

# **RCRA PUBLIC INVOLVEMENT MANUAL**

**September 1993**

**Office of Solid Waste**

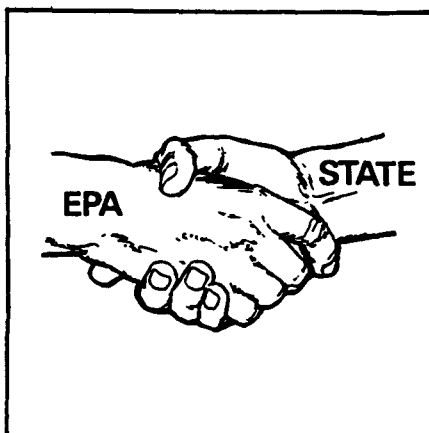


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# Preface

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This guidance document was developed by the Permits Branch, Permits and State Program Division of the Office of Solid Waste with support from ICF Incorporated. It is intended to assist the U.S. Environmental Protection Agency (EPA) regional offices and RCRA-authorized state regulatory agencies in conducting effective public involvement in RCRA permitting and corrective action programs.



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# Note

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The *RCRA Public Involvement Manual* was developed with the invaluable assistance of Regional staff who have experience with RCRA public involvement activities, and reflects many of their firsthand experiences. Drafting the manual has been an ongoing effort for the last two years, and this manual is intended to supersede the 1986 *Guidance on Public Involvement in the RCRA Program* (Directive Number 9500.00-1A). The manual is primarily designed for use by Agency permit writers and public involvement staff, and the authors hope it will be an extremely useful reference document on the subject.

Public participation is one of Administrator Carol Browner's top priorities for the Environmental Protection Agency (EPA). This manual is one step in assisting the Region/States with suggestions on how to implement a successful public involvement program under RCRA. EPA is committed to providing effective public participation during the Agency's decision-making process, and soliciting input from those who will be affected by these decisions.

#### ADDENDUM

As this manual was being finalized, EPA Administrator Carol Browner released, on May 18, 1993, a **Draft Hazardous Waste Minimization and Combustion Strategy**. The Draft Strategy encourages expanded public participation opportunities during the permitting of incinerators and boilers and industrial furnaces (BIFs), particularly at the trial burn plan and risk assessment stages. Future guidance and regulations will be forthcoming to implement the Draft Strategy, with the emphasis on earlier public involvement in the RCRA permitting process. We hope to amend this manual in the future to incorporate the guidance that will be developed for public participation at combustion facilities. The Draft Strategy and Administrator Browner's press release are contained in Appendix 5.

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# Chapter 1

## Introduction

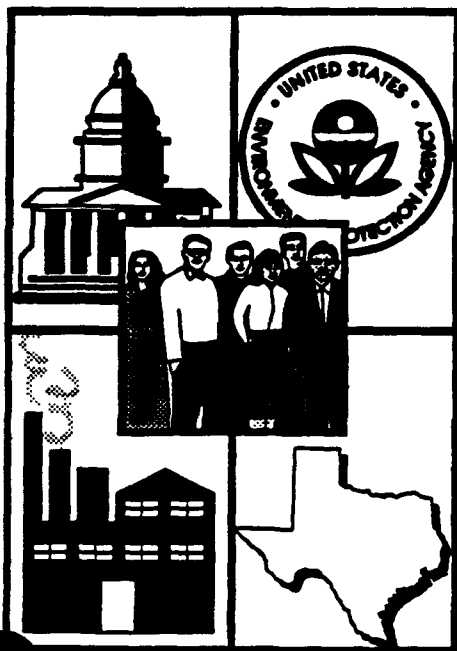
### Overview of this Manual

This manual provides instruction on how to plan and carry out successful public involvement in RCRA permitting and corrective action programs, which may be implemented through either permits or enforcement orders. It is intended for use by RCRA technical staff in EPA and RCRA-authorized state programs. It may also be useful to staff of RCRA-regulated facilities to which some public involvement activities are delegated. For simplicity, the term "regulatory agency" refers to either EPA or a state agency running an EPA-authorized RCRA program and "you" refers to staff from those programs.

