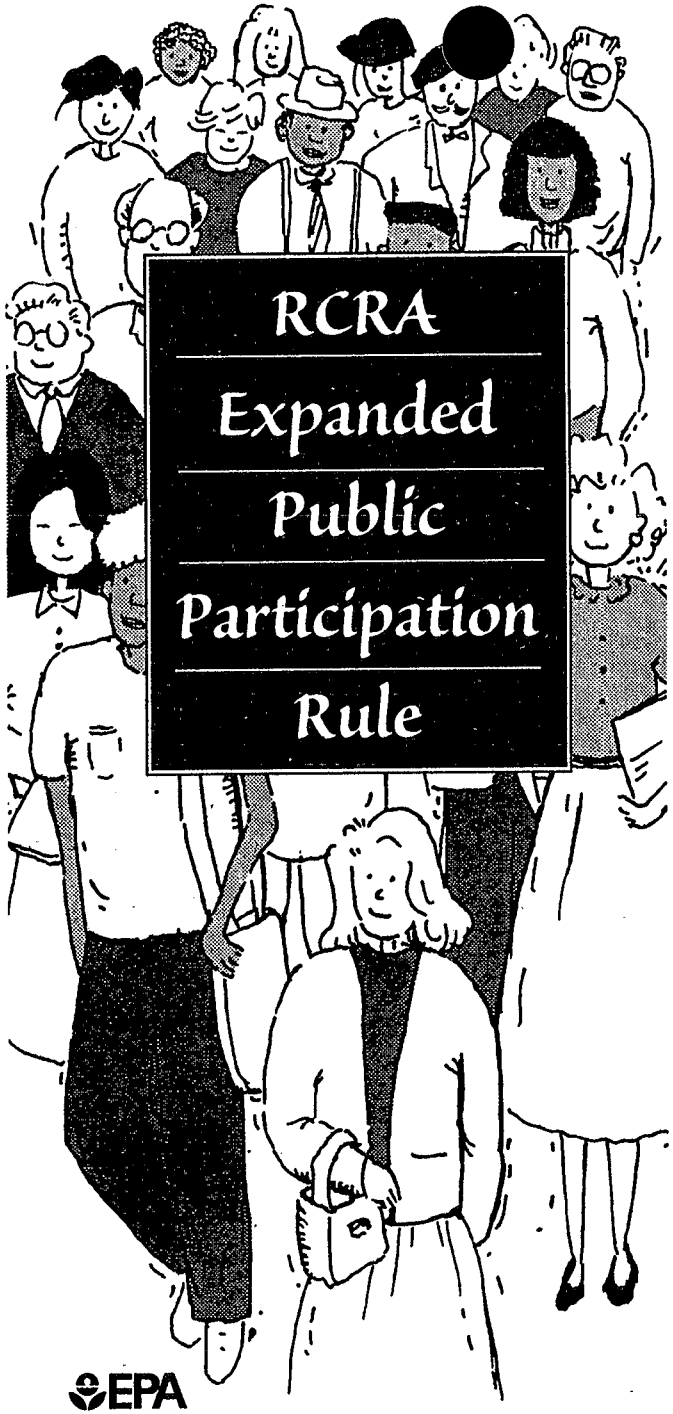

RCRA Expanded Public Participation Rule

EPA

United States
Environmental Protection
Agency

EPA530-F-95-030
February 1996

The U.S. Environmental Protection Agency (EPA) developed the RCRA Expanded Public Participation Rule to empower communities to become more actively involved in local hazardous waste management.

This rule makes it easier for citizens to become involved earlier and more often in the process of permitting hazardous waste facilities. It also expands public access to information about facilities. As a result, the rule enables communities to become more active participants in important local environmental decisions. In addition, the rule addresses environmental justice concerns by providing opportunities for *all* members of a community to have a voice in the permitting process.

The ***RCRA Expanded Public Participation Rule*** also helps facilities. Earlier participation can eliminate confusion or delays in the permitting process that can occur when the public is not involved until much later. This helps ensure that the permitting process moves forward in a timely manner. By fostering better relationships with communities, the rule also can help improve facilities' images and reduce potential conflict. In addition, citizens are often able to provide valuable information regarding local conditions for facilities to consider in developing their permit applications. Furthermore, the rule is very flexible—it identifies the basic requirements needed to satisfy EPA's public participation goals and recommends additional activities that facilities might conduct.

The RCRA Expanded Public Participation Rule:

- ✔ *Involves the public earlier in the permitting process*
- ✔ *Provides more opportunities for public participation*
- ✔ *Expands public access to information*
- ✔ *Offers guidance on how facilities can improve public participation*

To Whom Does This Rule Apply?

The new rule applies to hazardous waste facilities that are seeking an initial or renewed permit under Subtitle C of the Resource Conservation and Recovery Act (RCRA). Hazardous waste facilities are those that generate, accumulate, treat, and/or dispose of hazardous wastes. To conduct their operations, they must obtain a permit from an EPA-authorized state/tribe or from EPA in states/tribes that are not authorized to administer RCRA permits.

The ***RCRA Expanded Public Participation Rule*** does not require facilities that are already involved in the permitting process to repeat a step in order to comply with the new regulations. The rule does require, however, that facilities comply with new requirements during steps that they have not yet undertaken. Authorized states/tribes must modify their permitting requirements to meet the new public participation regulations.

How Does the Rule Increase Public Involvement?

Prior to this rule, RCRA provided opportunities for formal public involvement at two key points in the permitting process: 1) when the permitting agency announced its intent to grant or deny a permit and 2) when a facility requested a modification of a permit that had already been granted.

Based on recommendations from environmental groups, business trade associations, and concerned citizens, EPA revised RCRA's permitting procedures to involve the public much earlier, to provide more opportunities for public involvement throughout the process, and to expand public access to information about the facility and its activities. Specifically, the rule improves public participation in the following four ways:

1. Permit applicants must **hold an informal public meeting** to inform community members of proposed hazardous waste management

APPENDIX L -- PERMIT MODIFICATIONS FACT SHEET

United States
Environmental Protection
Agency

Solid Waste and
Emergency Response
(OS-305)

EPA/530-SW-89-050
September 1989

EPA

Modifying RCRA Permits

Introduction

The Resource Conservation and Recovery Act (RCRA) requires each hazardous waste treatment, storage, and disposal facility to manage hazardous waste in accordance with a permit issued by the Environmental Protection Agency (EPA) or a state agency that has a hazardous waste program approved by EPA. A RCRA permit establishes the facility's operating conditions for managing hazardous waste. EPA and state agencies use the permit to specify the administrative and technical standards for each facility. Over time, however, the facility needs to modify the permit to improve equipment or make changes in response to new standards. Recognizing this, EPA established procedures early in the program for modifying permits. The Agency has now revised these procedures to provide more flexibility to both owners and operators of facilities and EPA and to increase public involvement. This brochure briefly describes EPA's new procedures for modifying RCRA permits.

These procedures are effective now in states where EPA administers the RCRA program. However, authorized states will not use these procedures until they have adopted them as part of their own programs.

The Old Process

Acknowledging that a permit would need to be modified for various reasons during its life, EPA established in 1980 a process for modifying them. The process included different procedures for major and minor modifications. A minor permit modification allowed a limited number of minor changes to occur, after EPA reviewed and approved the modification request. There was no requirement for public notice and comment.

For major modifications, EPA would follow procedures that were almost the same as those for issuing an initial permit. These procedures included developing a draft permit modification, announcing in a local newspaper and on the radio the availability of the proposed modification, providing a 45-day public comment period, and, if requested, holding a public hearing. Public participation was limited to the specific permit conditions being modified.

A Need for Change

The old permit modification process was becoming increasingly unwieldy. It was impeding the ability of treatment, storage, and disposal facilities to respond quickly to improvements in technology and shifts in the types of wastes being generated. This made the routine changes necessary for effective operations more difficult to accomplish. Furthermore, the procedures often did not involve the public early enough in the modification process.

In response to these concerns, EPA developed new procedures with help from representatives from states and industria environmental, and public interest groups. The new process provides more flexibility for facilities to respond to changing conditions, clean up waste, and generally improve their waste management operations. In addition, the new procedures allow for more public involvement by expanding public notification and participation opportunities.

The Congress, in an effort to address the nation's growing concern about its hazardous and solid waste problem, enacted the Resource Conservation and Recovery Act (RCRA). The Hazardous and Solid Waste Amendments of 1984 greatly expanded RCRA and the Environmental Protection Agency's (EPA) authority to regulate these wastes.

As a result, EPA is developing regulations and programs to reduce, recycle, and treat wastes; restrict land disposal; and require corrective action for releases of hazardous wastes, or their constituents, into the environment. EPA's Office of Solid Waste, through its publications, aims to foster public understanding and encourage citizen involvement in helping to manage the nation's waste problem.

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The New Process

The new process establishes three classes of permit modifications and sets administrative procedures for approving modifications in each class.

- Class One addresses routine and administrative changes. Lowest range of permit modifications.
- Class Two primarily addresses improvements in technology and management techniques. Middle range of modifications.
- Class Three deals with major changes to a facility and its operations. Highest range of modifications.

Class One Modifications

Class One modifications do not substantially alter the conditions in the permit or reduce the facility's ability to protect human health and the environment. Such changes may include

- Improving administrative and routine functions.
- Upgrading plans and records maintained by the facility.
- Replacing some equipment with functionally equivalent equipment.

Most Class One changes do not require approval by the authorized permitting agency —either EPA or a state— before they are implemented. There are several types of changes, however, that may require such approval. EPA may deny any Class One modification.

Notifying the Public. Within 90 days of implementing a change, a facility making a Class One modification must notify the public by sending a notice to all parties on its mailing list. This mailing list includes people and organizations who have asked to be notified of the facility's activities. The list is maintained by the permitting agency. Citizens may be added to the mailing list by sending a written request to the agency. Any member of the public may ask EPA to review a Class One modification.

Class Two Modifications

Class Two modifications include those changes that enable a facility to respond to variations in the types and quantities of wastes that it manages, technological advancements, and new regulatory requirements. Class Two changes do not substantially alter the facility's design or the management practices prescribed by the permit. They do not reduce—and in most cases should enhance—the facility's ability to protect human health and the environment. Under some circumstances, the permitting agency may determine that the modification request should follow the more restrictive Class Three procedures.

Class Two modifications address changes like

- Increases of 25 percent or less in a facility's tank treatment or storage capacity.
- Authorization to treat or store new wastes that do not require different management practices.
- Modifications to improve the design of regulated units or improve management practices.

The new procedures require the facility to submit a request for approval of the change to the permitting agency. The request describes the change, explains why it is needed, and provides information showing that the change complies with EPA's technical standards for the facility. For Class Two modifications, a facility may begin construction 60 days after submitting a request, although the permitting agency may delay all or part of the construction.

Involving the Public. The permit holder must notify people and organizations on the facility mailing list about the modification request by sending them a letter and publishing a notice in a major local newspaper. The notice must appear within seven days before or after the facility submits the request to the permitting agency. The newspaper notice marks the beginning of a 60-day comment period and announces the time and place of an informal public meeting.

This public comment period is an opportunity for the public to review the facility's permit modification plans at the same time as the permitting agency—early in the process. All written comments submitted during the 60-day comment period will be considered by the agency before a final decision is made on the modification request.

The public meeting is conducted by the permittee and is held no fewer than 15 days after the start of the comment period and no less than 15 days before it ends. The purpose of this meeting is to provide for an exchange of views between the public and the facility's owner or operator and, if possible, to resolve any issues concerning the permit modification. The meeting is less formal than the public hearings held when a new RCRA permit is under development. Because the meeting is intended to be a dialogue between the facility owner or operator and its neighbors, the permitting agency is not required to attend the meeting. EPA believes that the meeting will result in more public comments being submitted to the agency and, perhaps, voluntary revisions to the permittee's modification request.

To inform citizens about how the facility has met the conditions of the permit, the permitting agency must make the facility's compliance history available to the public. A compliance history may include a summary of any permit violations, when

violations have occurred, and how the violations have been corrected.

Default Provision. The procedures for Class Two modifications include a default provision to ensure that the permitting agency responds promptly to the facility's request. The agency must respond to a request within 90 days or, if the agency calls for an extension, 120 days. If the agency does not reach a final decision on the request within 120 days, the facility is automatically allowed to conduct the requested activities for 180 days. During this period, the facility must comply with all federal and state regulations governing hazardous waste facilities. If the permitting agency still has not acted by day 250, the facility then must let the public know that the facility will become permanently authorized to conduct the proposed activities unless the agency approves or denies the request day 300. At any time during the Class wo procedures, the agency may reclassify the request as Class Three if there is significant public concern or if the permitting agency determines that the facility's proposal is too complex for the Class Two procedures. This reclassification would remove the possibility of an automatic decision by default.

Class Two Modification Schedule

Day 1	Modification request received by agency. Newspaper notice published and mailing list notified.
Days 15–45	Informal public meeting held.
Day 60	Written public comments due to agency.
Day 90	Agency response to Class Two modification request due. Deadline may be extended 30 days.
Day 120	If no response, requested activity may begin for 180 days.
Day 250	If still no response, public notified.
Day 300	If still no response, activity permanently authorized.

Class Three Modifications

Class Three modifications address changes that substantially alter a facility or its operation. For example, the following modification requests fall under Class Three:

- Requests to manage new wastes that require different management practices.
- Major changes to landfill, surface impoundment, and waste pile liner, leachate collection, and detection systems.
- Increases in tank, container, or incinerator capacity of more than 25 percent.
- Major changes to the facility's groundwater monitoring program.

Involving the Public. For Class Three modifications, the facility must initially follow the same public notice, comment, and meeting procedures as for Class Two modifications. This allows for early public review and comment on proposed changes. Then the permitting agency must prepare a draft permit modification, allow 45 days for public comment on the draft, hold a public hearing if requested, and then issue or deny the permit modification request.

Public Involvement Steps for Class Three Modifications:

The facility representative

- Requests a modification of the permit to the permitting agency.
- Notifies the public.
- Holds a public meeting.

The permitting agency

- Allows 60 days for public comment on the modification request.
- Prepares draft permit modification conditions.
- Notifies the public of the agency's draft permit conditions.
- Allows 45 days for public comment on permit conditions.
- Holds a public hearing, if requested.
- Issues or denies the revised permit conditions.

Temporary Authorization

For certain Class Two or Three modifications, the permitting agency may grant a facility temporary authorization to perform certain activities for up to 180 days. For example, temporary authorizations may be granted to ensure that cleanups, or corrective actions, and closure activities can be undertaken quickly and that sudden changes in operations not covered under a facility's permit can be addressed promptly. Activities performed under a temporary authorization must comply with the applicable waste management regulations. The facility must notify the public within seven days of making the request. The permitting agency may grant a temporary authorization without notifying the public. A facility may renew a temporary authorization only by requesting a permit modification and initiating public participation.

Administering Permit Modifications

These procedures are effective now in states where EPA administers the RCRA program. States with hazardous waste programs equivalent to, or more stringent than, the federal program may be authorized by EPA to administer RCRA hazardous waste programs. Authorized states

are not required to adopt this new permit modification process, although it is expected that many of them will. Therefore, for state-administered RCRA permits, the state agency may use different modification procedures until it adopts the new modification approach. However, EPA may use these new procedures in authorized states whenever it is necessary to change a RCRA permit to implement provisions imposed by federal law. EPA regional offices, listed below, maintain up-to-date information about which states are following this and other hazardous waste programs.

Getting Involved

EPA encourages community involvement in the permitting and permit modification processes. The revised permit modification procedures expand opportunities for the public to be notified and to participate. The procedures also allow for the expeditious approval of requests when there is no apparent public concern about proposed changes.

Citizen Involvement Steps

- Contact your EPA regional office or state agency to identify the permitting agency.
- Write the permitting agency and request to be put on the mailing list to receive notices of permit modification requests.
- Review modification requests.
- State your support for, or objection to, the requested modifications during the public comment period by providing written comments.
- Participate in the public meetings. These informal meetings allow facility representatives to explain their permit modification requests and answer your questions.

For a copy of the new regulations governing the permit modification process and more information on the new permit modification process or other RCRA programs, call EPA's RCRA Hotline: 800-424-9346; in Washington, D.C., the number is 382-3000. Or contact EPA Regional Offices:

Region I
JFK Federal Building
Boston, MA 02203
(617) 573-9644

Region II
26 Federal Plaza
New York, NY 10278
(212) 264-8682

Region III
841 Chestnut Building
Philadelphia, PA 19107
(215) 597-7940

Region IV
345 Courtland Street, N.E.
Atlanta, GA 30365
(404) 347-3433

Region V
230 S. Dearborn Street
13th Floor (HR-11)
Chicago, IL 60604
(312) 353-0398

Region VI
First International Bldg.
1445 Ross Avenue
Dallas, TX 75202
(214) 655-6785

Region VII
726 Minnesota Avenue
Kansas City, KS 66101
(913) 236-2888

Region VIII
999 18th Street
One Denver Pl., Suite 1300
Denver, CO 80202-2413
(303) 293-1676

Region IX
215 Fremont Street
San Francisco, CA 94105
(415) 974-8026

Region X
1200 Sixth Avenue
Seattle, WA 98101
(206) 442-1099

United States
Environmental Protection
Agency
Office of Solid Waste
Washington, DC 20460

APPENDIX M -- PUBLIC PARTICIPATION RESOURCES AVAILABLE TO THE PERMITTING AGENCY

Two keys to developing an effective public participation program are knowing who within your agency or elsewhere can provide support on public participation activities and knowing where to obtain information. Most Regions have one person assigned as the **public involvement coordinator** (PIC). The PIC serves as a liaison between community members and permit writers, enforcement personnel (both EPA and state), facility owners and operators, and other individuals or groups. The PIC oversees the implementation of the overall public participation program. He or she may handle logistics for public meetings, develop and maintain mailing lists, and review and/or help prepare news releases, fact sheets, and informational materials.

Other individuals who may be able to assist with public participation activities include:

Other EPA Staff - Other members of the EPA Regional technical, legal, public affairs, project officer, or permit writer staffs are also valuable resources. It is essential that these staff coordinate their efforts. They can provide technical assessments of the facility for release to the public or provide information relative to permitting issues and aspects of enforcement, compliance, and corrective action activities developed for the facility. Graphic designers, typesetters, and other support staff can help you with your program. In addition, CERCLA community relations coordinators in your office who have sites in the same community could take care of some of your activities, or at least provide you with valuable advice.

State Personnel - In authorized states, most of the public participation responsibilities listed for EPA staff will be assumed by state personnel. Regardless of authorization status, state agencies should play an active role in the development and implementation of public participation programs. For example, agencies in unauthorized states can provide information such as names for inclusion on a mailing list, background information on a facility's history, and knowledge of community attitudes toward the facility.

Facility Staff - While oversight of the permitting and enforcement processes is the sole responsibility of the regulatory agency, facility owners or operators are responsible for conducting a number of activities. In addition, facilities resources and staff can provide for public participation activities that go beyond the regulatory requirements.

Public Interest Groups - Community groups, civic organizations, environmental groups, religious and educational organizations may all provide public participation activities that supplement the requirements. The agency may consider teaming with a local public interest group to provide opportunities for the public to learn more about the permitting process or technical issues. Public interest groups may be able to provide resources or personnel to help maintain repositories or to provide informational newsletters. The agency may also consider contacting an impartial civic organization (e.g., the League of Women Voters) to mediate at public meetings or other functions.

Contractors - Public participation contractors who work for your agency can provide support by conducting some of the more time-consuming activities, such as community interviews or logistics for public meetings.

If There's No One Who Can Help - You may be the only person available to conduct public participation activities, in which case you need to estimate your level of effort carefully so that you can choose the activities that will give you and members of the public the most benefit. You need to consider your schedule as well, and plan activities so that they complement your technical schedule and leave time for appropriate public participation.

Additional Sources of Assistance

Information Resources - Each EPA Regional office should have informational materials available to help plan public participation strategies and assist in assessing a community's needs and in implementing responsive activities. PICs should be able to guide you to specific manuals, guidance documents, and memoranda that elaborate on regulations and principles of public participation and give helpful tips on implementing successful programs. For example, the three-volume *RCRA Public Involvement Reference Catalog* (September 1990) is a

repository of materials from which readers can gather ideas and information concerning the RCRA program and RCRA public participation. You may also want to research materials from other EPA programs, such as Superfund, or outside sources to gather ideas that may be useful in dealing with particular permitting situations.

Training - Training is generally available for staff in a variety of areas, including public participation, community relations, risk communication, and community outreach. If training specific to the RCRA program is not available, you can easily adapt community outreach activities used in other programs to your RCRA situation. The techniques and methods used for RCRA public participation programs -- such as public meetings, fact sheets, and information repositories -- are also used in other programs.

Other Materials - There also are ready-made resources available for you to use in your program. EPA has developed fact sheet templates for RCRA actions, storyboards that describe the permitting process, and other information materials to save you time in developing public involvement information. The Regional PIC can provide more information on these materials.

APPENDIX N -- IMPLEMENTATION OF RCRA EXPANDED PUBLIC PARTICIPATION RULE -- MEMO FROM ELLIOTT LAWS TO EPA REGIONAL ADMINISTRATORS (12/20/95)

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

DEC 20 1995

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Implementation of the RCRA Expanded Public Participation Rule

FROM: Elliott P. Laws
Assistant Administrator

TO: Regional Administrators
Regions I - X

The Agency recently took a major step forward in its effort to promote public involvement and environmental justice by promulgating the "RCRA Expanded Public Participation Rule" (60 FR 63417-34, December 11, 1995).

The final rule improves the RCRA permitting process by: (1) providing earlier opportunities for public involvement in the process and (2) expanding public access to information throughout the permitting process and the operational lives of facilities. The rule's requirements include: a facility-led pre-application meeting; agency notice at application submittal; agency notice of impending trial burns; and a provision for information repositories.

Immediate Implementation

While the effective date of the rule will not arrive until six months after promulgation, I am recommending that all EPA Regions start meeting the goals of the final rule as soon as possible. The Regions, in turn, should encourage the States and individual RCRA facilities to meet these goals even as States are pursuing authorization for components (e.g., this rule, BIF permitting, and corrective action) of the RCRA program.

Early implementation of the final rule will allow the public to benefit immediately from the rule's new and important procedures. This early implementation will be useful for the entire program and help the Agency fulfill its commitment to meaningful public involvement in RCRA permitting.

Printed on Recycled Paper

I would like to express my appreciation to the Regions for working to achieve these goals since the Agency proposed the rule in June 1994. We are encouraged by the positive reception these new standards have received, and look forward to full implementation.

Guidance on Equitable and Flexible Public Participation

The development of the final rule involved a balance between broader, more equitable public participation and flexibility for individual permit writers, facilities, and communities to adopt the most appropriate, site-specific approaches. Some of the principles underlying the final rule would have been difficult to prescribe through regulation. We decided that, instead of trying to achieve these goals through regulatory language, the public interest would be served best by encouraging permitting agencies and permit applicants to adopt these principles through guidance.

Consistent with this approach, you should abide by the following principles in your permitting efforts:

- Using all reasonable means to ensure that all segments of the population have an equal opportunity to participate in the permitting process and have equal access to information in the process. These means may include, but are not limited to, multilingual notices and fact sheets, as well as translators, in areas where the affected community contains significant numbers of people who do not speak English as a first language;

- Addressing environmental justice concerns, in part, by expanding access to information (particularly in a multilingual format) and opportunities for public input (through tools such as information repositories); and

- Going beyond the regulatory requirements, where appropriate, to provide for a level of public involvement that is commensurate with public interest in the permitting issue.

I also encourage State permitting agencies and permit applicants to adopt these principles in their dealings with the RCRA program. These policies will improve the RCRA permitting program and promote the Agency's commitments in the area of equitable public participation.

We are providing further guidance for implementing the final rule and this policy directive in our update of the 1993 RCRA Public Involvement Manual (EPA530-R-93-006, September 1993). We anticipate issuing the new guidance document in Spring 1996. The revised manual will provide guidance to regulated facilities and affected communities, as well as permitting agencies.

If you need any additional information about the rule, the policies in this memorandum, or the upcoming guidance manual please contact Patricia Buzzell of my staff at (703) 308-8632.

cc: Michael Shapiro
Linda Garczynski, OSPS
Matt Hale
Frank McAlister
Patricia Buzzell
Fred Chanania
Paul Bangser, OGC
Hazardous Waste Management Division Directors, Regions I - X
Hazardous Waste Management Division Branch Chiefs, Regions I - X
RCRA Public Involvement Network
Lance Miller, Permits Improvement Team

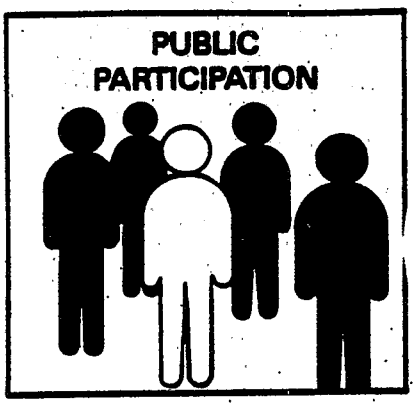
APPENDIX O -- OVERVIEW OF PUBLIC PARTICIPATION IN THE ENTIRE RCRA PROGRAM (EXCERPT FROM 1990 RCRA ORIENTATION MANUAL)

SECTION VII

PUBLIC PARTICIPATION

- OVERVIEW
- GENERAL EPA PUBLIC PARTICIPATION REQUIREMENTS
  - FREEEDOM OF INFORMATION ACT
- RCRA PUBLIC PARTICIPATION REQUIREMENTS
  - STATUTORY REQUIREMENTS
  - PROGRAM IMPLEMENTATION
  - ENFORCEMENT
  - REGULATIONS
  - CONFIDENTIAL BUSINESS INFORMATION
  - GUIDANCE
- OUTREACH AND PUBLIC ASSISTANCE
  - RCRA/SUPERFUND HOTLINE
  - OFFICE OF OMBUDSMAN
- SUMMARY

SECTION VII PUBLIC PARTICIPATION



OVERVIEW

The right of the public to participate in government decisions is basic to our democratic system. In few places is this right exercised more than in the area of hazardous waste management. The public is deeply concerned about, and often fearful of, the potential impacts of hazardous waste on their health and safety. In recognition of their rights and interest in hazardous waste management, and in a conscious attempt to include them in the decision-making process, the government gives the public numerous opportunities to get involved in all phases of the RCRA program.

The overall goal of public participation is to build trust and credibility, and to keep emotions, human energy, and conflicts focused on substantive issues and solutions. Public participation provides an opportunity for all interested parties to become informed and involved, and to influence program development and implementation. Further, EPA managers have found that active public participation provides a forum to identify and address concerns thus reducing conflict.

This chapter details the public participation framework established for EPA and, where applicable, specifically for RCRA. It includes descriptions of the statutory and regulatory requirements and a summary of guidance materials that address public participation.

GENERAL EPA PUBLIC PARTICIPATION REQUIREMENTS

In consideration of the importance of citizen involvement, Congress established public participation requirements that apply to all environmental programs administered by EPA. They are outlined in the Administrative Procedures Act ((APA) 5 U.S.C. Sections 551-559) and include:

- Providing information and soliciting comments on all proposed and final Agency actions, e.g., the development of regulations
- Incorporating public comments into the decision-making process, and
- Establishing an appeals process for certain Agency decisions.

State employees should consult State administrative regulations for further guidance on public participation

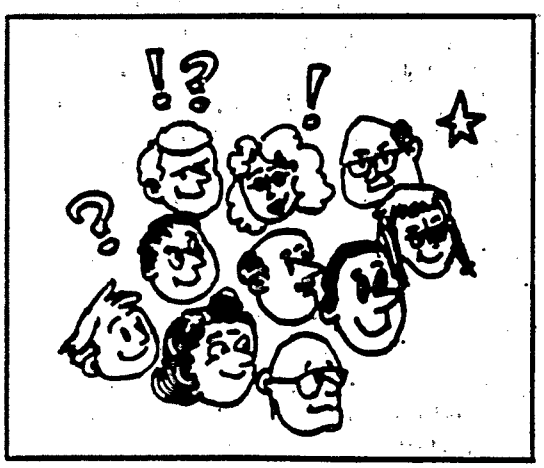
requirements. The participation requirements in the Federal APA assure the public a voice in EPA decision making.

Freedom of Information Act

The Freedom of Information Act (FOIA) -- which serves as the government's primary mechanism for handling information requests -- guarantees that the public will have access to government records, including those of the EPA. Specifically, it requires each Federal agency to establish procedures for handling FOIA requests regarding government statutes, regulations, standards, permit conditions, requirements, orders, or policies.

EPA , therefore, has pursued a policy of fully disclosing its records to the public, consistent with the rights of individuals to privacy, the rights of persons entitled to confidential business information (CBI), and the need for EPA to promote frank internal policy deliberations. EPA will disclose information to any requester to the fullest extent possible without unjustifiable expense or unnecessary delay.

FOIA requests are written requests for records held by or believed to be held by EPA. FOIA requests must reasonably describe the records in a manner that will permit proper identification of government documents or records. Although requesters do not need to name the specific documents in question, they must provide a clear description of the information they seek. The FOIA refers to all written requests, regardless of whether the requester refers to the FOIA or not. Any existing form of information may be covered, but the FOIA does not require the creation of new records. A FOIA request can be made by any person, corporation, or organization.



RCRA PUBLIC PARTICIPATION REQUIREMENTS

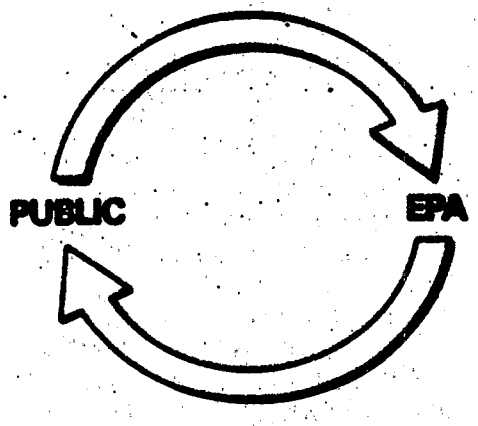
However, because the issues surrounding hazardous waste management often arouse intense public sentiments, the public participation framework developed under RCRA further expands citizen opportunity for involvement well beyond Agency-wide requirements. This framework has three parts:

- Statutory requirements
- Regulatory requirements, and
- Guidance.

Statutory Requirements

When it implements the RCRA program within a State, EPA gives the public access to facility and site information

relating to permitting, compliance, enforcement, and inspections. RCRA Section 3006 requires authorized State to make this information available to the public in a manner substantially similar in method and degree to EPA-implemented RCRA programs. In certain cases, however, the information may be confidential and unavailable to the public, e.g., when company trade secrets are involved. The following section discusses the specific requirements for dealing with confidential business information which are principally regulatory requirements.



Program Implementation

Section 3006 of RCRA requires that public comments be solicited before:

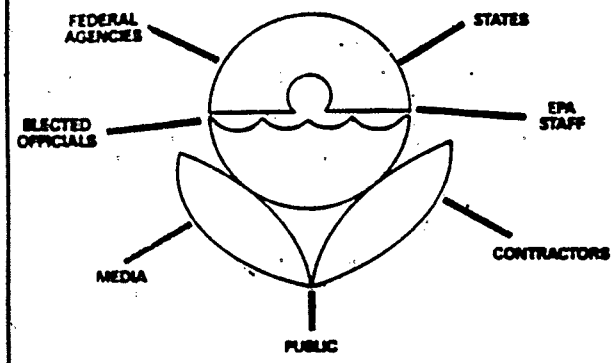
- A State submits an application for Subtitle C final authorization
- EPA decides to grant or deny a State authorization
- EPA withdraws a State's authorization, and
- EPA suspends or revokes a hazardous waste facility permit.

Enforcement

Section 7002 of RCRA gives fairly broad legal authority to ensure that the entire RCRA program is properly implemented. It allows a citizen to bring a civil suit against any person or government agency alleged to be in violation of any permit, standard, regulation, condition, requirement, or order that has become effective under the Act.

HSWA expanded citizen rights to bring suit against RCRA violators by allowing private individuals to initiate suits against any past or present generator, transporter, owner, or operator of a facility who has contributed to or is contributing to a condition that may present an imminent and substantial endangerment to human health and the environment.

However, the right of citizens to bring suits under Section 7002 is limited in certain situations. No suit may be brought if EPA or a State is already taking enforcement action against the alleged violator. HSWA further limits the reach of such suits by prohibiting them from impeding permit issuance or facility siting. Finally, citizens are prohibited from suing transporters for problems that arise following the delivery of hazardous waste.



Who Is Involved In Public Participation?

Regulations

The RCRA regulations under 40 CFR Part 25 focus on:

- Ensuring that the public understands the RCRA program and any proposed changes to it
- Responding to public concerns and including the public in the decision-making process
- Developing a close link among EPA, States, and the public, and
- Providing opportunities for public participation beyond what is required, whenever feasible.

To achieve these regulatory goals, agencies implementing RCRA are required to:

- Provide free copies of reports upon request
- Alert interested and affected parties of upcoming public hearings, and
- Establish EPA-funded advisory groups when an issue warrants sustained input from a core group of citizens.

In addition to the 40 CFR Part 25 regulations, EPA's permitting regulations (40 CFR Part 124) also address public participation. They require the permitting agency to:

- Notify the public of the intent to issue or deny a permit
- Provide the public 45 days to comment on the permit application
- Consider public comments regarding permit violations, and
- Notify the public of proposed major modifications to an operating permit.

In addition, 40 CFR Parts 264 and 265 require public notice and comments on RCRA closure plans.

Confidential Business Information

In the course of administering EPA programs, agency officials have access to material containing CBI, e.g., trade secrets and proprietary information. Because EPA must protect the rights of those who submit privileged

information, employees are required to take all reasonable measures to prevent unauthorized disclosure of CBI Regulations regarding confidentiality are contained in 40 CFR Part 2, Subpart B. These apply to RCRA as well as other EPA programs.

These regulations identify the proper procedures businesses must employ to claim confidentiality. In addition, these regulations establish the guidelines EPA must use to determine the validity of the claim, and impose rules for handling CBI.

When EPA notifies a business that it must submit confidential information for review, EPA also must notify the business of its right to assert a claim of confidentiality. Businesses responding to EPA's queries must clearly identify all confidential documents, materials, and information. EPA then determines the validity of the CBI claim. Businesses can claim information as confidential if it meets certain criteria, e.g., it has been previously protected as confidential, or it is not reasonably obtainable by others.

Employees authorized to use CBI are responsible for the control of such information and they may discuss CBI only with other authorized persons. Any violations should be reported immediately. In addition, employees must not discuss CBI over the telephone and when holding confidential information, they must store the confidential materials in an approved container when not in use. Finally, when working with representatives of businesses that have submitted CBI, employees must verify the representatives' identities before discussing any of the confidential information.

Guidance

To supplement its statutory and regulatory requirements, EPA developed guidance documents regarding public participation in RCRA permitting. The guidance stresses the importance of:

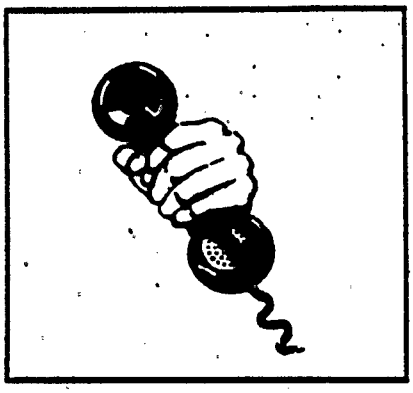
- Identifying public concerns early in the permitting process
- Encouraging the exchange of information among EPA, the State, the permittee, and the community
- Creating open and equal access to the permitting process, and
- Anticipating conflicts and providing an efficient method of resolution.

In some cases, EPA or the State may develop a Public Involvement Plan. This plan outlines the steps and actions EPA will take to communicate with the public during the facility permitting process.

OUTREACH AND PUBLIC ASSISTANCE

A number of opportunities exist for the public to obtain RCRA program information and assistance, including fact sheets and pamphlets. Two particularly noteworthy programs include:

- The RCRA/Superfund Hotline
- The Office of Ombudsman.



RCRA/Superfund Hotline

Hazardous waste regulations often seem complex even to those familiar with EPA's programs. To assist the public in understanding the RCRA and Superfund programs, EPA created the RCRA/Superfund Hotline. Anyone may call the Hotline staff and ask them questions related to the RCRA and Superfund programs. The Hotline is staffed by professionals who are completely familiar with the latest issues and regulations affecting EPA's hazardous waste programs. The Hotline is open Monday through Friday from 8:30 AM to 7:30 PM, and may be contacted at either (202) 382-3000, or toll free (800) 424-9346.

Office of Ombudsman

In order to create a central clearinghouse for public concerns on matters relating to the implementation and enforcement of RCRA, EPA established the Office of Ombudsman and appointed a Hazardous Waste Ombudsman in Headquarters and each Region. The Ombudsman's primary responsibility is to respond to questions and complaints regarding EPA's hazardous waste program. In addition, the Ombudsman makes recommendations to the Administrator based on inquiries received. The Headquarters Ombudsman may be reached at:

Office of Ombudsman
U.S. Environmental Protection Agency
Office of Solid Waste and Emergency
Response
Mail Code OS-130
401 M Street, SW
Washington, DC 20460
(202) 475-9361

SUMMARY

The public participation framework developed under RCRA expands citizen opportunity for involvement well beyond Agency-wide requirements (outlined in the Administrative Procedures Act and Freedom of Information Act). This framework consists of:

- Statutory requirements
- Regulations
- Guidance.

RCRA-mandated programs integrate public comment into many decisions, including State authorization and facility permitting.

EPA adheres to legal requirements for the access to and release of information. In order to protect rights of private industry, EPA also has set standards for the use of privileged company data. EPA strictly regulates CBI by carefully limiting employee access to such information, by strictly controlling the use and storage of such information, and by verifying corporate identity before discussing such information.

To assist citizens with the RCRA program, EPA created a number of public outreach programs, the most noteworthy of these are the RCRA/Superfund Hotline and the Office of the Ombudsman.

APPENDIX P -- PUBLIC PARTICIPATION IN ENFORCEMENT AND COMPLIANCE

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

9901.3

MAY 5 1987

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Guidance for Public Involvement In RCRA Section 3008(h) Actions

FROM: J. Winston Porter
Assistant Administrator

TO: ADDRESSEES

EPA is committed to providing meaningful opportunity to the public to be informed of and participate in decisions that affect them and their communities. This memorandum provides guidance on public involvement actions taken under Section 3008(h) of the Resource Conservation and Recovery Act (RCRA).

It is highly likely that corrective action activities, which differ from normal operations at a facility, will generate public concern. The nature of the problem and the visibility of corrective action activities are two reasons for EPA to involve the public during the corrective action process. If the public is informed early, and allowed to be involved in the decision-making, it is less likely that there will be opposition to the decisions that are made. Also, valuable information can be obtained from concerned citizens who may know the site and facility's history.

Section 3008(h), the interim status corrective action authority, allows EPA to take enforcement action to require clean-up at a RCRA interim status facility when the Agency has information that there has been a release of hazardous waste or hazardous constituents. We anticipate that the cleanup program under Section 3008(h) will frequently be implemented with two orders. The first order would require the owner or operator to conduct a study to characterize the nature and extent of contamination, and to develop a remedy or alternative remedies as needed. Once a remedy has been selected, a second order would require design, construction, and implementation of that remedy.

MINIMUM PUBLIC INVOLVEMENT REQUIREMENTS

Although there will be many situations where much additional public involvement will be necessary, I would like to emphasize that there are minimun requirements for all 3008(h) orders, whether on consent or unilateral. Following the respondent's submission of its report on the RCRA Facility Investigation and Corrective Measures Study, the Agency will develop a proposed plan for corrective measures, or make the decision that no corrective measures are necessary. The Agency shall then (1) publish a notice and brief analysis of the proposed plan for corrective measures, or of its decision that no corrective measures are necessary, and make such information available to the public, and (2) provide a reasonable opportunity (ordinarily 30-45 days) for submission of written comments and, if the Regional Administrator deems it appropriate, a public meeting on the plan. If the Regional Administrator denies a request for a public meeting, he shall explain his decision in writing.

The Agency shall, as necessary, modify its proposed plan for corrective measures on the basis of written and oral comments received. Prior to issuance of the initial order for corrective measures the Agency shall prepare a responsiveness summary indicating whether and why it has accepted or rejected any significant comments. Following finalization of the order for corrective measures but before implementation of corrective measures, notice of the final plan for corrective measures shall be published and the plan shall be made available to the public.

Where, in the interest of protecting human health and the environment, it is important that interim corrective measures be implemented quickly, the public will have no advance opportunity for written or oral comments. Here, EPA will simply provide substantially contemporaneous notice to the public of interim measures being implemented.

EXPANDED PUBLIC INVOLVEMENT MAY BE NECESSARY

The degree of public involvement in a corrective action program will be determined by the amount of public interest in the site, the actual or potential hazard to human health or the environment and the type of clean-up action that will be undertaken. In general, if the Agency has identified releases and determined that they require investigation, the public should be informed that studies are underway. The Region may also want to hold additional public meetings if there is a lot of interest in the facility. The public should be made aware of significant technical issues at the site. There will be occasions where affected citizens can make valuable contributions to remedy selection through participation in technical discussions with owners or operators and government representatives.

We strongly urge the use of a public involvement plan for sites in which there is likely to be significant public interest. At appropriate points during the process, fact sheets can be developed that should both inform the public and allay fears that could surface if no substantive knowledge were made available. A public involvement plan tailored to each site can also be very helpful. You may refer to Community Relations in Superfund: A Handbook March 1986, and Public Involvement Guidance in the Permitting Program, March 1986, Directive 9500.01, for further information on public involvement techniques and process. The regional RCRA public involvement coordinator can also offer valuable information and assistance.

There are limitations on the release or discussion of certain information during the §3008(h) enforcement process. This is especially true during negotiations. The confidentiality of statements made during the course of negotiations must be maintained. Our goal during negotiations is to encourage frank discussion of all issues, and try to resolve differences. Public disclosure of this information would jeopardize the success of the negotiations. Disclosures of strengths and weaknesses of a case, information that is privileged and protected under the law, enforcement strategy and timing would also jeopardize the government's enforcement position. If a case is referred to the Department of Justice to initiate litigation, further constraints may be placed upon public involvement. In this situation, the scope of public involvement should be discussed with the lead DOJ attorney.

Coordination among EPA and/or State personnel is very important. At some sites, RCRA Permits and Enforcement Personnel and Superfund will be involved, and a coordinated approach will serve the Agency and the public best. In order to establish a network whereby information can be exchanged, I would like each region to appoint a coordinator for public involvement in §3008(h) orders. This person may be from either your public involvement or enforcement staffs. Please call Jackie Tenusak of my staff at FTS 475-8729 with the name of your contact.

Thank you for your attention to this matter. Please do not hesitate to call me, or any of our public involvement staff, if you have questions.

ADDRESSEES

Regional Hazardous Waste Management Division Directors,
Regions I-X

RCRA Enforcement Section Chiefs
Regions I-X

RCRA Enforcement Branch Chiefs
Regions I-X

Public Involvement/Community Relations Coordinators
Regions I-X

cc: Pamela Garrow, OWPE
Olga Corey, OWPE
Vanessa Musgrave, OSW
Melissa Friedland, OERR

United States
Environmental Protection
Agency

Office of
Enforcement
(LE-133)

March 1990

EPA

The Public's Role In Environmental Enforcement

Earth Day 1990
EPA
You Can Make A Difference

1. Introduction

What can the public do to stop pollution? This question is asked EPA every day by citizens who have seen a pollution problem in their community and want to solve it.

This leaflet presents the first basic steps any member of the public can take to help correct a pollution problem. It describes approaches that can help the reader deal with the types of violations most often encountered by the public. Unfortunately, space does not permit coverage of every possible rare case, or situation.

Section 2 tells you how to determine whether enforcement techniques can help in dealing with your particular pollution problem, and how to make observations that can be used effectively. It describes the basic steps you can use in any pollution case.

Sections 3 through 6 address the violations most often encountered by the public in the major categories of water pollution, air pollution, hazardous waste pollution, and toxic substances pollution. It describes some specialized steps that may be useful for each of those environmental media.

2. The First Steps

The two most important things to do when you see a potential pollution problem are: (1) make careful observations of the problem and (2) report it to the proper authorities.

You should fully record your observations. Write down when you observed the problem (both date and time), where you observed the pollution, and how you came to notice the pollution. If the pollution problem has occurred more than once or is continuing, write that down. If possible, try to identify the person or source responsible. If it is a truck dumping wastewater or garbage, write down the license plate of the truck, the type of truck if possible, and note any signs or emblems on the truck. If you have noticed a particular type of smell, write down your best description of the smell or odor. If the pollution is visible and you have a camera, take a picture. If possible, you may want a friend, neighbor, or family member to confirm your observations.

Once you have carefully observed the problem and written down your observations, you should call the appropriate local or state authorities to inform them of your observations. Look in your local telephone book in the government pages for the county or city office that might handle the problem. Typically, such offices will be listed as environmental, public health, public works, water pollution, air pollution, or hazardous waste agencies. If you cannot find a county or city office, look for a state government environmental office. It may require a few calls to find the correct office, but hang in there!

Once you reach the appropriate office, give the official all the information on what you observed and ask him or her to look into the problem. You should ask the official whether the problem you have identified is likely to be illegal, how common it is, and how and when the office will investigate. Make sure you get the person's name and telephone number. If the person does not call you back or respond promptly, call the person back and ask what is going on.

If the city or county environmental agency does not respond adequately to your telephone call, you may call back and ask to speak to the official supervisor or boss. If the supervisor is not available, get his or her name and address. You may then write this person a letter describing the problem you have observed and explaining your dissatisfaction with the office's response to it. Or you could contact the appropriate state environmental office directly, by telephone or letter. If you cannot get an adequate response from local or state environmental offices, or you cannot find a local or state office to call, you may call the U.S. EPA regional office that covers your area. A listing of all the U.S. EPA regional offices, with telephone numbers, is in the last section of this booklet.

If the pollution problem persists and the local, state, and regional U.S. EPA offices appear unwilling or unable to help, you may contact U.S. EPA headquarters in Washington, D.C. do not believe the government agen have adequately responded to the pollution problem, and you believe the pollution is illegal and the problem appears to be continuing, you may have certain individual rights under the citizen suit provisions of the various federal environmental laws that you can assert to remedy the pollution problem yourself. You may wish to contact your own attorney or a public interest environmental group. A listing of national and state environmental groups is contained in the *Conservation Directory*, published annually by the National Wildlife Federation, Washington, D.C., and available in many public libraries. If you win such a lawsuit, the polluter will likely be required to correct the problem causing the pollution, pay penalties to the United States for violating the law, and pay your attorney's fees.

Finally, if you are told that the pollution problem you have observed is legal, but you believe it should not be legal, you are free to suggest changes in the law by writing to your U.S. Senator or Representative in Washington, D or to your state governor or state legislators to inform them of the problem. Local libraries should have the names and addresses of these elected officials.

. How To Identify And Respond To A Water Pollution Problem

Periodically, people may become concerned that pollution of a river, stream, lake, or ocean is occurring. This concern may be caused by the sight of an oil sheen on the surface of a river, stream, or lake. It might be caused by their observing a discoloration of the water in a stream or a pipe discharging apparently noxious liquids into a water body. Concern might also arise because an unusual odor is emanating from a body of water, or a bulldozer is seen filling in a marsh or wetland.

While some water pollution is an unfortunate consequence of modern industrial life, there are national, state and local laws that limit the amount and kinds of water pollution allowed, and in some cases these laws completely prohibit certain types of water pollution. Sometimes it will be easy for a citizen to identify water pollution that is a violation of the law, and sometimes it will be difficult to identify the water pollution problem without sophisticated equipment.

Here are a few general types of water pollution problems a citizen might observe:

Rivers and Lakes - A citizen might observe wastewater flowing out of a pipe directly into a stream, river, lake, or even an ocean. Persons are only allowed to discharge wastewater into a water body if they have received a National Pollutant Discharge Elimination System ("NPDES") permit and they are complying with the requirements of that permit. NPDES permits limit the amount of pollutants which persons are allowed to discharge. Unfortunately, it is often difficult to tell with the naked eye if a person is complying with the terms of a NPDES permit. However, some reliable indicators of violations are a discharge that leaves visible oil or grease on the water, a discharge that has a distinct color or odor, or one that contains a lot of foam and solids. Further, if there are dead fish in the vicinity of the discharge, this is a strong indicator of a water pollution violation.

Citizens should be aware that all persons who discharge wastewater to U.S. waters must report their discharges. These monthly reports (commonly called Discharge Monitoring Reports, or "DMRs") indicate the amount of pollutants being discharged and whether the discharger has complied with its permit during the course of the month. These reports (DMRs) are available to the public through state environmental offices or EPA regional offices.

Wetlands or Marshes - Under the Federal Clean Water Act, persons are only allowed to fill wetlands (commonly known as marshes or swamps) pursuant to the terms of a special discharge permit, commonly called a Section 404 permit. "Filling a wetland" generally means that a person is placing fill or dredge material (like dirt or concrete) into the wetland in order to dry it out so that something can be built on the wetland. The Section 404 wetlands program is jointly administered by the U.S. Army Corps of Engineers and EPA. In general, the United States is committed to preserving its wetlands (sometimes called the "no-net loss" program) because of the valuable role wetlands play in our environment. In brief, wetlands provide a habitat for many forms of fish, wildlife, and migratory birds; they help control flooding and erosion; and they filter out harmful chemicals that might otherwise enter nearby water bodies.

In general, there is usually no way to know if a wetland is being filled legally or illegally without knowing whether the person has a Section 404 permit and knowing the terms of that permit. However, if you notice fill activity going on in a suspicious manner, e.g., late at night, this may suggest that the wetland is being filled illegally. If you see a wetland being filled and are curious whether there is a permit authorizing such filling, you may call the local Army Corps of Engineers' office or the EPA regional office in your state. If possible, you should tell the Army Corps or EPA the location of the wetland being filled, what kind of filling activity you noticed, and who is doing the filling.

Drinking Water - The Nation's drinking water is protected through the Federal Safe Drinking Water Act. Under this law, suppliers of drinking water are required to ensure that their water complies with federal standards (known as maximum contaminant levels, or "MCLs") for various pollutants and chemicals, such as coliform bacteria. If drinking water suppliers exceed a federal standard, they are required to immediately notify their users and implement measures to correct the problem. While you may not be able to tell if your drinking water is meeting all federal standards without testing equipment, if you notice any unusual smell, taste, or color in your water, you should immediately notify the person who supplies your water and the appropriate state agency.

In many of the circumstances when citizens become aware of a water pollution problem, there are actions that they can take to begin the process of correcting the problem and forcing the violator to comply with the law. The first step is always to make careful observations of the pollution event that you are observing. It is best to make a written record of the time and place of the sighting. As many details as possible should be recorded concerning the nature of the pollution, for instance its color, smell, location, and its "oiliness". It is extremely important, if possible, that the source of the pollution be identified, including the name and address of the perpetrator. If the pollution is visible and you have a camera, you may take a picture. If possible, you may want a friend, neighbor, or family member to confirm your observations.

Once you have carefully observed the problem and written down your observations, you should call the appropriate local or state authorities to inform them of your observations. Look in your local telephone book in the government pages for the county or city office that might handle the problem. Typically, such offices will be listed as environmental, public health, public works, or water pollution agencies. If

you cannot find a county or city office, look for a state government environmental office.

As the next step, a determination must be made as to the legality of the discharge. If the discharge is, in fact, illegal, the perpetrator must be confronted, the discharging of pollutants or the filling of the wetland must be halted, and, if feasible, the environmental damage caused by the perpetrator's actions must be corrected. Confrontation of the polluter is most practically achieved by contacting the local, state, or federal environmental protection agency. In general, the state environmental agency is responsible for making a preliminary assessment of the legality of the pollution event observed, for investigating the event, and, if necessary, for initiating an enforcement action to bring the polluter into compliance with the law. The citizen may also contact the U.S. EPA regional office that covers your state for assistance. A listing of all the U.S. EPA regional offices, with telephone numbers, is listed at the end of this booklet.

If the pollution problem persists and the local, state, and regional U.S. EPA offices appear unwilling or unable to help, you may contact U.S. EPA headquarters in Washington, D.C.

Lastly, if you do not believe the federal, state, or local governments have adequately responded to the pollution problem, and you believe the pollution is illegal and appears to be continuing, you may have certain individual rights under the citizen suit provisions of the various federal environmental laws that you can assert to remedy the pollution problem yourself. The Federal Clean Water Act provides that a citizen adversely affected by water pollution may bring a lawsuit on behalf of the United States to correct the problem. If you want to do this, you will probably need a lawyer to make an assessment of the illegality of the pollution event and your chances of succeeding in a lawsuit. There are a number of public interest organizations who can be contacted that are in the business of bringing this kind of lawsuit. (A listing of national and state environmental groups is contained in the *Conservation Directory, 1987*, 32nd Edition, published by the National Wildlife Federation, Washington, D.C.) If you win such a lawsuit, the polluter will likely be required to correct the problem causing the pollution, pay penalties to the United States for violating the law, and pay your attorney's fees.