This manual provides suggestions on how to implement public involvement activities, not just for the limited regulatory requirements, but efforts beyond these requirements. These additional suggested techniques represent EPA policy only. If the reader is a staff member of a state permitting agency or a facility, his or her responsibilities will vary according to what EPA has delegated, and the reader may be subject to additional policies developed by his or her regulatory agency or facility.

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

- Chapter 2 gives the reader a broad overview of the public involvement process;
- Chapter 3 explains how to coordinate public involvement activities with RCRA permitting;
- Chapter 4 discusses public involvement for corrective action under permits and enforcement orders;
- Chapter 5 provides step-by-step instructions for conducting all public involvement activities identified in Chapters 2, 3, and 4;
- Appendix 1 discusses when and how to delegate public involvement tasks to facilities;
- Appendix 2 presents case studies of RCRA public involvement efforts;
- Appendix 3 lists the materials available for use in RCRA public involvement; and
- Appendix 4 consists of an EPA fact sheet entitled "Modifying RCRA Permits."



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## The Big Picture

The RCRA program touches, and thus involves, a myriad of people and organizations. However, the roles of those involved 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 regional EPA staff. 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.

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## Overview of RCRA and its 1984 Amendments

The Resource Conservation and Recovery Act, an amendment to the Solid Waste Disposal Act, was enacted 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
- To reduce or eliminate the generation of hazardous waste as expeditiously as possible.

### 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

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. Certain provisions related to corrective action at RCRA facilities are described later in this chapter.

The program outlined under Subtitle C of the Act, and codified under 40 CFR Parts 261-266 and Parts 268-270, 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 assure that hazardous waste is handled in a manner that protects human health and the environment. To this end, there are Subtitle C regulations regarding the generation; transportation; and treatment, storage, and disposal of hazardous waste.

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 only applies to these TSD facilities. The term "facilities" in this manual refers to TSD facilities only. In addition, 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 the permits to each facility. Issuing permits is essential to making the Subtitle C regulatory program work, because it is through the permitting process that the regulatory agency actually applies the technical standards to facilities.

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## **Facility Permitting**

Owners or operators of facilities regulated under Subtitle C are required to submit a comprehensive permit application covering all aspects of the design, operation, maintenance, and closure of the facility. Facilities in existence on November 19, 1980, operate under interim status until a final permit decision is made. 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 concerning facility operations. Because there is no standard form for Part B, the owner or operator must rely on the regulations (40 CFR Parts 264 and 270) to determine what to include in this part of the application. Existing facilities that received hazardous waste on or after November 19, 1980, submitted their Part As when applying for interim status. Their Part Bs can either be voluntarily submitted or called in by the regulatory agency. New facilities must submit Parts A and B simultaneously at least 180 days prior to the date on which physical construction is expected to begin. Permit applications are processed according to the procedures found in 40 CFR Part 124.

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## **The RCRA Corrective Action Program**

RCRA requires owners and operators of RCRA facilities to implement corrective actions to clean up contamination resulting from present and past practices, including those practices of previous owners of the facility. HSWA added three provisions for corrective action, thus substantially 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 to a facility after November 8, 1984, under §3005(c) of RCRA 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, the permit must include a schedule of compliance establishing deadlines as well as assurances of financial responsibility 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 a release of hazardous waste or hazardous constituents from a RCRA facility operating under interim status.

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

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## Public Involvement in RCRA Activities

EPA requires public involvement in RCRA, just as it does for other environmental programs. The goal of public involvement in the RCRA program is to give interested citizens and affected parties the opportunity to participate in EPA's decision-making process with respect to hazardous waste management activities. Review of permit applications, issuance of permits and administrative orders, permit modifications, implementation of corrective action programs, and approval of closure plans are all activities that require public involvement under the Act. **Part of your responsibility in implementing any of these activities is to allow those who are interested in or affected by a decision to have the opportunity to participate in the decision-making process.**

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## At Press Time

As this manual was being finalized, EPA Administrator Carol Browner released, on May 18, 1993, a **Draft Hazardous Waste Minimization and Combustion Strategy**. The Draft Strategy encourages expanded public participation opportunities during the permitting of incinerators and boilers and industrial furnaces (BIFs), particularly at the trial burn plan and risk assessment stages. Future guidance and regulations will be forthcoming to implement the Draft Strategy, with the emphasis on earlier public involvement in the RCRA permitting process. We hope to amend this manual in the future to incorporate the guidance that will be developed for public participation at combustion facilities. The Draft Strategy and Administrator Browner's press release are contained in Appendix 5.