Finally, if you have obtained "insider" information that water pollution is occurring, the Clean Water Act protects you from recrimination if the polluter is your employer. Your employer may not fire you or otherwise discriminate against you based on your "blowing the whistle."

To repeat, there are two ways to proceed if you suspect that water pollution is occurring: either contact your state EPA or the U.S. EPA to disclose your information and/or initiate your own citizen's lawsuit.

4. Air Pollution

Smoke or Odor - There are several air pollution situations a citizen might observe. You might observe visible emissions of air pollutants, such as black clouds of smoke, coming from a source such as a factory or power plant. You might also notice a discharge of air pollution because you can smell a strong odor. In either of these situations these discharges may or may not be a violation of the Clean Air Act.

The Clean Air Act does allow some pollution discharges. The goal of the Clean Air Act is to keep the overall concentration of the major air pollutants at a level that will protect the public health. States then decide how they are going to meet these air pollution goals. A state may decide not to regulate a particular category of air pollution sources at all and to concentrate its efforts elsewhere in meeting its goals. Regulated sources may have permits from the state allowing them to discharge a certain level of pollution.

The best course of action for a citizen to take in these two situations is first to try to determine the exact source of the pollution. If it is a visible discharge, take a photograph. Also, note the exact time, day and location you observe the pollution.

Then notify your local or state air pollution or environmental agency of your observations. They should be able to determine if the source you observed is regulated, and if so, whether the discharge of pollution you observed is legal. EPA usually defers to the state for enforcement. Only in limited, appropriate circumstances does EPA intervene to take enforcement action. However, if you have difficulty in getting a response from your state or local agency, contact the nearest regional office of EPA and report your observations.

Asbestos - Another situation a citizen might encounter involves construction work. Many old buildings contain the hazardous material, asbestos. Asbestos is extremely harmful to human health inhaled or ingested. When building containing asbestos are renovated or demolished, the asbestos is broken up and can become airborne and, therefore, a health hazard.

EPA regulations require all parties associated with renovations and demolitions involving asbestos to notify EPA of the work and follow certain work practice requirements aimed at eliminating or at least minimizing the amount of airborne asbestos. These requirements largely consist of wetting the asbestos at all stages of the process so that it does not become airborne. The regulations also require the asbestos to be stored and disposed of in a particular manner.

There are several ways a citizen might help identify a violation of the asbestos regulations. If you pass a construction site, you may notice large amounts of white dust coming from the site or scattered around the site. These could be violations if the debris in question contains asbestos. One way a citizen could verify that asbestos is involved is looking for a brand-name label stamped insulation that is still intact. Otherwise, trained inspectors will have to take samples and laboratory analysis of the debris must be done to verify that it contains asbestos.

The most effective action to take is to notify the nearest EPA regional office about the site. EPA personnel can then check their records to see if they have received notice of the demolition or renovation, and can do an inspection if it seems likely that asbestos is involved.

Auto Warranties - The Clean Air Act requires that motor vehicles sold in the United States meet prescribed emissions standards. In order to ensure that vehicle emissions remain low for the useful life of the vehicle, manufacturers are required to provide broad emission warranty coverage for vehicles that are less than five years old and have been operated for less than 50,000 miles. This warranty applies to defects in any part whose primary purpose is to control emissions, such as the catalytic converter, and in any part that has an effect on emissions, such as the carburetor (except parts that have usual replacement intervals, such as spark plugs). Manufacturers must make emissions warranty repairs free of charge for any labor or parts. If you believe you are entitled to an emissions warranty repair, contact the person identified by the manufacturer in your owner's manual or warranty booklet.

If you are not satisfied with the manufacturer's response to your emissions warranty claim, you may contact EPA for assistance by writing: Field Operations and Support Division (EN-397F), U.S. Environmental Protection Agency, Washington, D.C. 20460.

Removing Emission Control Devices - The Clean Air Act also seeks to prevent automotive pollution by prohibiting the removal or rendering inoperative of emission-control devices by new and used car dealers, repair shops and fleet operators. In addition, gasoline retailers are prohibited from introducing leaded gasoline into motor vehicles which require unleaded gasoline, and gasoline that is sold as unleaded must not contain excess lead or alcohol. If you know of a violation of the anti-tampering or motor vehicle fuel rules, please contact EPA by writing to the address listed above.

The Clean Air Act also has a provision allowing citizens to sue any person alleged to be in violation of an emission standard under the Clean Air Act (42 U.S.C. section 7604).

5. Hazardous Waste

Abandoned Sites, Barrels, etc.

When citizens see leaking barrels (or barrels that look like they might leak), pits or lagoons on abandoned property, they should avoid contact with the materials, but note as thoroughly as possible their number, size, and condition (e.g., corroded, open, cracked) and the material leaking (e.g., color, texture, odor), and report these to the local fire department or the hazardous waste hotline (800-424-8802 or 202-267-2675).

If possible, take a photograph of the area, but do not get too close to the materials. If the substances are hazardous, the statute most likely involved is the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or the Superfund law), and EPA or the state should take the lead. Under CERCLA, citizens have the opportunity to, and are encouraged to, involve themselves in the community relations program which includes citizen participation in the selection of a remedial action.

A citizen may file suit against any person, including the United States, who is alleged to be in violation of any standard, regulation, condition, requirement or order that has become effective under CERCLA provided that the citizen gives the violator, EPA, and the state sixty days notice of the intent to sue. A citizen suit cannot be brought, however, if the United States is diligently prosecuting an action under CERCLA.

Hazardous Waste Facilities

When citizens encounter leaks, discharges or other suspect emissions from a hazardous waste treatment, storage or disposal (TSD) facility, they should contact their state hazardous waste office or the local EPA Regional office to determine if the facility has a Resource Conservation and Recovery Act (RCRA) permit or has been granted interim status to operate while it applies for a RCRA permit. Any citizen may obtain copies of a TSD facility's permit

and monitoring reports, which would document any violations, from the state agency or EPA Regional office.

A citizen may bring a civil judicial enforcement action against a RCRA violator provided he gives the violator, EPA, and the state sixty days notice of the intent to sue, during which time the state or EPA may pursue an enforcement action. With certain limitations, a citizen may also bring an action against any person who has contributed to or who is contributing to the past or present handling of any solid waste, including hazardous waste, that may present an imminent and substantial endangerment to human health or to the environment.

Transportation Spills

If you see a spill from a truck, train, barge or other vehicle, you should report it immediately to the local fire and police. If it is possible to read any labels on the vehicle, without getting too close, then you should report this information as well.

If you see a spill from a barge, ship, or other vessel into navigable waters or the ocean, such as an oil spill from a tanker, you should report the spill and location to the United States Coast Guard, or call the hazardous waste hotline (1-800-424-8802 or (202) 267-2675).

Citizens who provide information leading to the arrest and conviction of persons who commit certain criminal violations under CERCL[illegible] be eligible for a reward of [illegible]0,000. These awards are often [illegible] in connection with a violat[illegible] failure to make a required report on a release of a hazardous substance or the destruction or concealment of required records.

When citizens encounter instances of pollution involving pesticides or toxic substances, the law that was actually violated will most often be the Clean Water Act, the Clean Air Act, or the Resource Conservation and Recovery Act. Most violations of the Toxic Substance Control Act or the Federal Insecticide, Fungicide and Rodenticide Act will be discovered only by persons with special training or with access to information that is not generally available to the public.

TSCA

Violations of the Toxic Substances Control Act (TSCA) that the public might observe include:

—Demolition of a building containing asbestos without proper measures to keep the asbestos contained.

—Improper storage or disposal of transformers containing PCBs (polychlorinated biphenyls).

—Improper storage of asbestos.

If you think you are seeing such a violation, you should contact: Office of Compliance Monitoring (EN-342), U.S. Environmental Protection Agency, Washington, D.C. 20460, or call the National Response Center for Oil and Hazardous Material Spills at (800) 424-8802.

Citizen suits are authorized under TSCA (15 U.S.C. section 2619). Citizens may sue violators of provisions concerning PCBs, asbestos, required testing of chemical substances, notification to EPA before manufacturing or importing new chemicals, or beginning a significant new use of chemicals.

FIFRA

Citizens may encounter violations of the provisions of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) that govern the use of pesticides. FIFRA requires that pesticides be used by the public only as specified on the label. Many pesticides are labeled for use only by specially licensed applicators. Others have been banned from almost all uses, except for particular uses where no other pesticide

Violations of FIFRA that citizens ma observe include:

—Sale or use of banned pesticides that are not registered with EPA. Thes would lack the EPA registration numb that must appear on every pesticide label.

—Use of pesticides in a manner inconsistent with the directions on the label.

—Application of restricted-use pesticides by unlicensed applicators.

—False or misleading labeling or advertisement of pesticides.

If you think you are seeing such a violation, you should contact: Office o Compliance Monitoring (EN-342), U.S. Environmental Protection Agency, Washington, D.C. 20460, or call the National Response Center for Oi' Hazardous Material Spills at (80 424-8802.

There is no citizen suit authority under FIFRA.

EPCRA

The Emergency Planning and Community Right-to-Know Law (EPCRA) requires a wide range of businesses that manufacture, import, process, use or store chemicals to repo certain information to federal, state anc local governments. For example, these businesses are required to report annu estimates of the amounts and types of toxic chemicals they released or disposed of during each calendar year. The data must be reported to EPA and to state agencies, and they are availabl to the public through an EPA compilation called the Toxics Release Inventory. The data in this inventory may be used by the public to examine the practices of particular manufacturers.

If you believe that a business that wa subject to the EPCRA requirement faile to report to the Toxics Release Inventory, you should contact: Of Compliance Monitoring (EN-342), U.S. Environmental Protection Agency, Washington, D.C. 20460. A business' failure to report toxic releases may alsc be challenged through a citizen suit under 42 U.S.C. section 11046(a)(1).

7. For Further Information

State and local governments have responsibility for enforcing most environmental laws in the area where you live. You can locate them through your telephone directory. In most communities, the responsible agency is the city or county health department. At the state level, there is usually an environmental agency that carries out the pollution-control laws, while an agriculture agency often handles regulation of pesticides.

EPA operates primarily through ten regional offices, which will help answer your questions if your state or local agencies have been unable to do so. Each region has a staff specializing in each of the environmental programs discussed in this publication. To locate a person who can help you, call the public affairs office in your EPA regional office.

These offices and the states they cover are:

Region 1:	Boston (617) 835-3424	CT, MA, ME, NH, RI, VT
Region 2:	New York City (212) 264-2515	NY, NJ, PR, VI
Region 3:	Philadelphia (215) 597-9370	DE, DC, MD, PA, VA
Region 4:	Atlanta (404) 257-3004	AL, FL, GA, KY, MS, NC, SC, TN
Region 5:	Chicago (312) 353-2073	IL, IN, MI, MN, OH, WI
Region 6:	Dallas (214) 255-2200	AR, LA, NM, OK, TX
Region 7:	Kansas City (913 757-2803	IA, KS, MO, NE
Region 8:	Denver (303) 564-7666	CO, MT, ND, SD, UT, WY
Region 9:	San Francisco (415) 484-1050	CA, HI, NV, Guam, American Samoa
Region 10:	Seattle (206) 399-1466	AK, ID, OR, WA

APPENDIX Q -- PUBLIC PARTICIPATION MANUAL REVISIONS -- TASK GROUP PARTICIPANTS

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401 M Street, SW
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Washington, DC 20460

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Helena, MT 59625-0096

APPENDIX R -- ACCESSING EPA INFORMATION

organization, telephone number, and an explanation of what they need. Questions are usually answered within one business day.

Underground Storage Tank Docket

Telephone Number: 703 603-9231
Hours: Monday to Friday, 9:00 a.m. to 4:00 p.m. EST

Provides documents and regulatory information pertinent to RCRA's Subtitle I (the Underground Storage Tank program).

Superfund Docket

Telephone Number: 703 603-9232
Hours: Monday to Friday, 9:00 a.m. to 4:00 p.m. EST

Provides rulemaking material pertinent to the Superfund Program and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Hazardous Waste Ombudsman Program

Telephone Numbers: 800 262-7937, 202 260-9361
Contact: Robert Martin

Assists private citizens and organizations that have been unable to voice a complaint or resolve problems through normal channels in coping with the complexities of hazardous waste and Superfund legislation. Each region has an ombudsman representative. For more information, call the RCRA/Superfund/EPCRA Hotline or the contact cited above.

Small Business Ombudsman Hotline

Telephone Numbers: 800 368-5888, 703 305-5938
Hours: Monday to Friday, 8:30 a.m. to 5:00 p.m. EST

Helps small businesses comply with environmental laws and EPA regulations.

Pollution Prevention Information Clearinghouse (PPIC)

Telephone Number: 202 260-1023

A center for dissemination of pollution prevention information. PPIC's services include document distribution, access to a circulating and periodicals collection, and outreach.

Public Information Center (PIC)

Telephone Number: 202 260-2080
Hours: Monday to Friday, 8:00 a.m. to 5:30 p.m. EST for phone calls, 10:00 a.m. to 4:00 p.m. EST for walk-in visitors

Provides general, nontechnical environmental information through its brochures, booklets, and pamphlets.

EPA Headquarters Library

Reference Desk: 202 260-5921
Interlibrary Loan Desk: 202 260-5933
Hours: Monday to Friday, 9:00 a.m. to 5:00 p.m. EST for phone calls, 10:00 a.m. to 2:00 p.m. EST for walk-in visitors

The Headquarters Library is the reference library for the Agency. It offers a broad range of sources of environmental information including reports from various EPA offices and trade and environmental journals. The collection also features departments such as the "Water Collection," the "Hazardous Waste Collection," and "Infoterra," which accommodates foreign patrons' requests.

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Solid Waste and Emergency Response (5305W)

EPA

How To Access the RCRA Information Center

A STOREHOUSE OF INFORMATION

RIC

Congress passed the Resource Conservation and Recovery Act (RCRA) in 1976 to create a framework for the proper management of hazardous and nonhazardous solid waste. The Act is continuously evolving as Congress amends it to reflect the nation's changing solid waste needs.

For each modification to the Act, EPA develops regulations that spell out how the statute's broad policies are to be carried out. The RCRA Information Center (RIC) was formed to house both documents used in writing these regulations as well as EPA publications produced for public guidance on solid waste issues.

The documents stored in the RIC are divided into two basic categories: (1) documents involved in various stages of rulemaking; and (2) general documents discussing the various aspects of recycling, treatment, and disposal of hazardous and solid waste.

Rulemaking Dockets

- Docket files generated from RCRA-related rulings. Each file is composed of two sections: (1) technical support documents that were used by EPA in the development of the particular rule; and (2) comments from companies, individuals, environmental organizations, and various levels of government.
- Reprints of *Federal Registers* containing RCRA-related issues.
- Administrative Records, which are rulemaking dockets that have undergone litigation.

General Documents/Collections

- *Catalog of Hazardous and Solid Waste Publications*, which lists the RIC's most popular documents. The catalog is updated periodically.
- Guidance documents, which provide directions for implementing the regulations for disposal and treatment of hazardous and solid wastes.
- Brochures, booklets, and executive summaries of reports concerning waste reduction and disposal issues surrounding solid and hazardous wastes.
- A historical collection of Office of Solid Waste documents.
- Selected Office of Solid Waste correspondence written by EPA officials in response to questions from organizations and individuals concerning hazardous and solid waste regulations.
- Health and Environmental Effects Profiles (HEEPs) and Health and Environmental Effects Documents (HEEDs).

Hours and Location

- The RIC is open to the public from 9:00 a.m. to 4:00 p.m., Monday through Friday.
- The RIC is located at:

  Crystal Gateway I, First Floor
  1235 Jefferson Davis Highway
  Arlington, VA

- It is recommended that visitors make an appointment so that the material they wish to view is ready when they arrive.
- Patrons may call for assistance at 703 603-9230, send a fax to 703 603-9234, or send an e-mail to rcra-docket@epamail.epa.gov.
- Patrons may write to the following address:

  RCRA Information Center (5305W)
  U.S. Environmental Protection Agency
  401 M Street, SW
  Washington, DC 20460

  (Please note that this address is for mailing purposes only.)

Photocopying and Microfilming

Many documents are available only in the original and, therefore, must be photocopied. Patrons are allowed 100 free photocopies. Thereafter they are charged 15 cents per page. When necessary, an invoice stating how many copies were made, the cost of the order, and where to send a check will be issued to the patron.

Documents also are available on microfilm. The RIC staff help patrons locate needed documents and operate the microfilm machines. The billing fee for printing microfilm documents is the same as for photocopying documents.

Patrons who are outside of the metropolitan Washington, DC, area can request documents by telephone. The photocopying and microfilming fee is the same as for walk-in patrons. If an invoice is necessary, RIC staff can mail one with the order.

Additional EPA Sources of Hazardous and Solid Waste Information

The RCRA/Superfund/EPCRA Hotline

Telephone Numbers: 800 424-9346
TDD: 800 553-7672 (hearing impaired)
For Washington, DC, and outside the United States: 703 412-9810
TDD: 703 412-3323 (hearing impaired)
Hours: Monday to Friday, 9:00 a.m. to 6:00 p.m. EST

The Hotline answers questions concerning technical aspects of RCRA. It also provides clarifications of sections of the *Code of Federal Regulations* that pertain to RCRA. The Hotline also takes requests and makes referrals for obtaining OSW publications.

OSW Methods Information Communication Exchange (MICE)

Telephone Number: 703 821-4690

A telephone service implemented by the EPA Office of Solid Waste to answer technical questions on test methods used on organic and inorganic chemicals. These tests are discussed in the EPA document *Test Methods for Evaluating Solid Waste: Physical/Chemical Methods* (Document Number: SW-846).

Patrons can call MICE 24 hours a day and are requested to leave a message stating their name,

United States
Environmental Protection
Agency

Solid Waste and
Emergency Response
(5305W)

EPA530-F-95-014
September 1995

Office of Solid Waste

EPA

Environmental Fact Sheet

ELECTRONIC RESOURCES GUIDE

The Environmental Protection Agency's (EPA) Office of Solid Waste (OSW) has placed a wide variety of information about hazardous and non-hazardous solid waste on the Internet and on Bulletin Board Systems (BBSs) for access and retrieval by the general public. The information posted includes consumer information, supporting materials for rulemakings, policy and guidance documents, and datafiles from EPA's hazardous waste databases.

Internet Servers

EPA maintains information on Public Access Servers accessible via both the Internet and via modem. The servers carry many documents and resources related to OSW's program areas, including on-line search functions. Users may also access and search through archived Federal Registers (FR) dating back to October 1994. OSW documents and related FR releases are available through the following routes:

Gopher: gopher.epa.gov

OSW documents:
Offices and Regions -> Office of Solid Waste and Emergency Response -> Office of Solid Waste (RCRA)

Archived FRs (organized by date):
Rules, Regulations, and Legislation -> The FEDERAL REGISTER (FR) Environmental Subset -> FEDERAL REGISTER (FR) - Waste

World Wide Web (WWW): http://www.epa.gov

Same pathways as Gopher

Modem: (919) 558-0335

Same pathways as Gopher

Ftp: ftp.epa.gov (userid: anonymous, password: Internet e-mail address)

OSW documents are available under /pub/gopher/OSWRCRA

Electronic Mailing Lists (Listservers)

EPA maintains several free electronic mailing lists. Subscribers receive electronically mailed copies of documents as they are published. Archives of the documents are maintained on the EPA Public Access Servers (see above).

To subscribe to a mailing list, send an e-mail request to the following address:

listserver@unixmail.rtpnc.epa.gov

The subject line of the e-mail should read SUBSCRIBE TO LISTSERVERS. The text of the e-mail should read SUBSCRIBE <list name> <first name> <last name> (e.g. SUBSCRIBE EPA-WASTE JOHN SMITH). Some OSW-related mailing lists are:

- EPA-WASTE - Hazardous and Solid Waste Federal Registers
- HOTLINE_OSWER - RCRA/UST, Superfund, and EPCRA Monthly Hotline Report and updates
- EPA-PRESS - Environmental Protection Agency Press Releases

To receive a list of all EPA listservers, first subscribe to a list. After subscribing, send an e-mail request to listserver@unixmail.rtpnc.epa.gov. The subject line should read LISTS; the body of the message should also read LISTS.

Electronic Submissions to the RCRA Information Center

The RCRA Information Center (RIC) provides public access to regulatory materials supporting Agency actions under RCRA and distributes OSW publications. The RIC accepts electronic requests for paper copies of OSW publications and electronic comments on OSW rulemakings at the following Internet e-mail address: **rcra-docket@epamail.epa.gov**. Requests for OSW documents must include the name and mailing address of the requestor. Submissions of comments on rulemakings must be in ASCII format and must include the docket identification number.

For more information about OSW documents, the Catalogue of Hazardous and Solid Waste Publications (EPA530-B-93-002) is available on EPA's Internet server under Offices and Regions -> Office of Solid Waste and Emergency Response -> Office of Solid Waste (RCRA) -> RCRA: General.

Bulletin Board Systems

OSW contributes documents to a variety of electronic BBSs relevant to solid waste issues. Following are some OSW-related BBSs.

BBS Name	Modem	Internet Access	System Operator
Fedworld	(703) 321-8020	fedworld.gov http://www.fedworld.gov ftp.fedworld.gov	(703) 487-4608
SWICH BBS Solid Waste Information Clearinghouse	(301) 585-0204	None	(800) 677-9424
CLU-IN BBS Cleanup Information	(301) 589-8366	Through Fedworld (see above)	(301) 589-8368
RTK-NET BBS Right-to-Know Computer Network	(202) 234-8570	rtknet.org http://rtk.net	(202) 797-7200 (requires an account for access)

RCRA/UST, Superfund, and EPCRA Hotline

The RCRA/UST, Superfund, and EPCRA Hotline is a publicly-accessible service that provides information on several EPA programs, including information on accessing OSW's electronic resources. For information about specific documents, or to ask regulatory questions, the Hotline is available at (800) 424-9346, within the metropolitan DC area at (703) 412-9810, or TDD (800) 553-7672.

If you have comments, criticisms, or compliments about the efforts of OSW to use the Internet for providing public access to OSW information, please send them to: hearns.liza@epamail.epa.gov.

APPENDIX S -- POLLUTION PREVENTION & SMALL BUSINESS ASSISTANCE CONTACTS

State Pollution Prevention Programs

Source: National Pollution Prevention Roundtable, November 1995

Region 1

Connecticut Technical Assistance Program
(ConnTAP)
50 Columbus Blvd. 4th Floor
Hartford, CT 06106
Phone: 203/241-0777
Fax: 203/244-2017
Contact: Rita Lomasney

Maine Department of Environmental Protection
State House Station #17
Augusta, ME 04333
Phone: 207/287-2811
Fax: 207/287-2814
Contact: Ronald Dyer

Maine Waste Management Agency
160 Capitol Street, SHS# 154
Augusta, ME 04333-0154
Phone: 207/287-5300
Fax: 207/287-5425
Contact: Gayle Briggs

Massachusetts Dept of Environmental Protection
One Winter Street
Boston, MA 02202
Phone: 617/556-1075
Fax: 617/556-1049
Contact: Lee Dillard

Massachusetts Executive Office of Environmental Affairs
Office of Technical Assistance for Toxics Use Reduction
100 Cambridge Street; suite 2109
Boston, MA 02202
Phone: 617/727-3260
Fax: 617/727-3827
Contact: Barbara Kelley

Toxics Use Reduction Institute
University of Massachusetts at Lowell
1 University Avenue
Lowell, MA 01854-2881
Phone: 508/934-3275
Fax: 508/934-3050
Contact: Ken Geiser/Janet Clark

Rhode Island Dept of Environmental Management
Office Of Environmental Coordination P2 Section
83 Park Street
Providence, RI 02903
Phone: 401/277-3434
Fax: 401/277-2591
Contact: Richard Girasole, Jr.

Vermont Department of Environmental Conservation
Pollution Prevention Division
Environmental Assistance Div. West Office Building
103 South Main Street
Waterbury, VT 05671-0404
Phone: 802/241-3629
Fax: 802/241-3296
Contact: Paul Van Hollebeke

Region 2

New Jersey Department of Environmental Protection
Office of Pollution Prevention
CN423; 401 East State Street
Trenton, NJ 08625
Phone: 609/777-0518
Fax: 609/777-1330
Contact: Jeanne Herb

New Jersey Technical Assistance Program
for Industrial Pollution Prevention (NJTAP)
New Jersey Institute of Technology
CEES Building University Heights
Newark, NJ 07102-1982
Phone: 201/596-5864
Fax: 201/596-6367
Contact: Dr. Marcus J. Healey

New York State Dept of Environmental Conservation
Pollution Prevention Unit
50 Wolf Road
Albany, NY 12233-8010
Phone: 518/457-2480
Fax: 518/457-2570
Contact: William F. Eberle

Region 3

Pennsylvania Dept of Environmental Resources
Pollution Prevention Program
PO Box 8472
Harrisburg, PA 17105-8472
Phone: 717/787-7382
Fax: 717/787-1904
Contact: Meredith Hill

Pennsylvania Technical Assistance Program
Penn State University
117 Tech Center
University Park, PA 16802
Phone: 814/865-0427
Fax: 814/865--5909
Contact: Jack Gido

Delaware Department of Natural Resources and
Environmental Conservation
Pollution Prevention Program
P.O. Box 1401, 89 Kings Highway
Dover, DE 19903
Phone: 302/739-2411
Fax: 302/739-6242
Contact: Andrea Farrell

Virginia Department of Environmental Quality
Office of Pollution Prevention
PO Box 10009
Richmond, VA 23240-0009
Phone: 804/762-4344
Fax: 804/762-4346
Contact: Sharon K. Baxter

West Virginia Division of Environmental
Protection, Office of Water Resources
Pollution Prevention Services
2006 Robert C. Byrd Drive
Beckley, WV 25801-8320
Phone: 304/256-6850
Fax: 304/256-6948
Contact: Barbara Taylor

Region 4

Alabama Department of Environmental Management
Special Projects, P2 Unit
PO Box 301463
Montgomery, AL 36130-1463
Phone: 334/213-4303
Fax: 334/213-4399
Contact: Gary Ellis

Florida Dept of Environmental Resource Mgmt
Pollution Prevention Program
33 SW Second Avenue, Suite 800
Miami, FL 33130
Phone: 305/372-6804
Fax: 305/372-6729
Contact: Lori Cunniff

Georgia Department of Natural Resources
Pollution Prevention Assistance Division
7 Martin Luther King, Jr. Drive, Suite 450
Atlanta, GA 30334
Phone: 404/651-5120
Fax: 404/651-5130
Contact: G. Robert Kerr

Kentucky P2 Center
Rm 312 Ernest Hall, University of Louisville
Louisville, KY 40292
Phone: 502/852-7260
Fax: 502/852-0964
Contact: Cam Metcalf

Mississippi Dept of Environmental Quality
PO Box 10385
Jackson, MS 39289-0385
Phone: 601/961-5241
Fax: 601/961-5376
Contact: Thomas E. Whiten

North Carolina Department of Environment,
Health and Natural Resources
Office of Waste Reduction
PO Box 29569
Raleigh, NC 27626-9569
Phone: 919/715-6500
Contact: Gary Hunt

South Carolina Dept of Health & Env Control
Center for Waste Minimization
2600 Bull Street
Columbia, SC 29201
Phone: 803/734-4761
Fax: 803/734-9934
Contact: Robert E. Burgess

Univ of South Carolina Inst of Public Affairs
Hazardous Waste Management Research Fund
937 Assembly Street
Columbia, SC 29208
Phone: 803/777-8157
Fax: 803/777-4575
Contact: Doug Dobson

Region 5

Illinois Environmental Protection Agency
Office of Pollution Prevention
2200 Churchill Road PO Box 19276
Springfield, IL 62794-9276
Phone: 217/782-8700
Fax: 217/782-9142
Contact: Michael J. Hayes

Illinois Hazardous Waste Research and Information Center
One East Hazelwood Drive
Champaign, IL 61820
Phone: 217/333-8940
Fax: 217/333-8944
Contact: David Thomas

Indiana P2 7 Safe Materials Institute
1291 Cumberland Avenue, Suite C1
West Lafayette, IN 47906
Phone: 317/494-6450
Fax: 317494-6422
Contacts: Lynn A. Corson, Ph.D or James R. Nooman

Indiana Dept of Environmental Management
Office of P2 & Technical Assistance
100 North Senate Avenue P.O. Box 6015
Indianapolis, IN 46206-6015
Phone: 317/232-8172
Fax: 317/233-5627
Contact: Tom Netner

Michigan Department of Natural Resources Assistance
PO Box 30457
Lansing, MI 48909-7957
Phone: 517/335-7310
Fax: 517/335-4729
Contact: Karl Zollner, Jr.