# Chapter 2

## Basics of Public Involvement

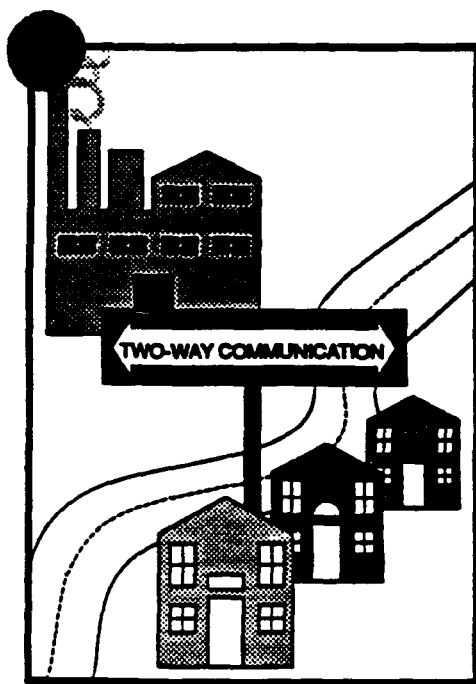
### What is Public Involvement?

For any public participation effort being designed for a facility, an important touchstone is to involve the public earlier in the process and receive feedback from the public before initial decisions are or appear to have been made up front. EPA encourages public involvement activities beyond the formal requirements found in the regulations, especially when it fosters an early open dialogue with potentially affected parties. Efforts should be taken to inform interested parties of activities throughout the RCRA permitting process, instead of only at junctures specified in our regulations.

Public involvement allows community members who are affected by or interested in a facility or its specific operations to have a meaningful dialogue with the regulatory agency considering the RCRA action and/or the facility owner or operator. Public involvement assures that there is **two-way communication** between the public and the regulatory agency and that public concerns are taken into account when decisions are made on the final permit or order.

Public involvement is a two-way process. If the regulatory agency sends out a fact sheet about an upcoming permit action, that fact sheet does not constitute public involvement in and of itself. What is missing is the **"feedback" loop** -- a way for the regulatory agency to hear from those who read the fact sheet and address their concerns. To provide for feedback, the regulatory agency might name a contact person in the fact sheet and encourage telephone or written comments, or visit a neighborhood group, or hold a meeting or workshop to discuss material in the fact sheet. At the minimum, 40 CFR 124.8(7) requires that you supply the name and telephone number of a person who may be contacted for additional information. A feedback loop enables the regulatory agency to monitor public interest and concern, adjust public involvement activities, and respond quickly and effectively to *changing* needs.

Even if a feedback loop operates successfully, public involvement cannot be successful if the regulatory agency is reluctant or unable to consider changes to a proposed activity or permit action based on public comment. While the regulatory agency need not incorporate every change recommended by the public, it must show that it has considered public comment in its decision-making process. Where



changes are made, the public should be informed of that fact. Where the regulatory agency does not make suggested changes, it must explain the technical, legal, or policy basis for not acceding to community concerns.

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## What Makes a Good Public Involvement Program?

The goal of a public involvement program is to allow members of the community to have an active voice in the RCRA decision-making process. Members of the community and the regulatory agency should be able to talk with one another openly and frankly about RCRA-related issues, and to search for mutually agreeable solutions to differences.

A good program **anticipates** the needs of community members to avoid misunderstandings. It should create a situation in which the regulatory agency is not always scrambling to fix problems, but is addressing issues before they become problems. An effective program is composed of activities and informational materials that meet the needs of and communicate clearly to specific community members and subgroups.

Discovering those needs and designing an effective program takes **planning**. A good program is based on a solid planning effort and faithful follow through on information gained in the planning effort.

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## Why Bother With Public Involvement?