Minnesota Office of Environmental Assistance
520 Lafayette Road, 2nd Floor
St. Paul, MN 55155
Phone: 612/215-0242
Fax: 612/215-0246
Contact: Kevin McDonald

Minnesota Pollution Control Agency
Pollution Prevention Program
520 Lafayette Road
Phone: 612/296-8643
Fax: 612/297-8676
Contact: Eric Kilberg

Ohio Environmental Protection Agency
Office of Pollution Prevention
PO Box 1049
Columbus, OH 43216-1049
Phone: 614/644-3469
Fax: 614/728-1245
Contact: Michael W. Kelley, Anthony Sasson, Roger Hannahs

Wisconsin Department of Natural Resources
Hazardous Waste Minimization Program
PO Box 7921
Madison, WI 53707
Phone: 608/267-3763
Fax: 608/267-2768
Contact: Lynn Persson

Wisconsin Department of Natural Resources
Pollution Prevention Program
PO Box 7921
101 S. Webster
Madison, WI 53707
Phone: 608/267-9700
Fax: 608/267-5231
Contact: Tom Eggert

Region 6

Oklahoma Department of Environmental Quality
Pollution Prevention Program
1000 NE 10th Street
Oklahoma City, OK 73117-1212
Phone: 405/271-1400
Fax: 405/271-1317
Contact: Dianne Wilkins

Texas Natural Resource Conservation Commission
Office of Pollution Prevention and Recycling
P.O. Box 13087
Austin, TX 78711-3087
Phone: 512/239-3100
Fax: 512/239-3165
Contact: Andrew C. Neblett

University of Texas at Arlington
Environmental Institute for Technology Transfer
PO Box 19050
Arlington, TX 76019
Phone: 817/273-2300
Fax: 817/794-5653
Contact: Gerald Nehman

Region 7

Iowa Department of Natural Resources
Waste Reduction Assistance Program
Wallace State Office Building
Des Moines, IA 50319-0034
Phone: 515/281-8941
Fax: 515/281-8895
Contact: Larry Gibson

Iowa Waste Reduction Center
University of Northern Iowa
Cedar Falls, IA 50614-0185
Phone: 319/273-2079
Fax: 319/273-2926
Contact: John L. Konefes

Kansas Department of Health and Environment
Office of Pollution Prevention
Building 283, Forbes Field
Topeka, KS 66620
Phone: 913/296-6603
Fax: 913/296-3266
Contact: Theresa Hodges

Missouri Department of Natural Resources
Technical Assistance Program
Pollution Prevention Program
P.O. Box 176
Jefferson City, MO 65102
Phone: 314-526-6627
Fax: 314/526-5808
Contact: Becky Shannon

Region 8

Colorado Dept of Public Health & Environment
Pollution Prevention Unit
4300 Cherry Creek Drive South
Denver, CO 80222
Phone: 303/692-3003
Fax: 303/782-4969
Contact: Parry Burnap

Montana Pollution Prevention Program
Montana State University Extension Service
109 Taylor Hall
Bozeman, MT 59717
Phone: 406/994-3451
Fax: 406/994-5417
Contact: Dr. Michael P. Vogel

State of Montana Water Quality Division
PO Box 200901
Helena, MT 59620
Phone: 406/444-7343
Fax: 406/444-1374
Contact: Patrick Burke

Energy and Environmental Research Center
University of North Dakota
PO Box 9018
Grand Forks, ND 58202-9018
Phone: 701/777-5000
Fax: 701/777-5181
Contact: Gerald Groenewold

North Dakota Department of Health
Environmental Health Section
P.O. Box 5520
Bismarck, ND 58506-5520
Phone: 701/328-5153
Fax: 701/328-5200
Contact: Jeffrey L. Burgess

South Dakota Department of Environment &
Natural Resources
Pollution Prevention Program
Joe Foss Building
523 E. Capitol Avenue
Pierre, SD 57501-3181
Phone: 605/773-4216
Fax: 605/773-4068
Contact: Dr. Dennis Clarke

Utah Department of Environmental Quality
Office of Planning and Public Affairs
168 N 1950 W. P.O. Box 144810
Salt Lake City, UT 84114-4810
Phone: 801/536-4477
Fax: 801/536-4401
Contact: Stephanie Bernkopf or Sonia Wallace

Wyoming Department of Environmental Quality
Solid and Hazardous Waste Division
122 West 25th Street
Cheyenne, WY 82002
Phone: 307/777-6105
Fax: 307/777-5973
Contact: Patricia Gallagher

Region 9

Arizona Department of Environmental Quality
3033 N Central Avenue
Phoenix, AZ 85012
Phone: 602/207-4337
Fax: 602/207-4872
Contact: Linda Allen

California State Department Toxic Substances Control
Office of Pollution Prevention and Technology Development
PO Box 806
Sacramento, CA 95812-0806
Phone: 916/322-3670
Fax: 916/327-4494
Contact: David Hartley, Kim Wilhelm, Kathy Barwick, Alan Ingham

State of Hawaii Department of Health
Waste Minimization Division
919 Ala Moana Blvd., Room 212
Honolulu, HI 96814
Phone: 808/586-4373
Fax: 808/586-7509
Contact: Jane Dewell, Waste Minimization Coordinator

Nevada Small Business Development Center
Business Environmental Program
MS-032 University of Nevada at Reno
Reno, NV 89557-0100
Phone: 702/784-1717
Fax: 702/784-1375
Contact: Kevin Dick

Guam Environmental Protection Agency
PO Box 22439
Guam Main Facility
Barrigada, Guam 96921
Phone: 671-472-8863
Fax: 671/477-9402
Contact: Joseph C. Cruz

Region 10

Idaho Division of Environmental Quality
Prevention and Certification Bureau
1410 North Hilton
Boise, ID 83706
Phone: 208/334-5860
Fax: 208/334-0576
Contact: Katie Sewell

Oregon Department of Environmental Quality
Toxics Use and Hazardous Waste Reduction Program
811 SW 6th Avenue
Portland, OR 97204
Phone: 503/229-5918
Fax: 503/229-6977
Contact: Sandy Gurkewitz

Washington State Department of Ecology
Hazardous Waste and Toxics Reduction Program
PO Box 47600
Olympia, WA 98504
Phone: 360/407-6086
Fax: 360/407-6989
Contact: Thomas Eaton

Local, County and Regional Pollution Prevention Programs

Source: National Pollution Prevention Roundtable, November 1995

Region 1

Northeast Waste Management Officials' Association (NEWMOA)
129 Portland Street
Boston, MA 02114
Phone: 617/367-8558
Fax: 617/367-0449
Contact: Terri Goldberg

New Hampshire WasteCap
122 North Main Street
Concord, NH 03301
Phone: 603/224-5388
Fax: 603/224-2872
Contact: Barbara Bernstein

Region 2

Erie County Dept of Environment and Planning
Erie County Office of Pollution Prevention
95 Franklin St. Rm. 1077
Buffalo, NY- 14202
Phone: 716/858-7674
Fax: 716/858-7713
Contact: Tom Hersey

Region 3

Metro Washington Council of Governments
Department of Environmental Programs
777 North Capitol St., NE Suite 300
Washington, DC 20002-4201
Phone: 202/962-3355
Fax: 202/962-3201
Contact: George L. Nichols

Allegheny County Health Department
Div of Environmental Toxics and P2
Building #3, 3901 Penn Avenue
Pittsburgh, PA 15224-1345
Phone: 412/578-8375
Fax: 412/578-8065
Contact: Wilder D. Bancroft

Center for Hazardous Materials Research
320 William Pitt Way
Pittsburgh, PA 15238
Phone: 412/826-5320
Fax: 412/826-5552
Contact: Roger L. Price, P.E./Stephen T. Ostheim

Pennsylvania Technical Assistance Program
Penn State University
117 Tech Center
University Park, PA 16802
Phone: 814/865-0427
Fax: 814/865-5909
Contact: Jack Gido

Region 4

Alabama WRATT Foundation
Box 1010
Muscle Shoals, AL 35662-1010
Phone: 205/386-2807
Fax: 205/386-2674
Contact: Roy Nicholson, C.O.O.

Dade County Department of Environmental Resources Management
Pollution Prevention Program
33 SW Second Ave., Suite 1200
Miami, FL 33130
Phone: 305/372-6825
Fax: 305/372-6760
Contact: Nichole Hefty

Tennessee Valley Authority
Industrial Waste Reduction
400 West Summit Hill Drive
Knoxville, TN 37902-1499
Phone: 615/632-8489
Fax: 615/632-3616
Contact: Steve Hillenbrand

Region 7

Great Plains-Rocky Mountains Hazardous
Substance Research Center
Kansas State University
101 Ward Hall
Manhattan, KS 66506
Phone: 913/532-4313
Fax: 913/532-5985
Contact: Larry Erickson

Lincoln/Lancaster County Health Department
Environmental Health Division
3140 N Street
Lincoln, NE 68510
Phone: 402/441-8040
Fax: 402/441-8323
Contact: Richard Yoder

Region 9

City of Phoenix
Water Services Department Pollution Control
Division
2303 W. Durango
Phoenix, AZ 85009
Phone: 602/262-6997
Fax: 602/534-7151
Contact: Jenee Gavette

Chief Administrator Officer's Hazardous Waste
Management Program
3801 3rd Street, Suite 600
San Francisco, CA 94124
Phone: 415/695-7337
Fax: 415/695-7377
Contact: Alex Dong

City of Irvine
1 Civic Center Plaza
Irvine, CA 92713-9575
Phone: 714/724-6356
Fax: 714/724-6440
Contact: Jan Noce

City of Los Angeles Board of Public Works
Hazardous and Toxic Materials Office
201 N Figueroa Street, Suite 200
Los Angeles, CA 90012
Phone: 213/580-1079
Fax: 213/580-1084
Contact: Donna Toy-Chen

Co of Riverside Department of Health Services
Hazardous Materials Division
P.O. Box 7600 (AEH)
Riverside, CA 92513-7600
Phone: 909/358-5055
Fax: 909/358-5017
Contact: Doug Thompson

Co Sanitation Districts of Los Angeles County
Industrial Waste Section
P.O. Box 4998
Whittier, CA 90607
Phone: 310/699-7411
Fax: 310/692-5103
Contact: Mischelle Mische/Ann Heil

Monterey County Health Department
Division of Environmental Health
Hazardous Materials/Solid Waste Branch
1270 Natividad Rd
Salinas, CA 93906
Phone: 408/755-4541
Fax: 408/755-4880
Contact: Jon Jennings

Nevada County Hazardous Waste Task Force
950 Maidu
Nevada City, CA 95959
Phone: 916/265-1768
Fax: 916/265-7056
Contact: Daryl Kent/Traci LoBianco

Orange County Health Care Agency
Environmental Health Division
2009 E. Edinger
Santa Ana, CA 92705
Phone: 714/667-3700
Fax: 714/972-0749
Contact: Pearl Hoftiezer

San Diego County Pollution Prevention Program
PO Box 85261
San Diego, CA 92186-5261
Phone: 619/338-2215
Fax: 619/338-2848
Contact: Linda Giannelli Pratt

Ventura County Environmental Health Division
800 S. Victoria Avenue
Ventura, CA 93009-1730
Phone: 805/654-2127
Fax: 805/654-2480
Contact: Steve Kephart

Region 10

Thurston County Hazardous Waste Program
2000 Lakeridge Drive, SW
Olympia, WA 98502
Phone: 360/754-4663
Fax: 360/754-2954
Contact: Sally Toteff

Department of Commerce: Manufacturing Extension Program Centers

Region 1

Connecticut State Technology Extension Program
170 Middle Turnpike
Storrs, CT 06269-2041
Phone: 203/486-2585
Fax: 203/486-3049
Contact: Peter Laplaca

Massachusetts Manufacturing Partnership (MMP)
Bay State Skills Corp.
101 Summer Street 4th Floor
Boston, MA 02110
Phone: 617/292-5100
Fax: 617/292-5105
Contact: Jan Pounds

Region 2

Hudson Valley Manufacturing Outreach Center
Hudson Valley Technology Development Center
300 Westgate Business Center Suite 210
Fishkill, NY 12524
Phone: 914/896-6934
Contact: Douglas Koop

Manufacturing Outreach Center of New York - Southern Tier
UniPEG
61 Court St., 6th Floor
Binghamton, NY 13901
Phone: 607/774-0022
Fax: 607/774-0026
Contact: E. Kay Adams

New York City Manufacturing Outreach Center
NY ITAC
253 Broadway Room 302
New York, NY 10007
Phone: 212/240-6920
Fax: 212/240-6879
Contact: Jeffrey Potent

New York Manufacturing Extension Partnership (NYMEP)
385 Jordan Road
Troy, NY 12180-8347
Phone: 518/283-1010
Fax: 518/283-1212
Contact: John F. Crews

Western New York Tech Development Center
1576 Sweet Home Road
Amherst, NY 14228
Phone: 716/636-3626
Fax: 716/636-3630
Contact: William Welisevich

Region 3

Delaware Manufacturing Alliance
Delaware Technology Park
One Innovation Way, Suite 301
Newark, DE 19711
Phone: 302/452-2522
Fax: 302/452-1101
Contact: John J. Shwed

Maryland Manufacturing Modernization Network
Maryland Department of Economic Development
Division of Business
217 East Redwood Street
Baltimore, MD 21202
Phone: 410/333-0206
Fax: 410/333-1836
Contact: Edwin Gregg, Jr.

Northeast Pennsylvania Manufacturing Extension Program
Manufacturers Resource Center
125 Goodman Drive
Bethlehem, PA 18015
Phone: 610/758-5599
Contact: Edith Ritter

Western PA Manufacturing Extension Program
4516 Henry Street
Pittsburgh, PA 15213
Phone: 412/687-0200 ext. 234
Contact: Ray Cristman

A.I. Philpott Manufacturing Center
231 East Church Street
Martinsville, VA 24112
Phone: 703/666-8890
Contact: John D. Hudson, Jr.

Region 4

Georgia Manufacturing Extension Alliance
Georgia Institute of Technology
223 O'Keefe Building
Atlanta, GA 30332
Phone: 404/894-8989
Fax: 404/853-9172
Contact: Charles Estes

Kentucky Technology Service
P.O. Box 1125
Lexington, KY 40589
Phone: 606/252-7801
Fax: 606/252-7900
Contact: Donald L. Smith

Region 5

Chicago Manufacturing Center
HWRIC-Clean Manufacturing Program
Homan Square
3333 West Arthington
Chicago, IL 60624
Phone: 312/265-2180
Fax: 312/265-8336
Contact: Malcolm Boyle

Industrial Technology Institute
Midwest Manufacturing Technology Center
(MMTC)
Energy and Environmental Program
PO Box 1485 2901 Hubbard Road
Ann Arbor, MI 48106
Phone: 313/769-4234
Fax: 313/769-4021
Contact: Kenneth J. Saulter, Christine A. Branson

Minnesota Technology Inc.
Upper Midwest Manufacturing Technology Center
(UMMTC)
111 Third Avenue South, Suite 400
Minneapolis, MN 55401
Phone: 612/654-5201
Contact: Sandy Voight

Great Lakes Manufacturing Technology Center
(GLMTC)
Prospect Park Building, 4600 Prospect Avenue
Cleveland, OH 44103-4314
Phone: 216/432-5350

Plastics Technology Deployment Center
Prospect Park Building
4600 Prospect Avenue
Cleveland, OH 44103
Phone: 216/432-5340
Fax: 216/361-2088
Contact: David Thomas-Greaves

Region 6

New Mexico Industry Network Corporations
1601 Randolph Road SE, Suite 210
Albuquerque, NM 87106
Phone: 505/272-7800
Fax: 505/272-7810
Contact: Randy W. Grissom

OK Alliance for Manufacturing Excellence, Inc.
252 South Main, Suite 500
Tulsa, OK 74103
Phone: 918/592-0722
Fax: 918/592-1417
Contact: Edmund J. Farrell

Region 7

Iowa Manufacturing Technology Center
2006 South Ankeny Blvd. ATC Building, 3E
Ankeny, IA 50021
Phone: 515/965-7040
Fax: 515/965-7050
Contact: Dr. Del Sheppard

Mid-American Manufacturing Technology Center
(MAMTC)
10561 Barkley, Suite 602
Overland Park, KS 66208
Phone: 913/649-4333
Fax: 913/649-4498
Contact: Paul Clay

Region 8

MAMTC Colorado Regional Office
Rockwell Hall
Colorado State University
Fort Collins, CO 80523
Phone: 303/224-3744
Contact: Craig Carlile

Region 9

California Manufacturing Technology Center
(CMTC)
13430 Hawthorne Blvd.
Hawthorne, CA 90250
Phone: 310/355-3060
Fax: 310/676-8630
Contact: Larry Godby

Pollution Prevention Center
Institute for Research and Technical Assistance
2800 Olympic Blvd. Suite 101
Santa Monica, CA 90404
Phone: 310/453-0450
Fax: 310/453-2660
Contact: Katy Wolf

Under Development

MAMTEC Southern Regional Office
Rolla, MO

Nebraska Industrial Competitiveness Service
Lincoln, NE

Defense Enterprise Empowerment Center
Kettering, OH

Tennessee Manufacturing Extension Program
Nashville, TN

VA Alliance for Manufacturing Competitiveness
Richmond, VA

Northwest WI Manufacturing Outreach Center
Menomonie, WI

State Small Business Assistance Programs

Source: National Pollution Prevention Roundtable, November 1995

Region 1

Connecticut Dept. Of Environmental Protection
Small Business Assistance Program
79 Elm Street
Hartford, CT 06106-5127
Phone: 203/424-3382
Fax: 203/424-4063
Contact: Tracy R. Babbidge, Kirsten Cohen

New Hampshire Small Business Technical &
Environmental Compliance Assistance Program
64 North Main Street, 2nd floor
Concord, NH 03302-2033
Phone: 603/271-1370
Fax: 603/271-1381
Contact: Rudolph A. Cartier, Jr., P.E.

Region 2

New York State Dept of Economic Development
Environmental Ombudsman Unit
Division for Small Business
1515 Broadway 51st floor
New York, NY 10036
Phone: 212/827-6157 or 800/STAT-ENY ext. 157
Fax: 212/827-6158
Contact: Doreen Monteleone, Ph.D.

Region 3

Maryland Department of Environment
Air and Radiation Management Administration
Small Business Assistance Program
2500 Broening Hwy.
Baltimore, MD 21224
Phone: 800/433-1AIR or 413/631-3165
Fax: 410/631-3896
Contact: Linda Moran

Region 4

Alabama Dept. of Environmental Management
Ombudsman
PO Box 301463
Montgomery, AL 36130-1463
Phone: 800/533-2336
Fax: 334/271-7950
Contact: Blake Roper

Florida Department of Environmental Protection
Small Business Assistance Program
2600 Blair Stone Rd.
Tallahassee, FL 32399-2400
Phone: 904/488-1344
Fax: 904/922-6979
Contact: Joe Schlessel

Tennessee Clean Air Assistance Program
Clean Air Small Business Assistance Program
401 Church St., 8th Floor, L&C Annex
Nashville, TN 37243-1551
Phone: 615/532-0760
Fax: 615/532-0231
Contact: Linda F. Sadler

Region 5

Minnesota Pollution Control Agency
Small Business Assistance Program
520 Lafayette Road
St. Paul, MN 55155
Phone: 612/297-2316
Fax: 612/297-7709
Contact: Leo Raudys

Wisconsin Department of Natural Resources
Small Business Assistance Program
PO Box 7921 AM/7
Madison, WI 53707-7921
Phone: 608/267-3136
Fax: 608/267-0560
Contact: Robert Baggot

Region 6

Arkansas Industrial Development Commission
Industrial Waste Minimization Program
One State Capital Mall
Little Rock, AR 72201
Phone: 501/682-7322
Fax: 501/682-7341
Contact: Ed Davis

Louisiana Department of Environmental Quality
Air Quality Department
Small Business Assistance Program
7920 Blue Bonnett Blvd.
Baton Rouge, LA 70810
Phone: 504/765-2453
Fax: 504/765-0921
Contact: Victor Tompkins

Louisiana Governor's Office of Permits
Small Business Assistance Program Ombudsman
1885 Wooddale Blvd. 1st floor, PO Box 94095
Baton Rouge, LA 70806
Phone: 504/922-3252
Fax: 504/922-3256
Contact: Martha Madden

Texas Natural Resources Conservation Commission
Small Business Advocate
PO Box 13087
Austin, TX 78753
Phone: 800/447-2827 or 512/239-1066
Fax: 512/239-1065
Contact: Tamra Shae Oatman

Texas Natural Resources Conservation Commission
Small Business Technical Assistance Program
PO Box 13087 MC 115
Austin, TX 78711-3087
Phone: 512/239-1112
Fax: 512/239-1055
Contact: Kerry Drake

Region 7

Iowa Air Emissions Assistance Program
75 BRC/UNI
Cedar Falls, IA 50614-0185
Phone: 319/273-2079
Fax: 319/273-2926
Contact: Mark Trapani

Kansas Department of Health and Environment
Office of Pollution Prevention
Forbes Field, Building 283
Topeka, KS 66620
Phone: 913/296-0669 or 800/357-6087
Fax: 913/291-3266
Contact: Janet Neff, Public Advocate

Nebraska Department of Environmental Quality
Office of P2
PO Box 98922
Lincoln, NE 68509-8922
Phone: 402/471-2266
Fax: 402/471-2909
Contact: Wanda Blasnitz

Region 8

Montana Small Business Assistance Program
PO Box 200501
Helena, MT 59620-0501
Phone: 406/444-2960
Fax: 406/444-1872
Contact: Mark Lembrecht

North Dakota Department of Health
Ombudsman
PO Box 5520
Bismarck, ND 58506-5520
Phone: 701/328-5153
Fax: 701/328-5200
Contact: Jeff Burgess

Utah Department of Environmental Quality
Division of Air Quality
Small Business Assistance Program
150 N. 1950 W. 84116
Salt Lake City, UT 84114-4820
Phone: 801/536-4056
Fax: 801/536-4099
Contact: Frances Bernards

Utah Department of Environmental Quality
Office of Planning and Public Affairs
168 N. 1950 W., PO Box 144810
Salt Lake City, UT 84114-4810
Phone: 801/536-4477
Fax: 801/536-4401
Contact: Stephanie Bernkopf or Sonja Wallace

Wyoming Department of Environmental Quality
Air Quality Division
Small Business Assistance Program
122 W. 25th Street
Cheyenne, WY 82002
Phone: 307/777-7391
Fax: 307/777-5616
Contact: Charles N. Raffelson

Region 9

California Air Resources Board
Small Business Assistance Program
PO Box 2815
Sacramento, CA 95812
Phone: 916/322-3976
Fax: 916/445-5745
Contact: Victor Espinosa

Nevada Small Business Development Center
Business Environmental Program
MS-032 University of Nevada at Reno
Reno, NV 89557-0100
Phone: 702/784-1717
Fax: 702/784-1395
Contact: Kevin Dick

Region 10

Alaska Dept of Environmental Conservation
Air Quality Small Business Assistance Program
555 Cordova Street
Anchorage, AK 99501
Phone: 907/269-7500
Fax: 907/273-9652
Contact: Marianne See

Oregon Department of Environmental Quality
Air Quality Small Business Assistance Program
811 SW 6th Avenue
Portland, OR 97204-13909
Phone: 503/229-5946
Fax: 503/229-5675
Contact: Terry Obteshka

Washington State Department of Ecology
Air Quality Division Business Assistance Program
PO Box 47600
Olympia, WA 98504-7600
Phone: 206/407-6805
Fax: 206/407-6802
Contact: Jerry Jewett

APPENDIX T -- GLOSSARY OF ACRONYMS

ANPR	Advance Notice of Proposed Rulemaking
CAG	Community Advisory Group
CAMU	Corrective Action Management Unit
CBEP	Community Based Environmental Protection
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CFR	Code of Federal Regulations
CMI	Corrective Measures Implementation
CMS	Corrective Measures Study
EPA	Environmental Protection Agency
EPCRA	Emergency Planning and Community Right-to-Know Act
FR	Federal Register
HQ	EPA Headquarters
HSWA	Hazardous and Solid Waste Amendments
LEPC	Local Emergency Planning Committee
NOD	Notice of Deficiency
OSW	EPA Office of Solid Waste
OSWER	EPA Office of Solid Waste and Emergency Response
RCRA	Resource Conservation and Recovery Act
RFA	RCRA Facility Assessment
RFI	RCRA Facility Investigation
SWDA	Solid Waste Disposal Act
SWMU	Solid Waste Management Unit
TAG	Technical Assistance Grant
TRI	Toxics Release Inventory
TSD	Treatment, Storage, and Disposal Facility

REFERENCE LIST OF PUBLIC PARTICIPATION AND RISK COMMUNICATION LITERATURE

(June 1996)

INTRODUCTION

EPA compiled the following reference list of public participation and risk communication literature from items submitted by people involved in various aspects of environmental matters. We hope that it provides a useful starting point for learning of additional sources of information that may help all stakeholders in environmental decisionmaking.