There are at least three reasons to do RCRA public involvement: it is required by the Act and regulations; it works; and, if it is not done, the project may falter. Experience has shown that RCRA actions and decisions often benefit from public involvement. The decisions may gain breadth not provided by technical staff alone.

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. Acknowledging community members' right to be heard is the first step in community participation. Showing community members that the regulatory agency is willing to address their concerns will establish the foundation for improved understanding and community involvement in the process, even if members of the public do not always agree with the outcome of that process. Conversely, a good technical decision that has not involved community members in the process may be rejected by public opinion and appealed in court.

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## Building a Useful Program

Using public involvement resources effectively must involve focusing resources to give the highest degree of satisfaction possible to members of the community. Remember, by planning **early** in the RCRA process and ensuring that the public involvement activities undertaken at a facility meet the public's needs, the regulatory agency can save time and money and avoid public frustration.

How do you build a useful public involvement program? How do you know what will work at a particular facility? This chapter looks at the components of a successful program and outlines how to use limited time and resources to the greatest advantage. The chapters that follow will explain in detail where public involvement activities fit into the permitting process in general, as well as a permit's or administrative order's schedule for corrective action.

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## Promoting Environmental Equity Through Public Involvement

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### What is Environmental Equity?

Environmental equity refers to the equal distribution of environmental risks across socioeconomic and racial groups. There is increasing concern, both inside and outside of EPA, that low-income and racial minority communities may be subject to a disproportionately high level of environmental risk. Those hazardous waste facilities that may be located near low-income and racial minority communities may burden these communities with an additional level of environmental risk from multiple sources. Certain sociological factors, such as poor nutrition and limited access to health care may make residents of these communities even more susceptible to the health effects of environmental hazards.

Ensuring environmental equity for all U.S. residents is a major priority for EPA. In March 1990, EPA formed an environmental equity workgroup to assess claims concerning discriminatory hazardous waste facility siting practices and to ensure that "no segment of the population bears a disproportionate risk burden" from a permitted facility.

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### Addressing Environmental Equity in Your Public Involvement Program

When conducting public involvement in low-income or racial minority communities, be sensitive to issues of environmental equity. There are a few basic public involvement activities that can help ensure that the community's equity concerns are met.

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

- **Tailor your public involvement program to the specific needs of the community.** Developing a program that specifically addresses the community's needs will demonstrate to community members EPA's interest in achieving environmental equity and foster a sense of cooperation.
- **Identify internal channels of communication that the community relies upon for its information, especially those reaching the community in its own language.** Examples of these "channels" are a particular radio show or station, local television station, foreign language newspaper, or even influential religious leaders. By identifying and making use of these valuable information sources, you can be sure that the information that you want to publicize reaches its target audience.
- **Encourage the formation of a community advisory panel to serve as the voice of the community.** Such panels can provide an effective way to engender the affected community with a sense of meaningful participation and empowerment.

(Additional techniques are given later in this chapter under *Steps One, Two, and Three* and in Chapters 3 and 4 under the *Additional Activities* sections for various permit situations).

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## **Making Public Involvement Beneficial for the Public and Easy to Deliver**

Careful planning for public involvement will yield the same result as careful planning for technical activities -- an effective, efficient program. Do not wait until there is a pressing need for public interaction before starting to plan and conduct a program. If a program starts from a solid, well-planned foundation, valuable time and tax dollars are saved in the long run.

Start early. The time spent setting up a public involvement program is the most important time that can be spent. External pressure to start public involvement work may not be present at the outset of a project, because members of the public may be unaware of the facility and its operations and the regulatory agency's activities. **This is the perfect time to begin public involvement planning and, if possible, early implementation of your program.** Putting in some hours at the beginning of a RCRA project (whether it is a permit or an administrative order), can save a tremendous amount of time and anxiety later on. There are three basic steps for developing a public involvement program for RCRA facilities:

- **Step One:** Coordinate with management to assess different RCRA facilities and allocate public involvement program resources where they are needed most.

## **Step One: How to Assess RCRA Facilities for Public Involvement Purposes**

- **Step Two:** Plan program activities carefully to meet the specific needs of members of particular communities and subgroups around each facility.
- **Step Three:** Implement the public involvement program and adjust it as necessary during the RCRA process.