To initially solicit items for the reference list, EPA published a notice in the Federal Register (61 FR 15942, April 10, 1996), soliciting items in a variety of subjects areas: community organizing, community involvement and participation, environmental justice, risk communication, creative problem-solving, alternative dispute resolutions, participatory activities, environmental activism, and information-sharing (technical documents or data related to permitting are not included). Given the process by which the list was compiled, we are assuming that the reference list may not be comprehensive and may not necessarily represent a balanced cross-section of sources.[1] Items on the list should, however, provide useful information to those seeking to learn more about public participation, risk communication, and environmental programs.

The items submitted in response to the FR notice vary with regard to subject matter, format, and the level of detail provided. In cases where abstracts are available, the reader is referred to the Abstracts section following the reference list. Some of the abstracts also provide information on how to obtain a copy of the item (unfortunately, information on how to obtain copies is not readily available for all of the items). To supplement the list, EPA is including several documents developed by the Agency that may provide useful information (these items are available from the Agency). **Please note that EPA does not have copies of all of the items on the list.**

EPA intends to update the list periodically; any additional items people wish to propose for inclusion in the reference list may be submitted to the RCRA Permits Branch, Office of Solid Waste (5303W), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. Please do not send the original document. Include the full names of all authors, full titles, publisher, date of publication, city where the work was published, an abstract, and an address and/or phone number where one can write or call to obtain the publication (if applicable).

This reference list is also available through the RCRA Hotline at 1-800-424- 9346 (TDD 1-800-553-7672) or in the Washington metropolitan area at (703) 412-9810 (TDD 703-412-3323), or through the RCRA Information Center, in Docket Number F-95-PPCF-FFFFF, located at 1235 Jefferson Davis Highway, Arlington, VA, (703) 603-9230.

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[1] Inclusion of items in this reference list does not constitute Agency endorsement.

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Annotated Bibliography 1990-1994 in re environmental justice literature (see Abstracts).

Can We Talk? An Industry Workshop on Community Outreach Techniques, Illinois Environmental Protection Agency, Office of Community Relations and Office of Pollution Prevention, and the League of Women Voters of Illinois, May, 1995.

Catalogue of Hazardous and Solid Waste Publications, Sixth Edition, US EPA Office of Solid Waste and Emergency Response, EPA530-B-92-001, June, 1992.

Center for Environmental Communication Publications List, Rutgers University, May 1995 (see Abstracts).

"Commercial Solid and Hazardous Waste Disposal Projects on Indian Lands," by Jana L. Walker and Kevin Gover, in 10 Yale Journal on Reg. 229, Winter 1993 (see Abstracts).

"Common Sense Initiative Seeks to Simplify Environmental Regulatory Scheme," Elsevier Science Inc., in The Hazardous Waste Consultant, Volume 14, Issue 3, May/June 1996 (see Abstracts).

Community Outreach, Chemical Manufacturers Association, Washington, DC, 1990.

Community Relations in Superfund: A Handbook, US EPA Office of Emergency and Remedial Response, Washington, DC, 20460, EPA/540/R-92/009, PB92-963341, January, 1992.

"Corrective Action for Releases From Solid Waste Management Units at Hazardous Waste Management Facilities; Advance Notice of Proposed Rulemaking," Federal Register, Vol. 61, p19432, May 1, 1996.

"Corrective Action for Solid Waste Management Units at Hazardous Waste Facilities; Proposed Rule," Federal Register, Vol. 55., No. 145, p30798, July 27, 1990 (also known as the "Proposed Subpart S rule").

"EPA Pursues Options for Post-Closure Permitting and Corrective Action Enforcement," Elsevier Science Inc., in The Hazardous Waste Consultant, Volume 13, Issue 1, January/February 1995 (see Abstracts).

"Escaping Environmental Paternalism: One Tribe's Approach to Developing a Commerican Waste Disposal Project in Indian Country," by Kevin Gover and Jana L. Walker, in 63 University of Colorado Law Review 933, 1992 (see Abstracts).

"Executive Order 12898 of February 11, 1994: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," Federal Register, Vol. 59, No. 32, p7929, February 16, 1994.

Fairness and Competence in Citizen Participation: Evaluating Models for Environmental Discourse, Ortwin Renn, Thomas Webler, and Peter Wiedemann (Editors), Published by Kluwer Academic Publishers, Dordrecht, Netherlands/Boston/London, 1995 (see Abstracts).

Guidance for Community Advisory Groups at Superfund Sites, US EPA Office of Emergency and Remedial Response, Washington, DC, 20460, OSWER Directive 9230.0-28, PB94-963293, EPA 540-R-94-063, December 1995.

Hazardous Waste Permitting -- How You Can Get Involved, Kentucky Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, 14 Reilly Road, Frankfort, Kentucky, August, 1995.

"How to Develop a Winning Communication Strategy: Part I - Public Consent Built on Credibility is the Goal," James E. Lukaszewski and Terry L. Serie, in Waste Age, March 1993.

"How to Develop a Winning Communication Strategy: Part II - Relationships Built on Understanding Core Values," James E. Lukaszewski and Terry L. Serie, in Waste Age, March 1993.

Improving Dialogue with Communities, New Jersey Department of Environmental Protection, Division of Science and Research, Trenton, NJ 08625, January, 1988.

"Information needs concerning a planned waste incineration facility," Peter M. Wiedemann, Holger Schuetz, and Hans Peter Peters, in Risk Analysis Vol. 11 (2), pp 229-237, Published by Plenum Press, New York, 1991 (see Abstracts).

"Introduction to Risk Perception and Risk Communication," Peter M. Wiedemann, in Studies in Risk Communication, Vol. 38, Published by Program Group Humans, Environment, Technology (MUT), Forschungszentrum Juelich GmBH, Juelich, Germany, April 1993 (see Abstracts).

Leadership Handbook on Hazardous Waste, Citizen's Clearinghouse for Hazardous Wastes, PO Box 6806, Falls Church, VA 22040, 1983.

OSWER Environmental Justice Action Agenda, US EPA Office of Solid Waste and Emergency Response, Washington, DC, 20460, OSWER 9200.3-18, PB95-963228, EPA540/R-95/023, May, 1995.

"Pitfalls and Stumbling Blocks in Negotiation Processes," Cornelia R. Karger and Peter M. Wiedemann, in Studies in Risk Communication, Vol. 45, Published by Program Group Humans, Environment, Technology (MUT), Forschungszentrum Juelich GmBH , Juelich Germany, July 1994 (see Abstracts).

Pollution Prevention 1991 - Progress on Reducing Industrial Pollutants, US EPA Office of Pollution Prevention, Washington, DC, 20460, EPA 21P-3003, October, 1991.

"Proposed Rule Outlines New Trial Burn and Public Participation Requirements for Permitting Process," Elsevier Science Inc., in The Hazardous Waste Consultant, Volume 12, Issue 4, July/August 1994 (see Abstracts).

"Public Reactions Towards Incineration" in ISWA TIMES, Issue No 1 (pages 6-10), 1996.

"RCRA Expanded Public Participation and Revisions to Combustion Permitting Procedures; Proposed Rule," Federal Register, Vol. 59, No.105, p28690, June 2, 1994.

"RCRA Expanded Public Participation; Final Rule," Federal Register, Vol. 60, No.237, p63417, December 11, 1995.

RCRA Orientation Manual 1990 edition, US EPA Office of Solid Waste, Washington, DC, 20460, EPA/530-SW-90-036.

"Requirements Finalized for Expanded Public Participation in TSD Facility Permitting," Elsevier Science Inc., in The Hazardous Waste Consultant, Volume 14, Issue 2, March/April 1996 (see Abstracts).

Responding to Community Outrage: Strategies for Effective Risk Communication. Peter M. Sandman, Ph.D., Published by the American Industrial Hygiene Association 2700 Prosperity Ave., Suite 250, Fairfax, Virginia 22031. Phone (730) 849-8888.

"Runder Tisch zur Deponiestandortsuche Bremen [Round Table on Landfill Siting in Bremen] [in German]," Peter M. Wiedemann, Cornelia R. Karger, Frank Claus, and Dieter Gremler, in Arbeiten zur Risiko-Kommunikation (Studies in Risk Communication), Vol. 46, Published by Program Group Humans, Environment, Technology (MUT), Forschungszentrum Juelich GmBH, Juelich, Germany, September 1994 (see Abstracts).

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Superfund: EPA's Community Relations Efforts Could Be More Effective, US General Accounting Office, Washington, DC, 20548, Report to Congressional Requestors, GAO/RCED-94-156, April, 1994.

Taking Action: An Environmental Guide for You and Your Community, United Nations Environmental Program, April, 1996.

The Nation's Hazardous Waste Management Program at a Crossroads - The RCRA Implementation Study, US EPA Office of Solid Waste and Emergency Response, Washington, DC, 20460, EPA/530-SW-90-069, July 1990.

The Solid Waste Handbook: A Practical Guide, (public involvement pages 274-280), William

D. Robinson, P.E. (Editor), Published by Wiley - Interscience (a division of John Wiley & Sons, Inc.), 605 Third Avenue, New York, NY 10158, 1986.

"Waste Incineration: Controversy and Risk Communication," Philip C.R. Gray, in European Review of Applied Psychology - Special Issue on Risk Communication, Vol 45, No. 1. pp. 29-34, Published by ASE/NFER-Nelson, Windsor, England, 1995 (see Abstracts).

"Who's at the Table? The Challenge of Fostering Public Participation in Hazardous Waste Decisions (Draft)," Arlene K. Wong and Clinton A. Highfill, Center for Policy Alternatives, 1875 Connecticut Ave., NW, Suite 710, Washington, DC 20009.

ABSTRACTS

"Commercial Solid and Hazardous Waste Disposal Projects on Indian Lands," Jana L. Walker and Kevin Gover, in 10 Yale J. on Reg. 229, Winter 1993. (See also "Escaping Environmental Paternalism: One Tribe's Approach to Developing a Commerican Waste Disposal Project in Indian Country," Kevin Gover and Jana L. Walker, in 63 U. Colo. L. Rev. 933, 1992.)

Abstract: The above two law review articles concern the efforts of the Campo Band of Mission Indians, a federally-recognized Indian tribe, to develop a solid waste landfill on its reservation. The articles discuss these efforts in light of how the tribe overcame various obstacles arising from the fact that RCRA has not yet been amended to allow tribes to participate fully as is the case under the Clean Water Act, Clean Air Act, and Safe Drinking Water Act. The articles also discuss how the tribe addressed issues involving state, local, and grassroots interests.

"Common Sense Initiative Seeks to Simplify Environmental Regulatory Scheme," Elsevier Science Inc., in The Hazardous Waste Consultant, Volume 14, Issue 3, May/June 1996.

Available from Elsevier Science Inc., Order Processing at (212) 633-3950, or Fax (212) 633-3795. Published by Elsevier Sciences Inc., 655 Avenue of the Americas, New York, NY 10010-5107.

Abstract: (pages 2.32-2.37) This article provides an overview of EPA's common sense initiative (CSI) and outlines the progress of the program to date. CSI, launched in 1994, investigates ways to improve the regulatory system to encourage common sense, innovation, and flexibility while still protecting human health and the environment. Six subcommittees have been formed, each representing one of the following industries: 1) automobile manufacturing, 2) computer and electronic manufacturing, 3) iron and steel manufacturing, 4) metal finishing, 5) petroleum refining, and 6) printing. The subcommittees are comprised of individuals representing local, state, and federal governments; environmental groups at the community and national levels; environmental justice groups; labor organizations; and the industry itself. The subcommittees have undertaken a number of projects to 1) clearly understand the regulatory demands placed on companies, and 2) develop and test strategies for improving the regulatory process. Areas that the subcommittees may focus on include: promoting broader opportunities for public participation in the permitting process, regulation coordination and consolidation, pollution prevention strategies, streamlining of reporting requirements, compliance assistance and enforcement, and use of innovative technologies.

"EPA Pursues Options for Post-Closure Permitting and Corrective Action Enforcement," Elsevier Science Inc., in The Hazardous Waste Consultant, Volume 13, Issue 1, January/February 1995.

Available from Elsevier Science Inc., Order Processing at (212) 633-3950, or Fax (212) 633-3795. Published by Elsevier Sciences Inc., 655 Avenue of the Americas, New York, NY 10010-5107.

Abstract: (pages 2.21-2.23) As an alternative to obtaining post-closure permits, EPA proposed the use of enforceable orders [e.g., corrective action orders under RCRA Section 3008(h)] to require post-closure care at regulated hazardous waste management units (November 8, 1994; 59 FR 55778). As proposed, the regulations would require public participation during corrective action enforcement similar, but not identical, to that required during issuance of the post-closure permit. The post-closure permit application process

provides for public participation and public input to the post-closure permit requirements. As explained in this article, EPA would provide an opportunity for public participation either at the time a determination is made that no corrective action is required at the facility or at the time of remedy selection if corrective action is required.

"Escaping Environmental Paternalism: One Tribe's Approach to Developing a Commerican Waste Disposal Project in Indian Country," Kevin Gover and Jana L. Walker, in 63 U. Colo. L. Rev. 933, 1992. (See also "Commercial Solid and Hazardous Waste Disposal Projects on Indian Lands," Jana L. Walker and Kevin Gover, in 10 Yale J. on Reg. 229, Winter 1993.)

Abstract: The above two law review articles concern the efforts of the Campo Band of Mission Indians, a federally-recognized Indian tribe, to develop a solid waste landfill on its reservation. The articles discuss these efforts in light of how the tribe overcame various obstacles arising from the fact that RCRA has not yet been amended to allow tribes to participate fully as is the case under the Clean Water Act, Clean Air Act, and Safe Drinking Water Act. The articles also discuss how the tribe addressed issues involving state, local, and grassroots interests.

Fairness and Competence in Citizen Participation: Evaluating Models for Environmental Discourse, Ortwin Renn, Thomas Webler, and Peter Wiedemann (Editors), Published by Kluwer Academic Publishers, Dordrecht, Netherlands/Boston/London, 1995.

Abstract: Direct public participation in solving environmental problems is a vital issue for citizens and governments of modern democracies. More frequently, governments are experimenting with approaches that give citizens greater say in the environmental discourse. "Fairness and Competence in Citizen Participation" addresses the crucial question: How can we measure the performance of citizen participation processes? It takes a novel approach to this problem by viewing public participation as a communicative act. Drawing on Juergen Habermas' Critical Theory of Communicative Action, a normative framework is developed around the central principles of procedural fairness and competence in knowledge-verification. A milestone in the area of citizen participation and applied critical theory, this book provides a sound theoretical and methodological basis for systematic evaluation of models for environmental discourse. Eight models for citizen participation - from both Europe and North America - are studied. Each model is evaluated and critiqued in a pair of chapters written by prominent scholars in the field. Planners and citizens alike will find the advice emanating from the evaluations of pragmatic value.

"Information needs concerning a planned waste incineration facility," Peter M. Wiedemann, Holger Schuetz, and Hans Peter Peters, in Risk Analysis Vol. 11 (2), pp 229-237, Published by Plenum Press, New York, 1991.

Address for copies: Program Group Humans, Environment, Technology (MUT) Forschungszentrum (Research Centre) Juelich GmBH D-52425 Juelich, Germany. Tel: +49-2461-614806, Fax: +49-2461-612950

Abstract: (Key words: waste incineration, risks, information needs of the public, risk communication) Waste management has become a major environmental issue in Germany. The siting of waste incineration especially arouses strong local opposition. The study presented here is related to such a case (i.e., a planned waste incineration facility in a small West German village). The study is based on a telephone survey aimed at the information needs of the residents. Two topics are stressed: (1) the thematic relevance of the siting

project as seen by the public; and (2) the residents' information needs. The results show that a majority of residents are concerned about the planned facility and the most important topics of their information needs refer to the risks and the safety systems of the facility, as well as information about waste management alternatives. Furthermore, the information needs depend on the personal relevance of the issue and the perceived knowledge deficit about it. Conclusions are drawn with regard to the design of a risk communication program. Here, four groups of residents are distinguished in terms of knowledge and motivation and, thus, need to be approached in different ways.

"Introduction to Risk Perception and Risk Communication," Peter M. Wiedemann, in Studies in Risk Communication, Vol. 38, Published by Program Group Humans, Environment, Technology (MUT), Forschungszentrum Juelich GmBH, Juelich, Germany, April 1993.

Address for copies: Program Group Humans, Environment, Technology (MUT) Forschungszentrum (Research Centre) Juelich GmBH D-52425 Juelich, Germany. Tel: +49-2461-614806, Fax: +49-2461-612950

Abstract: This report provides an overview for those not familiar with risk perception and risk communication research. It begins with the essentials of risk perception, and in the second part describes risk communication issues. The first part covers: (1) What is risk perception research about? (2) What is risk perception research and what research methods are applied? (3) Objectives and main results of risk perception research. The second part discusses: (1) What are the themes, tasks and objectives of risk communication? (2) What is risk communication research? (3) What are the main results of risk communication research?

"Pitfalls and Stumbling Blocks in Negotiation Processes," Cornelia R. Karger and Peter M. Wiedemann, in Studies in Risk Communication, Vol. 45, Published by Program Group Humans, Environment, Technology (MUT), Forschungszentrum Juelich GmBH , Juelich Germany, July 1994.

Address for copies: Program Group Humans, Environment, Technology (MUT) Forschungszentrum (Research Centre) Juelich GmBH D-52425 Juelich, Germany. Tel: +49-2461-614806, Fax: +49-2461-612950

Abstract: This report discusses potential difficulties in the application of negotiation processes, such as round tables. It begins by looking at negotiations as decision-making processes. Pitfalls covered are those involved in evaluating one's own party,. the other party, the subject or the course of the negotiations, or the negotiated result. The consequent demands on the mediator, and some guidelines for dealing with these, are drawn out at the end.

"Proposed Rule Outlines New Trial Burn and Public Participation Requirements for Permitting Process," Elsevier Science Inc., in The Hazardous Waste Consultant, Volume 12, Issue 4, July/August 1994.

Available from Elsevier Science Inc., Order Processing at (212) 633-3950, or Fax (212) 633-3795. Published by Elsevier Sciences Inc., 655 Avenue of the Americas, New York, NY 10010-5107.

Abstract: (pages 2.6-2.15) On June 2, 1994, EPA proposed changes (59 FR 28680) to the permitting process

for interim status incinerators and boilers and industrial furnaces (BIFs). Also proposed were new opportunities for public involvement in the permitting process for all RCRA facilities. This article compares the public participation regulations in effect to the new proposed regulations. In response to the emphasis on environmental justice, EPA proposed provisions which allow the public more input into decisions about facilities that may impact their communities. In particular, EPA is encouraging the involvement of low income and minority communities.

"Requirements Finalized for Expanded Public Participation in TSD Facility Permitting," Elsevier Science Inc., in The Hazardous Waste Consultant, Volume 14, Issue 2, March/April 1996.

Available from Elsevier Science Inc., Order Processing at (212) 633-3950, or Fax (212) 633-3795. Published by Elsevier Sciences Inc., 655 Avenue of the Americas, New York, NY 10010-5107.

Abstract: (pages 2.2-2.6) This article provides analysis of EPA's recently finalized regulations (December 11, 1995; 60 FR 63417) that expand public participation opportunities during all phases of hazardous waste treatment, storage, and disposal (TSD) facility permitting. As discussed in the article, the intent of the rule is to increase public participation during the Subtitle C permitting process by providing earlier opportunities for involvement and by improving public access to information throughout the permitting process and operational lives of TSD facilities. The article covers the applicability of the new requirements, provides background information on public participation during permitting, and describes the expanded public participation requirements in detail, including the requirements for public notification of trial burns at regulated combustion facilities. The stages of the permitting process that require a pre-application meeting and/or public notice are presented in a tabular format. In addition, a flow chart leads the user through the revised permitting process, including the expanded public participation requirements, for Subtitle C TSD facilities.

"Runder Tisch zur Deponiestandortsuche Bremen [Round Table on Landfill Siting in Bremen] [in German]," Peter M. Wiedemann, Cornelia R. Karger, Frank Claus, and Dieter Gremler, in Arbeiten zur Risiko-Kommunikation (Studies in Risk Communication), Vol. 46, Published by Program Group Humans, Environment, Technology (MUT), Forschungszentrum Juelich GmBH, Juelich, Germany, September 1994.

Address for copies: Program Group Humans, Environment, Technology (MUT) Forschungszentrum (Research Centre) Juelich GmBH D-52425 Juelich, Germany. Tel: +49-2461-614806, Fax: +49-2461-612950

Abstract: This report (in German) describes the round table mediation process used to approach the selection of potential landfill sites in the German State of Bremen in 1993-94. The round table involved representatives of the authorities, environmental groups, business and other interested parties, and was run by neutral mediators. The process began with discussion of ground rules and working methods. Criteria for the selection of sites, as well as a list of suitable sites for closer examination, were successfully agreed during the process.

"Waste Incineration: Controversy and Risk Communication," Philip C.R. Gray, in European Review of Applied Psychology - Special Issue on Risk Communication, Vol 45, No. 1. pp. 29-34, Published by ASE/NFER-Nelson, Windsor, England, 1995.

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Abstract: (Key words: risk communication, waste incineration, conflict) This paper analyses risk communication during a controversy over a proposed hazardous waste incinerator in Northern Ireland during 1991. The company involved put a low priority on communication until significant opposition had appeared. The opposition feared health and environmental risks, and emphasized the lack of consultation and public involvement, while the company emphasized its safety competence and the low level of risks. The company viewed its decision context (private decision) differently to the community (public decision). This resulted in communication by the company that was ineffective in answering local fears, and a dispute that involved various costs to the company (and community). The paper explores why the company did not apply risk communication knowledge, and possible lessons for managing similar situations in future.

ANNOTATED BIBLIOGRAPHY 1990-1994

Environmental justice literature has blossomed over the past five years (1990-1994). This bibliography was compiled as an information resource for students, academics, public policy-makers, environmentalists, and activists. The listings highlight the interdisciplinarity of the environmental justice field. They are by no means meant to be exhaustive. New articles, monographs, reports, and books are being readied for the press as this directory is being printed. This growing body of literature is a clear indicator that environmental justice has captured the interest of a wide range of authors.

ENVIRONMENTAL JUSTICE AND ENVIRONMENTAL EQUITY

Beasley, Conger. "Of pollution and poverty: Reaping America's unseemly harvest," *Buzzworm* v2, n3 (May/June 1990): 40-47.

This article examines the environmental, economic, and health injustices against the nation's migrant farm workers of whom 90 percent to 95 percent are people of color.

_____. "Of pollution and poverty: Keeping watch in Cancer Alley." *Buzzworm* v2, n4 (July/August 1990): 39-45.

The author examines the poisoning of the lower Mississippi River by the petrochemical industry and the destruction of people and communities. Many of the African American communities were founded by former slaves.

_____. "Of pollution and poverty: Deadly threat on native lands." *Buzzworm* v2, n5 (September/October 1990): 39-45.

Because of their quasi-sovereign status, Nation American reservations have become the "new" targets of environmental threats, ranging from household garbage to hazardous and nuclear wastes. Most reservations do not have the environmental and economic infrastructure to handle such waste in an environmentally sound manner.

Brajer, V. & Hall, J. "Recent evidence on the distribution of air pollution effects." *Contemporary Policy Issues* v10, (April 1992).

Using Toxic Release Inventory and Geographic Information System mapping, this study associates levels of exposure to ozone and fine particulate matter in the South Coast Air Basin of California with resident income, race, age and education using a Regional Human Exposure Model. Results are consonant with earlier research in most respects, except that population density is negatively related to exposure. People of color and children receive the greatest exposure levels.

Bruce, Calvin E. "Environmentalism and student activism." *Black Collegian* v23, n4 (March-April 1993): 52 (5 pages).

This issue examines the racial dynamics of environmental problems and gives advice to African-American collegians on solving this problem. It also includes a directory of key organizations.

Bullard, Robert D. "Grassroots flowering: The environmental justice movement comes of age," *The Amicus Journal* v16, n1 (Spring 1994): 32-37.

A historical analysis of the environmental justice movement, where it came from and where it is headed. The author covers struggles in the 1960s through 1994 and credits grassroots activism with forcing and keeping the issues on the national agenda.

_____. "Urban infrastructure: Social, environmental and health risks to African Americans." Pp. 183-196, Billy J. Tidwell (ed.), *The State of Black America 1992*. New York: National Urban League, 1992.

Each year the National Urban League publishes a new volume in its *State of Black America* series. This issue was the first time the national civil rights organization examined the link between urban infrastructure, environment, and health issues in the African American community.

_____. "Environmental justice for all." *EnviroAction* Environmental News Digest for the National Wildlife Federation (November 1991).

Environmental justice has been introduced into the agendas of some national environmental groups. This article was first presented as a Scholar-in-Residence lecture at the National Wildlife Federation.

_____. "The quest for environmental equity: Mobilizing the African American community for social change." *Society and Natural Resources* 3 (1990): 301-311.

The struggles of rural, suburban, and urban African American communities are examined in this article. Local leaders adapt the lesson learned from the civil rights movement to mobilize their community around environmental justice.

Bullard, Robert & Wright, Beverly H. "Environmental justice for all: Community perspectives on health and research needs." *Toxicology and Industrial Health* v9, n5 (September/October 1993): 821-842.

This paper was first presented at a government-sponsored health research workshop. It examines health and research concerns of communities of color and underrepresented stakeholders and presents an environmental justice framework for addressing environmental and health research inequities.

Burke, Lauretta M. "Race & environmental equity: A geographic analysis in Los Angeles." *Geo Info Systems*, October 1993.

This article is an excerpt from a larger report that evaluates the significance of race and class on environmental

pollution in Los Angeles using Toxic Release Inventory data.

Cable, Sherry & Benson, Michael. "Acting locally: environmental injustice and the emergence of grass-roots environmental organizations." *Social Problems* v40, n4 (November 1993): 464 (14 pages).

The authors examine the emergence of grassroots environmental organizations. They conclude that these organizations represent a new trend in the environmental movement, and are part of a broader historical process involving the evolution of the legal culture and the social control of corporate conduct in the United States.

Camia, Catalina. "Poor, minorities want voices in environmental choices." *Congressional Quarterly Weekly Report* v51, n34, August 21, 1993.

The author interviews civil rights leaders who are pressing Congress for help. Activist have mounted their own assault on environmental injustice, unequal protection, and environmental racism.

Capek, Stella M. "The 'environmental justice' frame: A conceptual discussion and an application." (Special Issue on Environmental Justice) *Social Problems* v40, n1 (February 1993): 5 (20 pages).

This paper identifies some of the most salient dimensions of the 'environmental justice' framework as it has emerged from local community struggles over toxic contamination in the United States, and provides an empirical case study of the contaminated Carver Terrace neighborhood of Texarkana, Texas. Carver Terrace, an African American community consisting mostly of homeowners, organized a federal buy-out and relocation after being declared a Superfund site in 1984.

Carroll, Ginny. "When pollution hits home." *National Wildlife* 29 (August/September 1991): 30-39.

The environmental problems in Louisiana's "Cancer Alley" abound. Residents of the mostly African American community of Wallace was rezoned by the local parish council to make way for the Formosa Plastics rayon plant.

Collin, Robert W. "Environmental equity and the need for government intervention." *Environment* v35, n9 (November 1993): 41.

The author discusses a 1990 Greenpeace report that documents that communities of color have a greater number of incinerators in their neighborhoods and that suggests federal regulation could successfully address the problem if the focus was on environmental damage rather than the intent of racial discrimination.

Cordera-Guzman, Hector R. "Lessons from operation bootstrap." *NACLA Report on the Americas* v27, n3 (November/December 1993): 7 (4 pages).

Beginning in the 1950s, Puerto Rico's development was tied to market-oriented reforms and to the U.S. economy. The mixed results for the people and environment give some clues to what Mexico can look forward to in a North American Free Trade Agreement-dominated future.

Doyle, Kevin. "Environmental justice: A growing movement." *Black Collegian* v24, n4 (March-April 1994): 36 (4 pages).

This article traces the environmental justice movement from the 1980s to the 1990s. The author sees the movement evolving as a way to counter unfair public policies. Pressure from the movement resulted in the establishment of EPA's Environmental Justice Office, which has sponsored a variety of research and educational projects that keep the general public informed about numerous environmental issues.

Edwards, Mencer Donahue. "Sustainability and people of color." *EPA Journal* v18, n4 (September-October 1992): 50 (2 pages).

Sustainable development may be a means to achieve social justice for peoples of color in the United States. Sustainability must be linked with social, economic, and environmental justice at home and abroad.

Gottlieb, Robert. "A question of class: The workplace experience." *Socialist Review* v22, n4 (October-December 1992): 131 (35 pages).

Environmental justice extends into the workplace. Modern industrial facilities that produce less pollution ultimately result in more secure jobs and cleaner air for the whole community.

Hair, Jay D. "Providing for justice as well as jobs." (advice to President Clinton) *National Wildlife* v31, n2 (February-March 1993): 30.

The CEO of the nation's largest environmental organization gives advise to the new Clinton administration. It is not enough that there should be environmental justice but also that environmental racism should be eliminated.

Hahn-Baker, David. "Rocky roads to consensus." *The Amicus Journal* v16, n1 (Spring 1994): 41 (3 pages).

The rift between traditional environmental groups and environmental justice activists remains to be resolved despite the continued efforts to unite the ideas of the two camps. This division was evident in the controversy that surrounded the North American Free Trade Agreement in 1993.

Ingram, Helen; Milich, Lenard & Varnady, Robert G. "Managing transboundary resources: Lessons from Ambos Nogales." *Environment* v36, n4 (May 1994): 6-9, 28-38.

This case study of water management in Ambos Nogales reveals the pitfalls and possibilities for improvement in managing natural resources shared by the United States and Mexico.

Lavelle, Marianne. "Residents want 'justice,' the EPA offers 'equity.'" *National Law Journal* v15, n3 (September 21, 1992): s12.

The author examines activists' response to the creation

of EPA's Office of Environmental Equity. Environmental justice leaders give EPA head William K. Riley passing marks for his efforts, but charge the Bush administration and the agency in general with a lack of interest in environmental justice.

Lee, Charles. "Developing working definitions of urban environmental justice." *Earth Island Journal* v8, n4 (Fall 1993): 39 (4 pages).
The focus is on the urban environmental crisis where people of color are condemned to live in polluted areas. Many of the residents and their communities are considered disposable. Urban rebuilding and environmental justice are compatible goals.

Lewis, Victor. "A message to white environmentalists." *Earth Island Journal* v7, n4 (Fall 1992): 41.
Environmental, economic, and health injustice hit female workers, young workers, very old workers, and workers of color the hardest. White environmentalists need to join in the call for wealth redistribution and an end to exploitation of disenfranchised and powerless groups.

Puckett, Jim. "Disposing of the waste-trade: Closing the recycling loophole." *The Ecologist* v24, n2 (March/April 1994).
This article reviews the importance of the Basil Convention and the attempts to control the transboundary movement of hazardous wastes. It also examines strategies to close the recycling loopholes and thus achieve an effective global ban on international waste trade.

Ramirez, Odessa. "The loss of native lands and economic blackmail." *Social Justice* v19, n2 (Summer 1992): 78-86.
This article examines the loss of indigenous peoples' lands in exchange for so-called "economic relief." Examples of environmental "blackmail" are examined in Canada and the United States.

Reath, Viki. "EPA to use civil rights act in siting decision." *Environment Week* v6, n36 (October 7, 1993): 1 (2 pages).
This article examines EPA's new strategy of applying Title VI of the Civil Rights Act to enforcement. Included are interviews with NAACP Legal Defense Fund lawyer Bill Lee and several other environmental justice leaders.

_____. "EPA, Commission investigating civil rights allegations." *Environment Week* v6, n40 (October 14, 1993): 1 (2 pages).
This article discusses EPA's and the U.S. Civil Rights Commission's investigation of civil rights allegations in siting four hazardous waste facilities in Mississippi and Louisiana.

_____. "EPA to probe Texas environmental justice complaint." *Environment Week* v7, n14 (April 7, 1994): 1 (2 pages).
This article describes the complaint against the Texas Natural Resources Conservation Commission challenging its permitting of a commercial hazardous waste incinerator along the Houston Ship Channel.

Schaffer, Gwen. "Asian Americans organize for justice." *Environmental Action* v25, n4 (Winter 1994): 30 (4 pages).
Asian Americans are beginning to network around environmental issues including occupational health, toxics, and land-use problems that adversely affect their communities.

Schneider, Paul. "Respect for the Earth: The environmentalism of Chief Oren Lyons stems from his Iroquois heritage." *Audubon* v96, n2 (March-April 1994): 110 (5 pages).
Environmentalists could learn a great deal from Native Americans and other indigenous peoples. One such leader is Chief Oren Lyons, who lives in the Onondaga Nation Territory outside of Syracuse, N.Y.

Schueler, Donald. "Southern Exposure." *Sierra* v77 (November/December 1992): 42-49.
The South still hold the unique distinction as having the most polluted air, water, and ground of any region in the country as a result of lax enforcement of environmental laws and a "look-the-other-way" government policy.

Selcraig, Bruce. "Border patrol." *Sierra* v79, n3 (May-June 1994): 58 (10 pages).
Environmental activist Domingo Gonzalez crusades against *maquiladoras* of Mexico. He has witnessed the squalid *colonias* of Matamoros, Mexico, across the border from Brownsville, Texas. Domingo is the co-founder of the Coalition for Justice in the Maquiladoras, which attempts to educate the public and the media about the health effects on the local population.

Shaffer, Gwen. "Asian Americans organize for justice." *Environmental Action Magazine* v25, n4 (Winter 1994): 30 (4 pages).
Asian Americans are becoming increasingly aware of environmental and economic justice issues and have formed several advocacy groups to provide education and support.

Small, Gail. "War stories: Environmental justice in Indian country." *The Amicus Journal* v16, n1 (Spring 1994): 38-41.
As a member of the Northern Cheyenne Indian Tribe, Gail Small examines the complex environmental justice issues facing sovereign Indian nations.

Spears, Ellen. "Freedom buses roll along cancer alley." *Southern Changes*, Southern Regional Council, Atlanta, v15, n1 (Spring 1993).
More than 2,000 activists attended an environmental justice/labor conference in New Orleans in December 1992. The tour of "Cancer Alley" illuminated the many problems faced by residents along the Mississippi River.

Starkey, Deb. "Environmental justice: win, lose or draw?" *State Legislatures* v20, n3 (March 1994): 27 (4 pages).
People of color and their communities are endangered by their close proximity to a disproportionate number of health-threatening facilities, such as hazardous waste dumps and incinerators. The Clinton administration has

begun some environmental justice initiatives, but more still has to be done.

Truax, Hawley. "Beyond white environmentalism: Minorities and the environment." *Environmental Action* v21 (1990): 19-30.
This article profiles several people of color leaders in the environmental movement and calls for more outreach to the poor, working class, and people of color communities.

Wernette, D.R. & Nieves, L.A. "Breathing polluted air." *EPA Journal* v18 (March/April 1992): 16-17.
Two National Argonne Laboratory researchers examine air pollution in the United States and conclude that African Americans and Latinos live in the most polluted counties in the nation.

Wheeler, David L. "When the poor face environmental risks." *Chronicle of Higher Education* v40, n25 (February 23, 1994): A10 (2 pages).
This article explores the "Health Research and Needs to Ensure Environmental Justice" symposium. The government-sponsored symposium was held in February 1994 in Arlington, Va., and attracted more than 1,000 research scientists, academicians, environmental justice activists, civil rights leaders, and "impacted" community residents.

Wright, Beverly H. & Bullard, Robert D. "Hazards in the workplace and black health." *National Journal of Sociology* v4 (1990): 45-62.
African American workers often occupy the lowest paying and dirtiest jobs. Workplace hazards, racial discrimination, and "job blackmail" present a special case for African American workers who are twice as likely to be unemployed than their white counterparts.

Zimmerman, Rae. "Social equity and environmental risk." *Risk Analysis* v13, n6 (1993): 649-666.
This article examines inactive hazardous waste disposal sites on the National Priorities List (NPL) and their location relative to communities of color and distribution of cleanup plans or Record of Decision. The author finds that the percentage of African Americans and Latinos aggregated at the Census Place level in communities with NPL sites was greater than is typical nationwide.

ENVIRONMENTAL RACISM

Bullard, Robert D. "The threat of environmental racism." *Natural Resources & Environment* v7 (Winter 1993): 23-26, 55-56.
This articles examines the problems faced by people of color when they challenge discriminatory environmental practices using civil rights laws.

_____. "Waste and racism: A stacked deck?" *Forum for Applied Research and Public Policy* v8 (Spring 1993): 29-45.
Institutionalized racism has influenced waste facility siting patterns, resulting in communities of color bearing a disproportionate burden for treatment, storage, and disposal facilities.

_____. "Environmental racism." *Environmental Protection* v2, n4 (June 1991): 25-26.
This article details some interesting case studies and examples where communities of color receive less environmental protection than their white counterparts.

_____. "Ecological inequities and the new South: Black communities under siege." *Journal of Ethnic Studies* v17 (Winter 1990): 101-115.
Because of differential treatment and the legacy of "Jim Crow," many African American communities in the South are endangered communities.

_____. "Overcoming racism in environmental decisionmaking." *Environment* v36, n4 (May 1994): 10-20, 39-44.
The author explores links between environmental measures and social justice and catalogs numerous examples of policies that force people of color and the politically disenfranchised to bear environmental burdens.

Cohen, Linc. "Waste dumps toxic traps for minorities." *The Chicago Reporter* v21, n4 (April 1992).
This article discusses environmental racism within the context of Chicago and environmental justice activists battling waste dumps in their communities.

Coyle, Marcia. "Company will not build plant; lawyers hail victory. (Formosa Plastics Corp. will not add another factory to Louisiana's 'Cancer Alley')" *National Law Journal* v15, n7 (October 19, 1992): 3.
A two-year legal battle ends with the Formosa Plastics Corp.'s decision not to build a $700-million rayon and pulp processing plant in a low-income, African American area of Louisiana known as 'Cancer Alley.' Environmentalists, civil rights groups and health organizations had claimed that the project constituted environmental racism. The *National Law Journal* included Wallace, La.'s fight with Formosa in the paper's September 21, 1992, supplement "Unequal Protection: The Racial Divide in Environmental Law."

Ervin, Mike. "The toxic doughnut: Toxic wastes in minority neighborhoods." *Progressive* v56, n1 (January 1992): 15.
The community of Altgeld Gardens, a public housing project on Chicago's South Side, is encircled by environmental and health threats. Hazel Johnson, an activist from Altgeld Gardens and founder of People for Community Recovery, has tagged her neighborhood a "toxic doughnut."

Grossman, Karl. "From toxic racism to environmental justice." *E magazine* v3, n3 (June 1992): 28-35.
The author explores the evolution and growth of the environmental justice movement. Perspectives are presented from interviews with several founders of the movement.

_____. "Environmental racism." *Crisis* v98, n4 (April 1991): 14-17, 31-32.

This was one of the first articles published in an NAACP magazine founded by W.E.B. Du Bois on environmental racism. Interviews are conducted with key leaders in the environmental justice movement.

Jetter, Alexis. "The poisoning of a dream (environmental activist Patsy Ruth Oliver)." *Vogue* v183, n11 (November 1993): 213 (4 pages).

Patsy Ruth Oliver fought against environmental racism, toxic pollution of communities inhabited by minorities. Her own community of Texarkana, Texas, suffered serious health problems from underground toxic waste. The EPA had deemed the area safe, but Congress later overturned this ruling.

Jones, Stephen C. "EPA targets environmental racism." (part 1) *National Law Journal* v15, n49 (August 9, 1993): 28.

The EPA's Office of Environmental Equity has begun focusing on efforts to educate the public on environmental racism. In the courts, the most common basis for environmental racism cases has so far been the equal protection clause. Legislation to help bring about environmental justice has been introduced in Congress.

_____. "Inequities of industrial siting addressed." (environmental racism, part 2) *National Law Journal* v15, n50 (August 16, 1993): 20.

Claims of environmental racism can be brought under Title VI of the 1964 Civil Rights Act. The act prohibits federal fund from being used to discriminate based on race and color. When using Title VI, plaintiffs need only prove disparate impact rather than discriminatory intent, which would be required under an equal protection claim.

Lavelle, Marianne. "Transition meets with minorities: Environmental activists." *National Law Journal* v15, n15 (December 14, 1992): 3.

People of color leaders of environmental justice groups met with members of the Clinton-Gore transition team to urge them to address issues of environmental racism. Richard Moore of the SouthWest Network for Environmental and Economic Justice was instrumental in bringing these meetings about and believes environmental spokespeople should have input into the selection of EPA officials.

_____. "Environmental racism targeted; congressional hearing." *National Law Journal* v15, n26 (March 1, 1993): 3.

The House Judiciary Committee's subcommittee on civil and constitutional rights will hold hearings on environmental racism. Chairman Don Edwards said part of his inspiration for the hearings was the National Law Journal report on the subject in the September 21, 1992, issue. Lack of equity for minority communities under the Superfund program and environmental enforcement of Indian reservation lands will be among the areas investigated.

_____ & Coyle, Marcia. "Unequal protection: The racial divide on environmental law." *National Law Journal* (September 21, 1993).

This special supplement examines the different treatment of communities of color and white communities under EPA's Superfund program. The authors conclude that white communities receive quicker action and more comprehensive cleanup strategies than communities of color even when income is held constant.

MacLachlan, Claudia. "Tension underlies rapport with grassroots groups." *National Law Journal* v15, n3 (September 21, 1992): 10.

In 1990, two grassroots groups, the Gulf Coast Tenants' Leadership Development Program and the SouthWest Organizing Project, charged the large, mainstream environmental groups also known as the "Big Ten" with lack of attention to toxic dangers in low-income communities and communities of color.

MacLean, Alair. "Bigotry and poison." (Gulf Coast Tenants' Organization, Louisiana) *Progressive* v57, n1 (January 1993): 14.

Gulf Coast Tenants Organizations are fighting environmental racism in the location of polluting industries along the 85-mile stretch of the Mississippi River from Baton Rouge to New Orleans known as "Cancer Alley."

Martinez, Elizabeth. "Defending the Earth in '92: A people's challenge to the EPA." *Social Justice* v19, n2 (Summer 1992): 95 (11 pages).

Environmental racism has been relentlessly pursued by concerned organizations after the publication of the United Church of Christ Commission for Racial Justice's 1987 *Toxic Wastes and Race* study. The SouthWest Organizing Project based in Albuquerque, N.M., has been active in combating environmental and economic injustice.

Meyer, Eugene L. "Environmental racism: Why is it always dumped in our backyard? Minority groups take a stand." *Audubon* v94, n1 (January-February 1992): 30 (3 pages).

Civil rights activist Rev. Benjamin F. Chavis Jr. coined the term 'environmental racism' in 1982. He echoed this battle cry during the struggle against the siting of a hazardous waste landfill in mostly African American Warren County, North Carolina. Warren County was not unique but represented a pattern across the United States.

Multinational Monitor. "The politics of race and pollution: An interview with Robert Bullard." (University of California sociology professor) v13, n6 (June 1992):21 (5 pages).

Sociologist Robert Bullard talks about his work in communities of color and their concern about environmental justice. He says persons of color are often excluded from decision-making processes that affect their communities' health and environment. As a result, locally undesirable land uses and other potential health threats are diverted towards economically and politically disenfranchised communities. However, communities of color

are learning to organize themselves, and some have succeeded in their efforts to counter environmental racism.

Panel Discussion. "A place at the table: A Sierra roundtable on race, justice, and the environment." *Sierra* v78, n3 (May-June 1993): 50 (11 pages).

Environmental justice advocates examine and evaluate the major environmental groups and their work on issues concerning communities of color. The panelists conclude that the groups have contributed to elitism and racism within the larger environmental movement.

Rees, Matthew. "Black and green: Race and environmentalism." *New Republic* v206, n9 (March 2, 1992): 15 (2 pages).

People of color environmental activists voice their concern on the problem of eco-racism, which is typified by the location of waste facilities and other environmentally dubious projects in their neighborhoods. They also charge mainstream environmental organizations with ignoring their concerns.

Satchell, Michael. "A whiff of discrimination? Racism and environmental policy" *U.S. News & World Report* v112, n17 (May 4, 1992): 34 (2 pages).

This article asks whether environmental racism real or imagined. It attempts to reduce environmental inequities to class and poverty, while ignoring voluminous studies that clearly demonstrate that racism still operates in contemporary American life.

Siler, Julia Flynn. "Environmental racism? It could be a messy fight." *Business Week* (May 20, 1991): 116.

This article examines the battle waged by People for Clean Air and Water in Kettleman City, California (a mostly Latino farm worker community) against the Chemical Waste Management. The company proposed a hazardous waste incinerator in the community.

Steinhart, Peter. "What can we do about environmental racism?: Coping with tendency to build freeways, prisons and waste facilities in poor and minority communities." *Audubon* v93, n3 (May 1991): 18 (4 pages).

This article explores the disparate burden and regressive impact of the construction of freeways, prisons, and waste facilities on the poor and people of color.

Taliman, Valerie. "Stuck holding the nation's nuclear waste," *Race, Poverty & the Environment* (Fall 1992): 6 (4 pages).

Thigpen, David. "The playground that became a battleground. (Kingsley Park Playground of Buffalo, New York's arsenic contaminated soil)" *National Wildlife* v31, n2 (February-March 1993): 14 (4 pages).

African American residents in Buffalo are engaged in a battle to get government officials to remove arsenic from the Kingsley Park Playground. Arsenic was detected in the park as early as 1983. However, government action has been slow.

Ward, Bud. "Environmental racism becomes key Clinton EPA focus." *Safety & Health* v149, n3 (March 1994): 183 (4 pages).

Many environmental justice experts challenge racial discrimination and disparate siting of potentially environmentally harmful waste facilities such as incinerators. EPA Administrator Carol Browner has begun to infuse environmental-justice issues into the agency's decision-making process.

WOMEN AND ENVIRONMENTAL JUSTICE

Chiro, Giovanna Di. "Defining environmental justice: women's voices and grassroots politics." *Socialist Review* v22, n4 (October-December 1992): 93 (38 pages).

The grassroots environmental movement is led largely by women who have challenged gender and racial inequality. These activists are on the forefront of change.

Easton, Billy. "WHEACT for justice." (West Harlem Environmental Action, New York) *Environmental Action Magazine* v24, n4 (Winter 1993): 33 (3 pages).

This article profiles two African American women, Peggy Shepard and Vernice Miller, who founded West Harlem Environmental Action (WHEACT) to fight the North River Sewage Treatment Plant. The group targets such examples of affluent development dumping on poor minority neighborhoods, which they term environmental racism.

Pardo, Mary. "Creating community: Mexican American women in Eastside Los Angeles." *AZTLAN - A Journal of Chicano Studies* v20, n1-2 (Spring-Fall 1991): 39 (33 pages).

This articles chronicles grassroots organizing in an East Los Angeles community. Many lessons can be learned from Mothers of East Los Angeles, a Latina group organized around environmental justice.

Taliman, Valerie. "Saving native lands: One woman's crusade against environmental racism." *Ms. Magazine* v4, n4 (January-February 1994): 28 (2 pages).

JoAnn Tall, an Oglala Lakota Indian, has devoted her life to the protection and sustenance of Native lives and land. Her commitment to environmental is grounded on her people's deep respect for the natural world.

"The Green Movement for environmental justice and a sustainable economy." *WLV News* v18, n4 (Autumn 1992): 20.

The Green Movement came out with its 10-plank action program that seeks to establish an environmentally conscious society based on environmental justice and sustainable development through individual responsibility, political activism, and social transformation. Among the 10 planks of its action program are economic conversion, ecologically sensitive industrial, agriculture and food policies, energy and pollution management, community and occupational health care services, education, preservation of wildlife biodiversity, and encouragement of greater political participation by the people

"Women's Environment & Development Organization - WEDO." (Women and Environment) *WLV News* v18, n4 (Autumn 1992):

15.

The Women's Environment and Development Organization (WEDO) launched its Community Report Card Project as its contribution to the global environment campaign. The WEDO is an international network of women activists concerned about women's status, environment, sustainable development, and social justice from the community to the global level. WEDO participated in the 1992 U.N. Conference on Environment and Development in Rio de Janeiro through caucuses that led to the incorporation of the objectives of the Women's Action Agenda into the Rio Declaration.

"World Women's Congress for a Healthy Planet: The North American Women's Regional Caucus Report." (Directory) *Women & Environments* v13, n1 (Fall-Winter 1991): 6.

The World Women's Congress met on November 12, 1991, in Miami to reaffirm goals and philosophy concerning women and the environment. The congress is against the present world economic order, which distributes the wealth among the rich while the poor are deprived and which supports a militaristic outlook. Their goals include stopping genocide of indigenous peoples, environmentally hazardous free trade agreements, environmental racism, and nuclear power and weapons development.

LAND USE, FACILITY SITING, AND "NIMBY"

Brion, Denis J. "An essay on LULU, NIMBY, and the problem of distributive justice." *Boston College Environmental Affairs Law Review*, v15, n3-4 (Spring 1988): 437-503.

This study examines the problems associated with the distribution of locally unwanted land uses, the not-in-my-backyard phenomenon, and unequal power in society.

Bullard, Robert D. "Environmental racism and land use." *Land Use Forum: A Journal of Law, Policy, & Practice* v2 (Spring 1993): 6-11.

This articles explore discriminatory land use practices as an extension racial bias in environmental decisionmaking.

_____. "In our backyards: Minority communities get most of the dumps." EPA Journal v18 (March/April 1992): 11-12.

Waste facilities are not randomly distributed across the landscape. Communities of color bear a disproportionate burden as a result of nearby waste facilities.

Freudenburg, William R. & Pastor, Susan K. "NIMBYs and LULUs: Stalking the syndrome." *Journal of Social Issues* v48, n4 (Winter 1992): 39.

Communities confronted with LULUs respond in many ways from irrational hysteria to enlightened self-interest.

Greenberg, Michael R. "Proving environmental inequity in siting locally unwanted land uses." *Risk Issues in Health & Safety* v4 (Summer 1993): 235-252.

This paper explores land-use decision-making and the problems associated with "proving" environmental inequity associated with LULUs.

Inhaber, Herbert. "Of LULUs, NIMBYs, and NIMTOOs." *Public Interest* n107 (Spring 1992): 52.

The public response to locally unwanted land uses gave rise to not-in-my-backyard. Public officials have reacted with "not-in-my-term-of-office."

Jaffe, Susan. "Bhopal in the backyard? When the folks next door are industrial polluters, it's time for a chat." *Sierra* (September/October 1993): 52-53.

Industrial pollution and the threat to nearby communities are real and need to be addressed before a disaster occurs.

Lampe, David. "The politics of environmental equity." *National Civic Review* v81, n1 (Winter-Spring 1992): 27.

Some communities because of their race, class, and political powerlessness are forced to accept risky jobs and polluting industries that others can escape.

"Not in my backyard: IR&R joins in quest for environmental justice; ABA House Passes Resolution," *Human Rights* v20, n4 (Fall 1993): 26.

In an historic move, the Individual Rights and Responsibilities Section of the ABA together with the House of Delegates pass a resolution to end environmental racism. They also call for Congress to pass the Environmental Justice Act of 1993.

O'Looney, John. "Framing a social market for community responsibility: Governing in an age of NIMBYs and LULUs." *National Civic Review* v82, n1 (Winter 1993): 44.

Policy makers are attempting to develop a mechanism for the equitable distribution of locally unwanted land uses. Suggestions of "organized markets" and "market framework" approaches to land use decisions are made.

Walsh, Edward; Warland, Rex & Smith, D. Clayton. "Backyards, NIMBYs, and incinerator sitings: Implications for social movement theory." Special Issue, *Social Problems* v40, n1 (February 1993): 25 (14 pages).

This article examines two siting disputes involving modern incinerators and asks why one was eventually built and the other defeated.

LAW REVIEW ARTICLES

Austin, Regina & Schill, Michael. "Black, brown, poor & poisoned: Minority grassroots environmentalism and the quest for eco-justice." *Kansas Journal of Law and Public Policy* v1, n1 (1991): 69-82.

People of color and the poor are endangered by industrial pollution and environmental degradation. They are organizing themselves around environmental justice, and many view their equal protection struggles as an extension of the civil rights movement.

Been, Vicki. "What's fairness got to do with it? Environmental

justice and the siting of locally undesirable land uses." *Cornell University Law Review* v78 (1993): 1001-1085.

The author discusses who benefits and who loses with the siting of locally unwanted land uses (LULUs), the politics involved with their siting, and legal strategies for combatting the siting of LULUs.

Brown, Alice L. "Environmental justice: New civil rights frontier." *Trial* v29, n7 (July 1993): 48 (6 pages).

Traditional environmental laws do not cover racial discrimination but can still challenge the location of polluting industries and lack of enforcement of cleanup provisions. Suits alleging this type of discrimination can be brought under several laws, including CERCLA, the Federal Water Pollution Control Act, Title VI of the 1964 Civil Rights Act, and the Medicaid Act.

Bullard, Robert D. "Race and environmental justice in the United States." *The Yale Journal of International Law* v18, n1 (Winter 1993): 319-335.