Not all RCRA facilities will require the same degree of public involvement attention. Some RCRA actions may not generate much interest or concern among community members. This does not mean that public involvement is not necessary for these facilities. At a minimum, activities required by regulation should be carried out to address the community members' needs. Other RCRA activities may evoke strong community interest and will require a much greater public involvement effort.

There are several criteria to judge the current and potential levels of community interest in a facility, and hence the amount of attention to devote to public involvement:

- The type of RCRA action and its implications for public health and welfare;
- Current relationships among members of the community, the facility, and the regulatory agency or agencies involved; and
- The larger context in which the RCRA action is taking place, including the political situation, economics, and important community issues.

There are no hard and fast rules that make a facility a low- or high-profile facility. Each community's characteristics must be taken into account when deciding the level of attention to give the facility. Keep in mind, though, that the level of interest regarding the facility may change over time. A facility in which interest is low can become a high-profile facility overnight if the situation at the facility changes (e.g., there is an accident), or members of the community become frustrated because their need for information and consultation is not being met.

This chapter will guide you through collecting the information needed to assess the current situation at a RCRA facility and the potential for change in that situation. Use Exhibit 2-1 as a guide to determining whether a facility is likely to be of low, moderate, or high interest to the community. The table examines the type of RCRA action to take place, the community member relationships with the facility and regulatory agency, and the larger socioeconomic and political context in the community.

## 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      | <ul style="list-style-type: none"> <li>The RCRA issue is not controversial and does not involve incineration or land disposal</li> <li>There is no contamination at the facility that could come into direct contact with the public</li> </ul>                                                                                                                                                                                                                                                                                                                            | <ul style="list-style-type: none"> <li>People do not live near the facility</li> <li>There is a history of good relations between the facility and members of the community</li> <li>Members of the community have expressed confidence in the regulatory agency</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <ul style="list-style-type: none"> <li>The facility receives very little media attention and is not a political issue</li> <li>Community members have not shown any past interest in hazardous waste issues</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Moderate Level of Public Interest in a Facility | <ul style="list-style-type: none"> <li>The RCRA action may involve activities such as §3008(a) compliance orders pertaining to the management of hazardous waste or §3008(h) corrective action activities, which contribute to a public perception that the facility is not operating safely</li> <li>Highly toxic and/or carcinogenic wastes may be involved (e.g., PCBs, dioxins)</li> </ul>                                                                                                                                                                             | <ul style="list-style-type: none"> <li>A relatively large number of people live near the facility</li> <li>There is a history of mediocre relations between the facility and members of the community</li> <li>The facility is important to the community economically, and the action may affect facility operations</li> <li>Members of the community have had little or poor contact with the regulatory agency</li> <li>Local elected officials have expressed concern about the facility</li> </ul>                                                                                                                                                                                                                                                                          | <ul style="list-style-type: none"> <li>Community members have shown concern about hazardous waste issues in the past</li> <li>The facility receives some media attention and there are organized environmental groups interested in the action</li> <li>There are other RCRA facilities or CERCLA sites in the area that have raised interest or concern</li> </ul>                                                                                                                                                                                                                                                                                                                                                                         |
| High Level of Public Interest in a Facility     | <ul style="list-style-type: none"> <li>The RCRA action includes incineration or land disposal or is controversial for other reasons (e.g., media attention)</li> <li>Highly toxic and/or highly carcinogenic wastes are involved (e.g., PCBs, dioxins)</li> <li>There is potential for release of hazardous substances or constituents that poses potential harm to the community and the environment</li> <li>There is direct or potential community contact with contamination from the facility (e.g., contaminated drinking water wells or recreation lake)</li> </ul> | <ul style="list-style-type: none"> <li>The nearest residential population is within a one-mile radius</li> <li>A relatively large number of people live near the facility</li> <li>There is a history of poor relations between the facility and the community</li> <li>The facility has violated regulations and community members have little confidence in the regulatory agency to prevent future violations</li> <li>There is organized community opposition to the facility's hazardous waste management practices or to the action</li> <li>Outside groups such as national environmental organizations, or federal elected officials have expressed concern about the facility or action</li> <li>The economy of the area is tied to the facility's operations</li> </ul> | <ul style="list-style-type: none"> <li>Community members have shown concern about hazardous waste issues in the past</li> <li>Facility activities are an issue covered widely in the media</li> <li>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)</li> <li>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)</li> <li>There are other RCRA facilities or CERCLA sites nearby that have been controversial</li> </ul> |

## Gathering Data for Your Assessment

At the outset of the project, some time must be spent gathering background information about the community. Step-by-step instructions for information-gathering activities can be found in Chapter 5 of this manual.