This article was written as part of the "Earth Rights and Responsibilities" Conference held at Yale Law School. The paper examines environmental racism and environmental inequity in the United States. It also gives a historical background of the environmental justice movement.

Chase, Anthony. "Assessing and addressing problems posed by environmental racism." *Rutgers University Law Review* v45, n2 (Winter 1993): 385-369.

Environmental racism is easy to practice but difficult to prove. The author draws some parallels with other forms of racial discrimination and the remedies used to combat them.

Coleman, Leslie Ann. "It's the thought that counts: The intent requirement in environmental racism claims." *St. Mary's Law Journal* v25, n1, 1993: 447-492.

The author gives a brief history of racial segregation and environmental racism. Court cases are discussed where the intent standard has been the insurmountable hurdle. Also discusses Title VI of the Civil Rights Act.

Cole, Luke W. "Empowerment as the key to environmental protection: The need for environmental poverty law." *Ecology Law Quarterly* v19, n4 (1992): 619-683.

The article discusses the need for poverty law and environmental justice law to merge when dealing with environmental racism issues. However, the law is only one tool. Community empowerment is the key in disenfranchised communities.

_____. "Remedies for environmental racism: A view from the field." (response to Rachel D. Godsil, *Michigan Law Review*, v90, p. 394) *Michigan Law Review* v90, n7 (June 1992): 1991-1997.

The author critiques Rachel D. Godsil's paper on environmental racism. Cole believes that the law has done a lousy job protecting people of color and disenfranchised populations. For him, grassroots activism is the approach most likely to bear fruit.

Collin, Robert, W. "Environmental equity: A law and planning approach to environmental racism." *Virginia Environmental Law Journal* v11, n4 (Summer 1992): 495-546.

Poor communities of color have been dealing with the adverse externalities of industrial capitalism for decades. The article delineates some of the institutional changes that could be implemented to combat this trend.

Colopy, James, H. "The road less traveled: Pursuing environmental justice through Title VI of the Civil Rights Act of 1964." *Stanford Environmental Law Journal* v13, n1 (January 1994).

A comprehensive discussion of legal strategies for combating environmental racism using Title VI of the Civil Rights Act.

Colquette, K.C. & Robertson, Elizabeth A. Henry. "Environmental racism: The causes, consequences and commendations." *Tulane Environmental Law Journal* 5 (1991): 153-207.

Environmental racism is alive and well in Louisiana. African American communities in the state's petro-chemical corridor suffer the most from discriminatory industry practices and parish policies.

Denno, Deborah, W. "Considering lead poisoning as a criminal defense." *Fordham Urban Law Journal* v20, n3 (1993): 377-400.

This article bases a criminal defense strategy on a recent biosociological study stating that lead poisoning in young black males is one of the strongest predictors for crime and violence. This possibly establishes an environmental link to the plight of America's young black males.

Dubin, Jon C. "From junkyards to gentrification: Explicating a right to protective zoning in low-income communities of color." *Minnesota Law Review* v77, v4 (April 1993): 739-801.

This article discusses the history of discriminatory zoning in the United States and the effect that it had on land-use patterns. It also examines other aspects of zoning laws, from environmental to gentrification, and calls for the use of protective zoning in disenfranchised communities.

Godsil, Rachel D. "Remedying environmental racism." *Michigan Law Review* v90, n2 (November 1991): 394-497.

This is one of the first law review articles to address environmental racism. People of color have not been well-served by government and industry.

Keeva, Steven. "A breath of justice: Along with equal employment opportunity and voting, living free from pollution is emerging as a new civil right." *ABA Journal* v80 (February 1994): 88-92

The environmental justice movement is a bridge between the environmental and civil rights movements. The actions of grassroots groups have placed environmental justice issues on local, state, and national agenda

Lavelle, Marianne & Coyle, Marcia. "Unequal protection: The racial divide in environmental law." Special Supplement. *National Law Journal* v15, n3 (September 21, 1992).

This issue reports on the unequal protection provided to communities of color under the federal Superfund

program. The authors' conclude that white communities see faster cleanup action and more stringent cleanup than communities of color. Penalties are stiffer on companies with violations in white communities as compared to communities of color.

Lazarus, Richard J. "Pursuing 'environmental justice': The distributional effects of environmental protection." *Northwestern Law Review* n87 (March 1993).

This article explores the effect of unequal protection on vulnerable populations and the role of environmental justice in correcting these inequities.

Lyskowski, Kevin. "Environmental justice: A research guide." *Our Earth Matters*, NAACP Legal Defense and Educational Fund, (Spring 1994). 16 pp.

This guide is full of tips and sources on environmental justice including cases, legislation, and bibliographic materials. It also has a fairly comprehensive list of print and "on-line" (computer) resources with key words for searches.

Mitchell, Carolyn M. "Environmental racism: Race as a primary factor in the selection of hazardous waste sites." *National Black Law Journal* v12, n3 (Winter 1993): 176-188.

The location of waste facilities because of the racial and ethnic makeup of the communities violates the 1866 Civil Rights Act and the equal protection guarantees of the 14th Amendment. Several state environmental and personal injury laws also mitigate against such racially discriminatory location of hazardous sites and operations.

Reich, Peter, L. "Greening the ghetto: A theory of environmental race discrimination." *The University of Kansas Law Review* v41, n2 (Winter 1992): 271-314.

This article discusses the inadequacies of federal doctrines in protecting communities of color and suggests that state doctrines could be used to combat environmental racism.

Tsao, Naikang. "Ameliorating environmental racism: A citizens' guide to combatting the discriminatory siting of toxic waste dumps." *New York University Law Review* v67, n2 (May 1992): 366-418.

The author discusses legal remedies communities may pursue to prevent the development of new toxic waste sites in their communities. Racial discrimination is analogous to any municipal service, and remedies exist in common law, state law or constitutional law. Federal cases based upon equal protection of the 14th Amendment would probably not succeed in the present federal courts, so state laws are the better approach.

BOOKS, REPORTS, AND SPECIAL ISSUES (PERIODICALS)

Alston, Dana. *We Speak for Ourselves: Social Justice, Race & Environment.* The Panos Institute. (December 1990). 40 pp.

This booklet documents the marriage of the movement for social justice with environmentalism. Contributors include journalists, writers, illustrators, researchers, and artists. Issues covered include environment and people of color, land, sovereignty and the environment, organizing, and the media and the environment.

Angel, Bradley. *The Toxic Threat to Indian Lands: A Greenpeace Report.* San Francisco: Greenpeace, 1992. 17 pp.

This report details the targeting of Native lands for landfills, incinerators, and other waste facilities.

Barry, Tom & Sims, Beth. *The Challenge of Cross Border Environmentalism: The U.S.-Mexico Case.* No.1 in the U.S.-Mexico Series. The Inter-Hemispheric Education Resource Center, Resource Center Press and border ecology project, 1994. 121 pp.

A review of the political agenda and recommendations for NAFTA's side agreements is presented. The authors argue that small-scale models forming at the grassroots level, combined with progressive binational politics, could provide a basis for sustainable development in the border region.

Bryant, Bunyan & Mohai, Paul. *Race and the Incidence of Environmental Hazards.* Boulder, Colo.: Westview Press, 1992. 251 pp.

This book includes the papers that were delivered at a 1990 University of Michigan conference by the same name. The core presenters, people of color scholars, civil rights leaders, and environmental justice activists, became the ad hoc group known as the "Michigan Coalition."

Burke, Lauretta M. *Environmental Equity in Los Angeles.* Nationa Center for Geographic Information & Analysis, Technical Repon 93-6. (July 1993). 82 pp.

In a case study, the relationship between industrial facilities and emitting toxic chemicals and demographic variables are examined at the census tract-level of aggregation. Because race and income are highly correlated, the purpose of the analysis is to determine the significance of race in relationship to environmental pollution when the effects of other important variables, such as income, have been removed.

Bullard, Robert D., ed. *Unequal Protection: Environmental Justic and Communities of Color.* San Francisco: Sierra Club Books, 1994 392 pp.

This offers documentation of environmental injustice and unequal protection. Case studies come from "impacted" citizens, grassroots activists, civil rights leaders, journalists, lawyers, and academicians who have worked in communities of color.

_____. *Dumping in Dixie: Race, Class and Environmental Qualit* 2nd ed. Boulder: Westview Press, 1994. 195 pp.

African American communities in the South have become the dumping ground for polluting industries, waste facilities, and garbage dumps. The author examines five African American communities that challenged unjust, unfair, and illegal industry and government practices.

_____, ed. *Confronting Environmental Racism: Voices from the Grassroots.* Boston: South End Press, 1993. 259 pp.

This book grew out of grassroots activists and environmental justice leaders who participated in the 1991 First National Environmental Leadership Summit. The contributors conclude that environmental racism endangers public health, lowers property values, and creates nonsustainable communities.

Canadian Environmental Network. *The Green List: A Guide to Canadian Environmental Organizations and Agencies.* Ottawa, Ont.: The Canadian Environmental Network, 1994. 425 pp.

This directory includes listings of Canadian environmental groups, development groups, industry associations, government contacts, and Southern networks.

Center for Investigating Reporting and Bill Moyers. *Global Dumping Grounds: The International Trade in Hazardous Waste.* Washington, D.C.: Seven Locks Press, 1990. 152 pp.

This book examines problems associated with transboundary shipment of hazardous wastes from the United States to the Third World. A companion video narrated by Bill Moyers can be ordered with the book.

Environmental Health Coalition. *Toxic-Free Neighborhoods Community Planning Guide.* San Diego: Environmental Health Coalition, 1993. 97 pp.

This guide offers solutions to toxics problems faced by neighborhoods across the United States. The report discusses environmental racism, creating a toxic-free neighborhood ordinance, pollution prevention, legal tools, and organizing strategies.

Geddicks, Al. *The New Resource Wars: Native and Environmental Struggles Against Multinational Corporations.* Boston: South End Press, 1994. 250 pp.

The author, a University of Wisconsin (La Crosse) sociologist, provides an historical analysis of the assaults upon native peoples and the environment from James Bay, Quebec, to the Ecuadorian rain forest.

Goldman, Benjamin & Fitton, Laura J. *Toxic Waste and Race Revisited.* Washington, D.C.: Center for Policy Alternatives, NAACP, United Church of Christ Commission for Racial Justice, 1994. 10 pp.

This follow-up study to the 1987 *Toxic Waste and Race* reveals that people of color are more likely to live near waste sites than they were in 1987.

Goldman, Benjamin. *The Truth About Where You Live: An Atlas for Action on Toxins and Mortality.* New York: Random House, 1992. 416 pp.

This book contains some maps, graphs, and statistical tables that point to clear links between quality of life and geographic location; where you live can affect your health.

Gottlieb, Robert. *Forcing the Spring: The Transformation of the American Environmental Movement.* Washington, D.C.: Island Press, 1993.

The author examines the history of the environmental movement and its redefinition that has emerged from environmental justice battles of low-income communities and communities of color.

Hernandez, Richard & Sanchez, Edith. *Cross-Border Links: A Directory of Organizations in Canada, Mexico, and the United States.* Albuquerque: Inter-Hemispheric Education Resource Center, 1992. 263 pp.

This directory includes groups that are working on such areas as fair trade, labor, and the environment. It also has listings of advocacy organizations, academic institutions, government agencies, business groups, and electronic networking.

Hofrichter, Richard, ed., *Toxic Struggles: The Theory and Practice of Environmental Justice.* Philadelphia: New Society Publishers, 1993. 260 pp.

This book examines how people of color, women, migrant farm workers, and industrial workers are joining forces with environmental activists to challenge corporate polluters. It examines the multi-issue and multicultural coalitions that have revitalized the political landscape around environmental justice. Essays reflect the diversity of the environmental justice alliance by addressing environmental racism, ecofeminism, occupational health and safety, and the exploitation of Third World peoples.

Institute for Southern Studies. "People of color forge a movement for environmental justice." Special Issue, *Southern Exposure* v21, n4 (Winter 1993). 64 pp.

Articles include such issues as lead poisoning in West Dallas, Du Pont fungicide killing crops in Florida, private resorts eroding the coast in South Carolina, and pollution along the U.S.-Mexico and the North American Free Trade Agreement (NAFTA).

Johnson, Barry L.; Williams, Robert C. & Harris, Cynthia M. *Proceedings of the 1990 National Minority Health Conference: Focus on Environmental Contamination.* Princeton, NJ: Scientific Publishing Co., Inc., 1992.

The First National Minority Health Conference was held in Atlanta in 1990. Papers explore the nature, extent, and impact of environmental hazards on persons of color and other vulnerable populations.

Land Use Forum. "Environmental equity: Confronting racial injustice in land use patterns." Special Issue, *Land Use Forum* Continuing Education of the Bar of California v2, n1 (Winter 1993). 91 pp.

These articles examine the relationship between unpopular land use and communities of color, and look at emerging efforts to correct the disparity. There is also a list of resources and organizations active in environmental justice issues.

Lewis, Sanford; Keating, Brian & Russell, Dick. *Injustice by Design: Waste, Freud and Abuse in Federal Environmental Health Research.* Boston: National Toxics Campaign, 1992. 55 pp.

This report takes the Agency for Toxic Substances and Disease Registry to task for inconclusive findings and wasteful health assessments of residents who live around Superfund sites.

Louisiana Advisory Committee to the U.S. Commission of Civil Rights. *The Battle for Environmental justice in Louisiana ... Government, Industry, and the People.* Kansas City: U.S. Commission on Civil Rights Regional Office. (September 1993). 144 pp.

This report offers, for the first time, information for the U.S. Commission on Civil Rights linking environmental practices and policies with racial discrimination. The study shows that black communities in the corridor between Baton Rouge and New Orleans, known as "Cancer Alley," are disproportionately impacted by state and local government systems for permitting and expansion of hazardous waste and chemical facilities.

Mann, Eric. *L.A.'s Lethal Air: New Strategies for Policy, Organizing, & Action.* A Labor/Community Strategy Book. Los Angeles, 1991. 80 pp.

This report discusses air pollution in Los Angeles and its effect upon poor communities of color. It also documents the corporate sources of the problem and discusses the Labor/Community Watchdog strategy for fighting environmental racism.

Natural Resources & Environment. "Facility siting." Section of Natural Resources, Energy and Environmental Law. American Bar Association. v7, n3 (Winter 1993). 64 pp.

It is almost a law of physics that for every proposal for an industrial facility, whether it is a landfill, hazardous waste incinerator, or a new electric transmission line, there is an equal (or greater) and opposing reaction, especially from those in the local community who will be closest to the new facility's impacts. There is a diverse collection of articles to assist anyone interested in facility siting.

Race, Poverty & the Environment. Special Issue. "Latinos and the environment" v4, n3 (Fall 1994). 48 pp.

This issue is devoted to Latinos and contains articles that address issues ranging from Puerto Ricans in New York to Chicanos in East Los Angeles. The volume contains a good mix of articles from environmental justice activists and academicians.

Sevrens, Gail. *Environmental, Health, and Housing Needs and Nonprofit Groups in the U.S.-Mexico Border Area.* Arlington, Va.: World Environment Center. (June 1992). 187 pp.

This directory contains mostly health and housing nonprofit groups located along the U.S.-Mexican border.

Sexton, Ken & Anderson, Yolanda Banks. "Equity in Environmental Health: Research Issues and Needs," Special Issue, *Toxicology and Industrial Health* v9, n5 (September-October 1993). 967 pp.

This issue grew out papers presented at a workshop on environmental health issues. The workshop was sponsored by the U.S. WPA, National Institute for Environmental Health Sciences, and the Agency for Toxic Substances and Disease Registry. Ten articles are presented on topics ranging from research and decision making, health status by race and class, data collection, susceptibility, community perspectives and health research needs, health risks from air and water pollution, and hazardous wastes.

Social Problems. Special Issue on environmental justice v40, n1 (February 1993).

This issue contains research and case studies from the field.

Southwest Organizing Project. *Intel Inside ... New Mexico.* Albuquerque: SWOP, 1983.

This is a case study of the micro-electronics industry in New Mexico. It clearly shows that environmental justice and economic justice are one and the same. SWOP's position is that economic development models also must address sustainability and justice concerns of local communities.

Szasz, Andrew. *EcoPopulism: Toxic Waste and the Movement for Environmental Justice.* Minneapolis: University of Minnesota Press, 1994.

The author discusses how, in less than a decade, a rich infrastructure of increasingly more permanent social organizations has emerged around environmental justice issues, including municipal waste, military toxics, and pesticides. He follows the development of the movement in the world of "official" policy-making in Washington as well as through the formation of local, grassroots groups in America's polluted neighborhoods. He suggests that the movement may prove to be the vehicle for reinvigorating progressive politics.

Texas Environmental Equity and Justice Task Force Report. *Recommendations of to the Texas Natural Resource Conservation Commission.* Austin, Texas. (August 1993).

The purpose of this task force was to ensure that the public benefits from the newly created state agency. This was one of the first statewide task forces to examine the impact of environmental policies, regulations, and laws on low-income communities and communities of color.

Texas Network for Environmental and Economic Justice. *Toxics in Texas & Their Impact on Communities of Color.* Austin, Texas: Texas Center for Policy Studies. (March 1993) 41 pp.

This preliminary report is intended to serve as an organizing and educational tool for community leaders and policy makers who are addressing environmental justice and economic development issues across the state of Texas. According to the data, gathered from demographics of hazardous facilities and industries, communities of color in Texas are disproportionately impacted

United Church of Christ Commission for Racial Justice. *Proceedings: The First National People of Color Environmental Leadership Summit.* New York: Commission for Racial Justice. 1992. 234 pp.

The papers compiled from the summit give an excel-

lent overview of the presentations, workshops, and open dialogue. This document can be supplemented with a summit video.

U.S. Environmental Protection Agency. Special Issue, *EPA Journal.* "Environmental Protection: Has It Been Fair?" v18, n1 (March/April 1992). 64 pp.

This issue contains a wide range of articles (some written by environmental activists and leaders) that explore the issues of environmental and economic justice, differential exposure, facility siting disparities, and initiatives begun at EPA to address some of these concerns.

_____. *OSWER Environmental Justice Task Force Draft Final Report.* Washington, D.C.: U.S. EPA Office of Solid Waste and Emergency Response, 1994. 68 pp.

This report was produced by EPA's Office of Solid Waste and Emergency Response (OSWER) to guide its environmental justice efforts on the reauthorization of Superfund. Some of the core recommendations from grassroots groups are incorporated in OSWER's action plan.

_____. *Toxic Release Inventory & Emission Reductions 1987-1990 in the Lower Mississippi River Industrial Corridor.* Washington, D.C.: U.S. EPA, Office of Pollution Prevention and Toxics, 1993.

Using geographic information system and Toxic Release Inventory data, the EPA mapped the pollution levels along the Mississippi River from Baton Rouge to New Orleans. Not surprisingly, the EPA study finds that African American communities along the river bear the greatest risk burden from industrial pollution.

_____. *Environmental Equity: Reducing Risk for All Americans.* Washington, D.C.: U.S. EPA, 1992. v1. 43 pp. v2, 130 pp.

This report was issued after a yearlong study of environmental justice problems. While stopping short of recognition of environmental racism, the report does provide recommendations and action steps to begin addressing some of the nation's environmental inequities.

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RC-26 $2 **Community advisory panels within the chemical industry: Antecedents and issues**, Frances Lynn and Caron Chess, *Business Strategy and the Environment*, Summer 1994, Vol.3, Pt.2, pp.92-99. An examination of potential problems with corporate CACs, based on research on government citizen advisory committees.

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RC-12 $2 **Two-way environmental education**, Peter M. Sandman, *EPA Journal*, September/October 1991, pp.39-41. Argues that environmental education should teach the public about "hazard" and learn from the public about "outrage."

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RC-9 $3 **Government land preservation and communication policies in fast-growing counties of the United States of America**, Michael R. Greenberg and Frank J. Popper, *Government and Policy*, 1990, Vol.8, pp.417-426. Results of a national survey suggest that local officials' techniques to communicate to the public about land preservation goals and practices have changed little over the past three decades.

RC-8 $4 **How to communicate environmental risk**, Caron Chess, 1990. 14-page synopsis of the basics of risk communication, including ideas and excerpts from RC-6, RC-2, and PE-2.

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RC-6 **Industry risk communication manual**, Billie Jo Hance, Caron Chess, and Peter M. Sandman, 1990. Based on interviews with industry practitioners, this manual distills experience into guidelines, recommendations, and checklists.

NOTE: *Published at $45.00 by CRC Press/Lewis Publishers, 2000 Corporate Blvd., N.W., Boca Raton, FL, 33431; please order via bookstore, or directly from the publisher.*

RC-5 $6 **Emerging communication responsibilities of epidemiologists**, Peter M. Sandman, *Journal of Clinical Epidemiology*, 1991, pp.41S-50S. Eight guidelines to use when communicating with affected publics about ongoing or completed studies.

RC-4 $2 **Risk communication and public participation**, Caron Chess, in *Proceedings: Ninth Annual Gulf of Mexico Information Transfer Meeting* (New Orleans: U. S. Dept. of the Interior, Gulf of Mexico Regional Office, December 1989), pp.225-228. Three page summary of why public participation is critical to agency decision making and suggestions made in RC-2.

RC-3 $2 **Setting a context for explaining risk**, Billie Jo Hance, Caron Chess, and Peter M. Sandman, *Risk Analysis*, March 1989, pp.113-117. A brief summary of RC-2.

RC-2 $20 **Improving dialogue with communities: A risk communication manual for government**, Billie Jo Hance, Caron Chess, and Peter M. Sandman, 1988. Down-to-earth suggestions to help agency practitioners improve their communication with the public about environmental health issues.

Improving dialogue with communities: A Short guide for government risk communication, Caron Chess, Billie Jo Hance, and Peter M. Sandman, 1988. A 35-page version of the above manual includes most of the suggestions but fewer examples and explanations.

Encouraging effective risk communication: Suggestions for agency management, Caron Chess, 1988. A nine-page report that discusses management options for promoting effective risk communication within an agency.

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RC-1 $2 **Explaining environmental risk**, Peter M. Sandman, 1986. Media coverage and public understanding of environmental risk.

CASE STUDIES

CS-8 $9 **Making pollution prevention reality: A case study of Merck's efforts**, Caron Chess, Michele Ochsner, and Michael R. Greenberg, 1995. Case study of a company's pollution prevention efforts, focusing on organizational issues.

CS-7 $4 **Technical assistance for citizen participation: A case study of New York City's environmental planning process**, Nevin Cohen, *The American Review of Public Administration*, in press. Explores the impact of technical assistance grants on citizen participation.

CS-6 $12 **CAER in practice: New Jersey chemical companies explain chemical risks to their communities: Three New Jersey risk education case studies**, Stefanie M. Silverman, Peter M. Sandman, and Andrea Ricker, 1990. Description of the award-winning community outreach programs of three New Jersey chemical plants, which draws tentative conclusions about the strengths and weaknesses of chemical industry risk communication efforts.

CS-5 $8 **The Coalition Against Toxics opposes chemical gypsy moth spraying: A New Jersey risk education case study**, Marie E. Hasse and Peter M. Sandman, 1990. The largely successful efforts of a small New Jersey environmental advocacy group to persuade local communities and state agencies to stop pesticide spraying for gypsy moths.

CS-4 $8 **The New Jersey state government encourages homeowners to test for radon**, Andy Feeney and Peter M. Sandman, 1990. Description of the New Jersey's radon education program and its strengths and weaknesses.

CS-3 $6 **Drafting ground water quality regulations: A case study in public participation**, Caron Chess, 1989. A New Jersey program to involve a wide range of constituencies in developing ground water quality regulations.

CS-2 $8 **Alerting the apathetic and reassuring the alarmed: Communicating about radon risk in three communities**, Caron Chess and Billie Jo Hance, 1988. Recommendations to the U.S. Environmental Protection Agency based on case studies of government efforts.

CS-1 $4 **At Three Mile Island**, Peter M. Sandman and Mary Paden, *Columbia Journalism Review*, July/August 1979, pp.243-258. Observations of reporters and publicists at work in mid-crisis.

MANAGING RISK COMMUNICATION

MG-9 $3 **Organizational learning about environmental risk communication: The case of Rohm and Haas' Bristol plant**, Caron Chess, Michal Tamuz, and Michael R. Greenberg, *Society and Natural Resources*, 1995, Vol. 8, pp. 57-66. Discussion of how one plant learned about risk communication and examination of implications for other corporate efforts.

MG-8 $4 **The disqualification heuristic: When do organizations misperceive risk?**, Lee Clarke, *Research in Social Problems and Public Policy*, 1993, Vol.5, pp.289-312. The Exxon oil spill is the basis of exploration of organizations' failure to perceive risk.

MG-6 $14 **Building trust from within: Behind the scenes of Rohm and Haas' Bristol Plant**, Caron Chess, Michael R. Greenberg, Michal Tamuz, and Alex Saville, 1992. An in-depth case study exploring how the plant dealt with a crisis of public confidence and organized internally for the effort.

MG-5 $6 **The organizational links between risk communication and risk management: The case of Sybron Chemicals Inc.**, Caron Chess, Alex Saville, Michal Tamuz, and Michael R. Greenberg, *Risk Analysis*, 1992, Vol.12, No.3, pp.431-438. Based on MG-3. The relationship between risk management and risk communication and the organizational factors that link the two.

MG-4 $6 **Reducing uncertainty and increasing credibility: The case of Sybron Chemicals Inc.**, Caron Chess, Michal Tamuz, Alex Saville, and Michael R. Greenberg, 1992, *Industrial Crisis Quarterly*, Vol.6, pp.55-70. How a company's organizational response to a crisis can amplify community concerns in useful ways.

MG-3 $12 **From crisis to credibility: Behind the scenes of the risk communication program at Sybron Chemicals Inc.**, Caron Chess, Alex Saville, Michael R. Greenberg, and Michal Tamuz, 1991. After a chemical release, a small manufacturer developed an innovative risk communication program tied to its risk management efforts.

MG-2 $6 **Empowering agencies to communicate about environmental risk: Suggestions for overcoming organizational barriers**, Caron Chess, Peter M. Sandman, and Michael R. Greenberg, 1990. The results of a symposium on organizational factors in government risk communication.

MG-1 $3 **Opening doors: Making risk communication agency reality**, Caron Chess and Billie Jo Hance, *Environment*, June 1989, pp.10-15, 38-39. Examines how agencies can improve their risk communication, focusing on organizational changes and management concerns. (Expands on ideas in the management report in RC-2.)

ENVIRONMENTAL PERCEPTION

RP-18 $2 **Resistance to personal risk perceptions to debasing interventions.** Neil D. Weinstein and William K. Klein, *Health Psychology*, 1995, Vol.14,No.2,pp.132-140. Reports 4 studies of unsuccessful attempts to reduce optimistic biases that may decrease interest in health-protective behaviors.