You can gather information using a combination of methods:

- Reviewing regulatory agency files on the facility, including news clippings;
- Talking to colleagues who have had experience working with members of the community; and
- Conducting community interviews (by telephone or in person) with a broad range of community members such as special interest groups, people who live nearest the facility, and anyone else who may be affected by or has expressed some interest in the facility.

**At a minimum**, you should **review your regulatory agency's files** to get an initial impression of community interests and concerns, and then confirm that impression by **talking with colleagues** who have worked with members of this community (on this or other projects). You may also want to **contact community leaders** to talk about the facility and the planned RCRA action. File reports can never be as accurate as conversations with community members themselves. Because of their short length, newspaper clippings can give you part of the story, but probably will not give you both sides of the story. Note, however, that you should use discretion in contacting community leaders, and you may want to check with your supervisor first. (A detailed discussion of how to conduct community interviews is provided in Chapter 5.) At this point, you may have a good idea of the level of attention the facility requires. If you decide that there is a low level of interest in the facility, and things are not likely to change, you can begin to plan your required public involvement activities.

**If, however, you believe that the facility shows indications of being a moderate to high interest level facility**, you will need to do a more detailed analysis of the community. You should begin by conducting interviews with at least one representative of each of your major community groups (e.g., facility neighbors and elected officials). If there are indications of likely high interest from the outset (e.g., you are permitting a new incinerator in a densely populated area), you should conduct a full set of **community interviews** with as many individuals as possible, including all of the facility's immediate neighbors, representatives from other agencies that will deal with the RCRA action, environmental organizations, and any individuals who have expressed interest in the facility.

After you have collected the necessary information, write a **brief summary of major community concerns and issues** (no more than five pages). The summary can be integrated into your public involvement plan document. (See Chapter 5 for additional information on these activities and summary.)

Exhibit 2-2 on the following page summarizes the steps to take in ranking facilities and gathering background information.

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## Step Two: How to Plan a Public Involvement Program

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### Identify Activities to Use in Your Program

Rely on the background information gathered in community assessment interviews and documented in the **summary of major community issues and concerns** to form the basis for a public involvement program.

The goal of your public participation activities is to meet the specific needs of members of the community by creating a structure for information flow both to and from the public.

To identify activities for your program, go through the following steps:

- List the major community issues and concerns individually;
- List the characteristics of the community that will have a bearing on how you address these issues; and
- List activities that you will plan and implement to address community concerns.

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### Identify Your Public Involvement Responsibilities and Resources and Plan Accordingly

Once you have outlined your public involvement activities for the facility, put together a strategy for how they will be implemented. You need to be aware of the personnel and informational resources available to you and know how to use them. Expanded public involvement programs will demand greater resources and require more creativity in using limited resources. Exhibit 2-3 identifies people who can help you with your program.

In general, these are the areas of responsibility for public involvement you need to consider:

- **Interacting with the media, especially on high-profile facilities.** If there is a high degree of interest in your RCRA facility, it will be important to have a media contact person who can get information out quickly, accurately, and consistently. Coordinate with the public affairs office to take on media contact responsibilities. Their assistance is often required.

## Exhibit 2-2

### Steps in Evaluating Facilities and Gathering Information

#### Checklist

##### *Step 1: Review the RCRA Action*

Is it:

- ☐ Likely to be a controversial action (e.g., permitting an incinerator)
- ☐ 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 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*

## Exhibit 2-3

### Identifying Resources

Developing an effective public involvement program involves assessing who within the regulatory agency or elsewhere could provide support on public involvement activities and 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 appropriate individuals or groups in implementing public involvement activities. The PIC oversees the implementation of an overall public involvement 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 involvement 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, community relations coordinators who work on CERCLA in your office and have sites in the same community could take care of some of your activities, or at least provide you with valuable advice.