RP-17 $2 **Growing fear: Home horticulture and the threat of Lyme Disease**, William K. Hallman and Deborah C. Smith-Fiola, *Journal of Home and Consumer Horticulture*, 1994, Vol. 1, No. 2/3, pp. 265-273. Results from a survey of 308 tick bite victims who reported their fears, behaviors, and changes in lifestyle in response to the threat of Lyme Disease.

RP-16 $7 **Public perceptions of agricultural biotechnology: A survey of New Jersey residents**, William K. Hallman and Jennifer Metcalfe, 1993. Results from a survey of New Jersey residents concerning their perception of a range of issues related to biotechnology.

RP-15 $3 **Framing effects and arenas of choice: Your money or your life?** Paul M. Miller and Nancy S. Fagley, 1992. Analysis of the effects of framing, arena of outcome, and sex of subject on risky choice.

RP-14 $4 **Agency communication, community outrage, and perception of risk: Three simulation experiments**, Peter M. Sandman, Paul M. Miller, Branden B. Johnson, and Neil D. Weinstein, *Risk Analysis*, 1993, Vol.13, No.6, pp. 585-598. Summarizes some of the results reported in RP-3 and RP-7 about the effects of outrage on risk perception.

RP-13 $3 **Scales for assessing perceptions of health hazard susceptibility**, Michael A. Diefenbach, Neil D. Weinstein, and Joseph O'Reilly, *Health Education Research*, 1993, Vol.8, No.2, pp.181-192. Two studies examine the effectiveness of a variety of commonly used likelihood scales for assessing perceptions of personal susceptibility to health and safety risks.

RP-12 $2 **Are people acting irrationally? Understanding public concerns about environmental threats**, Abraham Wandersman and William K. Hallman, *American Psychologist*, June 1993, Vol.48, No.6, pp.681-686. Describes how psychological research can be used to understand the public's concerns about environmental threats.

RP-11 $3 **Precautions taken against Lyme Disease at three recreational parks in endemic areas of New Jersey**, William K. Hallman, Neil Weinstein, Swati S. Kadakia, and Caron Chess, *Environment and Behavior*, in press. Hikers' awareness of recommended precautions against tick bites.

RP-10 $5 **Attribution of responsibility and individual and collective coping with environmental threats**, William K. Hallman and Abraham Wandersman, *Journal of Social Issues*, 1992, Vol.48, No.4, pp.101-118. An examination of individual and collective responses (including the development of grassroots groups) to the sources of stress that often accompany environmental threats.

RP-9 $6 **Testing the role of technical information in public risk perception**, Branden B. Johnson, Peter M. Sandman, and Paul Miller, *Risk: Issues in Health and Safety*, Fall 1992, pp.341-364. Summarizes some of the results reported in RP-7.

RP-8 $14 **News content and public perceptions of environmental risk: Does technical information matter after all?**, Kandice L. Salomone, 1992. Experimental results that show that the "tone" or balance of an environmental risk news story is much more important for determining public responses to risk than whether or not a story contains technical risk information.

RP-7 $18 **Outrage and technical detail: The impact of agency behavior on community risk perception**, Peter M. Sandman and Paul Miller, 1991. Analysis of an experiment showing that public responses to the risk of a cleanup are more affected by agency openness and responsiveness than by the seriousness of the hazard or the amount of technical information provided to the public.

RP-6 $5 **The effects of framing, problem variations, and providing a rationale on choice**, Paul M. Miller and N. S. Fagley, *Personality and Social Psychology Bulletin*, 1991. Experimental results suggest that decision problem characteristics, such as degree of gain and the probability of success of a risky option, moderate the "framing effect."

RP-5 $3 **The effect of framing on choice: Interactions with risk-taking propensity, cognitive style, and sex**, N.S. Fagley and Paul M. Miller, *Personality and Social Psychology Bulletin*, September 1990, pp.496-510. Two experiments examining the "framing effect" found significant interactions of gender and individual decision problems, but not risk-taking propensity and cognitive style.

RP-4 $1 **Optimistic biases about personal risks**, Neil D. Weinstein, *Science*, December 8, 1989, pp.1232-1233. This brief overview summarizes Weinstein's and others' research on optimistic biases in risk perception.

RP-3 $8 **Simulation studies of hazard perception**, Neil D. Weinstein, 1989. Hypothetical hazard simulations assess the impact on public risk perception of government versus individual responsibility, existing versus proposed hazards, and heated "high-outrage" controversies versus calm risk presentations.

RP-2 $12 **Public perception of environmental hazards: Attitudes of the public and the Department of Environmental Protection toward environmental hazards**, Neil D. Weinstein, 1988. The differences between citizens and regulators in New Jersey in their attitudes toward environmental hazards and hazard management.

RP-1 $6 **Public perception of environmental hazards: Statewide poll of environmental perceptions**, Neil D. Weinstein, 1986. The results of a New Jersey survey that examines differences between local concerns and views of problems in the state as a whole.

PLANNING AND EVALUATION

PE-7 $7 **Some criteria for evaluating risk messages**, Neil D. Weinstein and Peter M. Sandman, *Risk Analysis*, February 1993, Vol. 13, No.1, pp.103-114. The conceptual and methodological issues raised by seven criteria, illustrated with data from EX-4.

PE-6 $5 **Rhetoric and reality: Risk communication in government agencies**, Caron Chess and Kandice L. Salomone, *Journal of Environmental Education*, Spring 1992, Vol.23, No.3, pp.28-33. This article links the results of two studies (PE-4 & ED-4) that suggests that there is a gap between the stated commitment of government agencies to risk communication and their actual practices.

PE-5 $4 **Evaluating risk communication programs: A catalogue of 'quick and easy' feedback methods (a summary)**, Mark Kline, Caron Chess, and Peter M. Sandman. This is the summary chapter from PE-1, published in Ann Fisher, Maria Pavlova, and Vincent Covello (eds.), *Evaluation and Effective Risk Communications Workshop Proceedings* (Washington, DC: Interagency Task Force on Environmental Cancer and Heart and Lung Disease, 1991), pp.45-61.

PE-4 $9 **Risk communication activities of state health agencies**, Caron Chess, Kandice L. Salomone, and Peter M. Sandman, *American Journal of Public Health*, April 1991, pp.489-491. A brief synopsis of the national survey results reported more fully in:

Risk communication activities and needs of state health agencies, Caron Chess, Kandice L. Salomone, and Peter M. Sandman, 1991. The results of a 1989 national survey of state health agencies that suggests there is a gap between agencies' stated risk communication philosophy and their risk communication practices.

NOTE: *Copies of PE-4 are sold as a package of both documents.*

PE-3 $10 **Impact of a European hazardous waste study tour on participants' viewpoints**, Caron Chess, Kandice L. Salomone, Michael R. Greenberg, Peter M. Sandman, and Alex Saville, 1990. The tour's impact on participants with widely divergent views.

PE-2 $7 **Planning dialogue with communities: A risk communication workbook**, Caron Chess, Billie Jo Hance, and Peter M. Sandman, 1989. Step-by-step instructions and checklists for selecting goals, audiences, formats, etc. (The workbook is designed to be used with the manual set listed in RC-2.)

PE-1 $21 **Evaluating risk communication programs: A catalogue of "quick and easy" feedback methods**, Mark Kline, Caron Chess, and Peter M. Sandman, 1989. A book-length summary and assessment of 22 tools for helping practitioners evaluate risk communication.

ENVIRONMENTAL RISK AND THE MEDIA

MM-21 **The reporter's environmental handbook**, edited by Bernadette West, Peter M. Sandman, and Michael R. Greenberg, 1995. Designed for general assignment reporters, a directory of sources, a glossary of terms, and "briefings" on the most common types of environmental news stories, from acid rain to wetlands.

NOTE: *Order from the Rutgers University Press, 109 Church St., New Brunswick, NJ 08901-1242. Phone (908)932-7762.*

MM-20 $3 **Mass media and environmental risk: Seven principles**, Peter M. Sandman, *Risk: Health, Safety, and Environment*, Summer 1994, Vol.5, No.3, pp.251-260. A summary of some key findings from research on media coverage of risk and on public responses to media risk content.

MM-19 $4 **Epidemiology, the press, and the EMF controversy**, Daniel Wartenberg and Michael R. Greenberg, 1992, *Public Understanding of Science 1*, pp.383-394. An examination of press coverage of epidemiologic studies concerning EMF and suggestions for how news sources can improve.

MM-18 $2 **Communicating environmental risk through mass media**, Michael R. Greenberg and Caron Chess, *The Public Manager, the New Bureaucrat*, Fall 1992, pp.45-48. Basic suggestions for agency staff.

MM-17 $15 **The environmental news source: Providing environmental risk information to the media**, Peter M. Sandman, David B. Sachsman, and Michael R. Greenberg, 1988. The complete text of MM-4, plus additional materials.

MM-16 $4 **A question of quality: How journalists and news sources evaluate coverage of environmental risk**, Kandice L. Salomone, Michael R. Greenberg, Peter M. Sandman, and David B. Sachsman, *Journal of Communication*, Autumn 1990, pp.117-130. How environmental news sources and journalists define a high-quality news story on environmental risk.

MM-15 $2 **Network television evening news coverage of infectious disease events**, Michael R. Greenberg and Daniel Wartenberg, *Journalism Quarterly*, Spring 1990, pp.142-146. Content analysis results, focusing on how infectious diseases, like AIDS and Legionnaires' Disease, are covered by TV network news organizations.

MM-14 $2 **How epidemiologists can improve television network news coverage of disease cluster reports**, Michael R. Greenberg and Daniel Wartenberg, *Epidemiology*, March 1990, pp.167-170. Practical advice on how epidemiologists can improve coverage of disease clusters.

MM-13 $2 **Understanding mass media coverage of disease clusters**, Michael R. Greenberg and Daniel Wartenberg, *American Journal of Epidemiology*, 1990, Vol.132, Suppl.No.1, pp.S192-S195. Practical advice (based on an analysis of TV news coverage of disease clusters) on how health practitioners can improve their communications with journalists.

MM-12 $3 **Network evening news coverage of environmental risk**, Michael R. Greenberg, David B. Sachsman, Peter M. Sandman, and Kandice L. Salomone, *Risk Analysis*, March 1989, pp.119-126. Overview of television network content analysis reported in more detail in MM-7.

MM-11 $3 **Network television news coverage of environmental risks**, Michael R. Greenberg, David B. Sachsman, Peter M. Sandman, and Kandice L. Salomone, *Environment*, March 1989, pp.16-20, 40-44. Content analysis results, focusing on network use of environmentalist and expert sources.

MM-10 $3 **Risk, drama, and geography in coverage of environmental risk by network TV**, Michael R. Greenberg, David B. Sachsman, Peter M. Sandman, and Kandice L. Salomone, *Journalism Quarterly*, Summer 1989, pp.267-276. Content analysis results, focusing on how television news depends more on drama and geographical convenience than on risk magnitude.

MM-9 $2 **Telling reporters about risk**, Peter M. Sandman, *Civil Engineering*, August 1988, pp.36-38. Excerpts from the media portion of RC-1.

MM-8 $5 **Environmental risk reporting: Traditional news values and geography outweigh risk**, David B. Sachsman, Peter M. Sandman, Michael R. Greenberg, and Kandice L. Salomone. As presented to the December 1988 Symposium on Science Communication at the Annenberg School of Communications of the University of Southern California, a summary of key findings.

MM-7 $6 **Network evening news coverage of environmental risk**, Michael R. Greenberg, David B. Sachsman, Peter M. Sandman, and Kandice L. Salomone, 1988. A summary of a content analysis of two years of television coverage of environmental risk. Most of the data analyzed for this report are also reported in MM-12.

MM-5 **Environmental risk and the press**, Peter M. Sandman, David B. Sachsman, Michael R. Greenberg, and Michael Gochfeld, 1987. A content analysis of NJ newspaper coverage of environmental risk and an assessment of various strategies for providing environmental risk information to reporters.

NOTE: *Published at $34.95 by Transaction Publishers, Rutgers University, New Brunswick, NJ 08903; please order via bookstore, or directly from the publisher. Requests for free or reduced-price copies should be sent to the Center for Environmental Communication.*

MM-3 $40 **Covering an environmental accident**, 1988. A one-hour videotape of the exercise described in MM-2. Includes a complete transcript and suggestions for teachers.

NOTE: (Available without charge to journalism schools and others who wish to use it for training or educational purposes, on condition that users submit a report afterwards on their use of the videotape and their reactions to it. Please request on letterhead.)

MM-2 $3 **Environmental emergencies: Are journalists prepared?** *SIPIscope* (Scientists' Institute for Public Information), September-October 1985, pp.1-11. An edited transcript of a role-playing exercise in which journalists interview expert sources about an environmental accident, then journalists and sources discuss the experience.

MM-1 $3 **Linking the scientist and the journalist**, David B. Sachsman, *Proceedings of the Hazpro '85 Conference*, Baltimore MD, May 15-17, 1985, pp.196-202. Discuss the need for more understanding between scientists and journalists about hazardous materials and other environmental risk issues.

FACILITY SITING CONTROVERSIES

SC-3 $1 **Siting controversial facilities: Some principles, paradoxes, and heresies**, Peter M. Sandman, *Consensus*, July 1992, p.2. Suggests some of the benefits and pitfalls of a voluntary approach to facility siting.

SC-2 $32 **Getting to maybe: Decisions on the road to negotiations in hazardous waste facility siting**, Emilie Schmeidler and Peter M. Sandman, 1987. The positions of various constituencies on the key decisions that must be made in order to move toward negotiation of siting controversies. An appendix includes a copy of SC-1.

SC-1 $5 **Getting to maybe: Some communications aspects of hazardous waste facility siting**, Peter M. Sandman, *Seton Hall Legislative Journal*, Spring 1986, reprinted in Robert W. Lake (ed.), *Resolving Locational Conflict* (New Brunswick, NJ: Center for Urban Policy Research, Rutgers University, 1987), pp.324-344. An argument for "power-sharing" and other approaches to resolve siting controversies by reducing the community's reasons to overestimate the risk.

EXPLAINING RISK DATA

EX-7 $2 **High risk or low: How location on a 'risk ladder' affects perceived risk**, Peter M. Sandman, Neil D. Weinstein, and Paul Miller, *Risk Analysis*, 1994, Vol.14, No.1, pp.35-45. Summarizes a key result of EX-5.

EX-5 $15 **Communicating effectively about risk magnitudes, Phase Two**, Neil D. Weinstein, Peter M. Sandman, and Paul Miller, 1991. A continuation of research in EX-4, exploring responses to representation of risks on a risk ladder.

EX-4 $12 **Communicating effectively about risk magnitudes**, Neil D. Weinstein, Peter M. Sandman, and Nancy E. Roberts, 1989. Results of an experiment in which subjects were assigned hypothetical home test results for radon or asbestos, then were asked to read one of seven explanations of the hazard and completed a questionnaire on their responses and remediation plans.

EX-2 $2 **Explaining risk to non-experts**, Peter M. Sandman, *Emergency Preparedness Digest*, October-December 1987, pp.25-29. Tips for practitioners on simplifying and personalizing risk information and choosing risk comparisons.

EX-1 **Risk communication, risk statistics, and risk comparisons: A manual for plant managers**, Vincent T. Covello, Peter M. Sandman, and Paul Slovic. How to explain risk statistics, especially suggestions for risk comparisons that work versus comparisons that may backfire.

NOTE: Published in 1988 by the Chemical Manufacturers Association, and available at $9 from the CMA in Washington, DC.

EFFECTS OF RISK COMMUNICATION

EF-5 $8 **A model of the precaution adoption process: Evidence from home radon testing**, Neil D. Weinstein and Peter M. Sandman, *Health Psychology*, 1992, Vol.11, pp.170-180. Data from seven studies of home radon testing to demonstrate a multi-stage model of the precaution adoption process.

EF-4 $12 **Newspaper coverage of the Diamond Shamrock Dioxin Controversy: How much content is alarming, reassuring, or intermediate?**, Kandice L. Salomone and Peter M. Sandman, 1991. This study raises questions of what "alarming" and "reassuring" mean to readers or consumers of environmental risk news.

EF-3 $3 **Perceived susceptibility and self-protective behavior: A field experiment to encourage home radon testing**, Neil D. Weinstein, Peter M. Sandman, and Nancy E. Roberts, *Health Psychology*, 1991, Vol.10, pp.25-33. This study examines whether increasing the perceived likelihood of high radon levels will increase interest in home radon testing.

EF-2 $10 **Delivery strategies for risk mitigation messages**, Neil D. Weinstein, Nancy E. Roberts, and Kerry Kirk, 1990. Comparing the response of New Jersey homeowners after receiving radon test results via a form letter, a personalized letter, or a personalized letter plus a telephone follow up.

EF-1 $4 **Determinants of self-protective behavior: Home radon testing**, Neil D. Weinstein, Peter M. Sandman, and Nancy E. Roberts, *Journal of Applied Social Psychology*, 1990, Vol.20, No.10, pp.783-801. A field experiment that tested the use of informational brochures to encourage home radon testing.

HAZARD VERSUS OUTRAGE

HO-8 $4 **Hazard versus outrage: Responding to public concerns about the risks of industrial gases**, Peter M. Sandman, *IOMA Broadcaster*, January-February 1992, pp.1, 7-17. Transcribed from a 1991 presentation to the International Oxygen Manufacturers Association, this is the longest available print version of Sandman's hazard-versus-outrage model.

HO-7 **Public involvement: A better response to people's concerns about water quality**, 3 videotape training package based on HO-6, with an additional tape (also featuring Peter M. Sandman) on public involvement for water providers.

NOTE: Order from the American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235.

HO-6 **Risk = hazard + outrage: A formula for effective risk communication**, 1991. 2-hour training videotape features Peter M. Sandman; it is available only from the American Industrial Hygiene Association ($395 for nonmembers, $275 for members).

NOTE: Order from the American Industrial Hygiene Association, Publication Orders, P.O. Box 27632, Richmond, VA 23261-7632. For information: AIHA, 2700 Prosperity Ave, Suite 250, Fairfax, VA 22031. Phone: (703) 849-8888.

HO-5 $1 **Managing outrage**, Peter M. Sandman and Marjorie Thomas, *Franchise Update*, May/June 1990, pp.20-21. A humorous application of the hazard-versus-outrage distinction to a computer franchising business.

HO-4 $3 **Hazard vs. outrage: How experts and the public see risk,** *Peter M. Sandman. Based on a 1990 presentation at the Center* for Environmental Management at Tufts University.

HO-3 $2 **Hazard versus outrage in public perception of risk,** Peter M. Sandman, in Vincent T. Covello, David B. McCallum, and Maria T. Pavlova (eds.), *Effective Risk Communication* (New York: Plenum, 1989), pp.45-49. A brief description of some differences between public and expert definitions of risk.

HO-2 $4 **Apathy versus hysteria: Public perception of risk,** Peter M. Sandman, in L.R. Batra and W. Klassen (eds.), *Public Perception of Biotechnology* (Bethesda, MD: Agricultural Research Institute, 1987), pp.219-231. An overview of some key distinctions in risk perception, with extrapolations to the biotechnology issue.

HO-1 $1 **Risk communication: Facing public outrage,** Peter M. Sandman, *EPA Journal*, November 1987, pp.21-22. A very brief exposition of the idea that laypeople properly respond more to "outrage" than to "hazard."

RADON RISK COMMUNICATION

RD-12 $3 **Predictors of home radon testing and implications for testing promotion programs,** Peter M. Sandman and Neil D. Weinstein, *Health Education Quarterly*, Winter 1993, Vol.20, No.4, pp.471-487. A summary of parts of RD-5, RD-8, and other studies, analyzed in terms of a stage model to determine who tests for radon and how to encourage radon testing.

RD-11 $3 **Communicating with the public about radon risk,** *Journal of the American Water Works Association*, February 1993, pp.28-38. This roundtable discussion with Peter M. Sandman and seven water industry managers focuses on ways water purveyors can involve citizens in decisions about water-borne radon and other contaminants.

RD-10 $7 **Predicting homeowner mitigation responses to radon test data,** Neil D. Weinstein and Peter M. Sandman, *Journal of Social Issues*, Winter 1992, Vol.48, No.4, pp.63-83. The factors that best predict who will mitigate and who will not, based on reanalysis of data sets dealing with radon mitigation.

RD-9 $8 **Evaluating risk comparisons for use in the *Citizen's Guide to Radon*,** Neil D. Weinstein and Peter M. Sandman, 1991. The choice of risk comparison in a dose-response risk ladder had no effect on responses to radon risks.

RD-8 $25 **Public response to the risk from radon, 1988-1989,** Neil D. Weinstein, Peter M. Sandman, and Nancy E. Roberts, 1989. Results of a survey of New Jersey homeowners assessing radon knowledge, attitudes, and behavior, and analyzing the factors that determine whether homeowners test for radon and whether those who have tested decide to remediate. A replication of the 1986 survey listed as RD-2, including analysis of how responses have changed as the issue has matured.

RD-7 $5 **Promoting remedial response to the risk of radon: Are information campaigns enough?** Neil D. Weinstein, M. L. Klotz, and Peter M. Sandman, *Science, Technology, & Human Values*, Autumn 1989, pp.360-379. Based primarily on the data in RD-2, an argument that "active guidance" works better then single information.

RD-6 $8 **Hazard versus outrage: The case of radon,** Peter M. Sandman, 1988. A 40-page overview assesses the response to radon of the general public and the mass media, and interprets both in terms of the distinction between "hazard" and "outrage."

RD-5 $5 **Homeowner radon mitigation,** Neil D. Weinstein, Peter M. Sandman, and Nancy E. Roberts. Homeowners who tested for radon in 1986 were resurveyed in 1988 about their remediation efforts.

RD-4 $2 **Optimistic biases in public perceptions of the risk from radon,** Neil D. Weinstein, Mary Lou Klotz, and Peter M. Sandman, *American Journal of Public Health*, July 1988, pp.796-800. Summary and interpretation of the survey reported in RD-2, focusing on optimistic biases leading to underestimation of the radon risk.

RD-3 $4 **Public response to the risk from geological radon,** Peter M. Sandman, Neil D. Weinsten, and M.L. Klotz, *Journal of Communication*, Summer 1987, pp.93-108. Summary of the survev reported in RD-2, discussed in terms of the differences between "hazard" and "outrage."

RD-2 $8 **Public response to the risk from radon, 1986,** Neil D. Weinstein, Peter M. Sandman, and M.L. Klotz, 1987. Results of a 1986 survey of New Jersey homeowners exploring the conditions under which people decide to test their homes for radon or, if they have tested and found a problem, to take remedial action.

RD-1 $7 **Recommendations for a radon risk communication campaign,** Neil D. Weinstein and Peter M. Sandman, 1985. Outlines strategies for alerting homeowners to the risks of radon. More recent recommendations in RD-8 and RD-2.

RISK EDUCATION/TRAINING PROGRAMS

ED-8 **Planning successful risk communication: A training module with videotape,** Billie Jo Hance and Caron Chess, August 1994. A video tape of a case study that shows corporate and government personnel successfully planning a communication effort concerning environmental hazards at a plant in Binghampton, NY. The video is used as a "trigger" for risk communication training. Includes student materials and facilitators' instructions.
NOTE: *Please call the Center for price information.*

ED-7 $9 **How to plan for communication with the public: Development of a seminar for environmental managers,** Caron Chess, 1992. Description of a pilot workshop on risk communication developed specifically for senior managers in EPA.

ED-6 $9 **What does the public need to know about environmental risk and how should the public be told,** Peter M. Sandman, Kandice L. Salomone, and Caron Chess, 1990. Results of a 1989 New Jersey-wide survey comparing the risk education agendas of environmental advocacy groups, educational organizations, government agencies, and companies that have risk education programs targeted at the general public.

ED-5 $4 **Development of training for state health departments,** Caron Chess, Kandice L. Salomone, Peter M. Sandman, and Billie Jo Hance, 1989. The risk communication training needs of state health agencies, based on a national survey of agency activities and training preferences.

ED-4 $4 **Improving press coverage of environmental risk,** David B. Sachsman, Peter M. Sandman, Michael R. Greenberg, and Kandice L. Salomone, *Industrial Crisis Quarterly*, 1988, Vol.2, No.3/4, pp.283-296. Description of educational programs and materials for journalists and sources, developed to help improve media coverage of environmental risk.

ED-3 $2 **Environmental risk reporting: Hypotheticals teach skills,** David Sachsman, Peter M. Sandman, Michael R. Greenberg, and Kandice L. Salomone, *Journalism Educator*, Summer 1988, pp.57-59, 77. Discusses the use of role-playing to improve news coverage of environmental risk.

ED-2 $8 **Risk education in New Jersey: A status report,** Billie Jo Hance, Peter M. Sandman, Caron Chess, Mark D. Herzberg, and Katherine Fox, 1988. The goals, approaches, and problems of public risk education efforts by industry, government, academia, and the environmental movement.

ED-1 $10 **Directory of New Jersey environmental risk education efforts**, Katherine Fox, Mark D. Herzberg, Peter M. Sandman, and Billie Jo Hance, 1988. Descriptions of programs to educate the New Jersey public about environmental risk; includes efforts by industry, government, academia, professional associations, and the environmental movement.

RIGHT-TO-KNOW

RK-3 $1 **Opening factory gates measure worth taking**, Caron Chess, *The Star-Ledger*, June 16, 1991. Why industry should support legislation (then pending in New Jersey and under discussion elsewhere) that would allow community residents access to nearby plants.

RK-2 $1 **Working with the right to know**, Caron Chess, *The New York Times*, May 1, 1988. Why companies might benefit from taking a pro-active approach to SARA Title III.

RK-1 $3 **Looking behind the factory gates**, Caron Chess, *Technology Review*, August/September 1986, pp.43-53. An overview of the achievements, problems, and likely impacts of laws requiring chemical facilities to release risk information to the public.

PUBLIC POLICY

PP-14 $2 **Community organizing to 'prevent TOADS in the United States**, Michael R. Greenberg, Frank Popper, Dona Schneider, and Bernadette West, *Community Development Journal*, January 1, 1993, Vol.28, No.1, pp.55-65. Description of corporate, local government, and community characteristics that contribute to overcoming Temporarily Obsolete Abandoned Derelict Sites (TOADS) and analysis of the implications for community organizing.

PP-13 $2 **Risk scientists and government regulation of ethical behavior: A comparative analysis of opponents and proponents**, Michael R. Greenberg, *Accountability in Research*, 1993, Vol.3, pp.169-176. Results of a survey of three professional organizations whose members study health and environmental risk.

PP-12 $3 **Proving environmental inequity in siting locally unwanted land uses**, Michael R. Greenberg, *Risk Issues in Health and Safety*, Summer 1993, Vol.4, No.3, pp.235-252. This paper proposes a definition of inequity and offers a five-step process to measure it.

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