**State Personnel** - For the states that are authorized to implement RCRA regulations, most of the public involvement responsibilities listed for EPA staff will be assumed by state personnel. Regardless of their authorization status though, states are expected to play an active role in the development and implementation of public involvement programs. For example, state regulatory agencies can serve a supportive role by providing EPA with information such as names for inclusion on a mailing list, background information on a facility's history, and community attitudes toward the facility.

**The Facility** - Even though it is essential to clarify that oversight of the permitting and enforcement processes is the sole responsibility of the regulatory agency, facility owners or operators also may be a resource in conducting public involvement activities. Public education activities may be initiated by the facility and should actually be encouraged, particularly when resources are limited. See Appendix 1 for more information about the role facilities can play in public involvement programs.

**Contractors** - Public involvement contractors who work for your regulatory 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 involvement 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 you time to conduct appropriate public involvement.

#### ***Additional Sources of Assistance***

**Information Resources** - Each EPA Regional office should have informational materials available to help plan public involvement 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 involvement 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 involvement. You may also want to research public involvement materials for other EPA programs, such as Superfund, to gather ideas that may be useful in dealing with your unique community situation at a RCRA facility.

**Training** - Training is generally available for staff in a variety of areas, including public involvement, 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 involvement programs -- such as public meetings, fact sheets, and information repositories -- are also used in other programs.

There also are ready-made resources available for you to use in your public involvement program. EPA has developed fact sheet templates for RCRA actions, standardized posterboards, and other information materials to save you time in developing public involvement information. A full list of available materials is provided in Appendix 3.

- **Interacting with elected officials.** On facilities with a moderate to high level of interest, it is also important to work with elected officials to provide them with information they need to answer their constituents' questions and prevent the facility from becoming a political issue unnecessarily. Put together a team of people who can fill the information needs of public officials, including yourself and a senior-level manager who can answer policy questions when necessary.
- **Interacting with the general public by answering telephone and written inquiries.** It is important to follow up on all requests for information that you receive from members of the public. 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.
- **Coordinating public involvement with regulatory agency staff, both within your regulatory agency and among agencies.** It is crucial that all the people who are working on public involvement be aware of what activities are being planned for the facility and any other facilities in the area, so that activities do not conflict with each other.
- **Maintaining the mailing list and information repositories.** A mailing list is required under RCRA and should be updated to include new people or organizations who have expressed an interest in the facility. If public information repositories are established for the facility, they should be updated at least quarterly.
- **Handling logistics for public meetings.** Meeting set-up and coordination is critical to the success of your public meetings. Support staff can help with meeting planning, but the PIC needs to supervise the arrangements.
- **Handling production/distribution/placement of information, including fact sheets, public notices, news releases, meeting handouts and overheads, etc.** The majority of your public involvement time will be spent developing and producing information for members of the public. There are resources listed in Appendix 3 that can make fact sheet and information production much easier for you.

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## Set a Schedule that Corresponds to Community Needs and Your Technical Schedule

In general, the timing of public participation activities should correspond to the completion of major steps in the technical process (e.g., holding a public meeting at the application stage or after you have issued a draft permit, or issuing a fact sheet about results of a corrective action RCRA Facility Investigation). 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 that has been released, especially during corrective action. A step-by-step discussion of how to time public involvement activities during permitting and corrective action is provided in Chapter 4.

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## Put Together a Written Plan for the Public Involvement Program That Describes the Activities You Will Implement

Having a plan down on paper can help you organize and assign public involvement tasks and legitimize the time you spend on the public involvement process with your managers. One reason for putting together a written plan is to make sure that you provide for all the required RCRA public involvement activities. In addition, you can outline other activities if more than the minimum is necessary at a particular facility. At a minimum, a plan should include a list of the specific public involvement activities for the facility and a schedule for when they will be conducted.

A written plan can vary from an internal document of a few pages in length to a formal **public involvement plan** that is available to members of the community. Once again, the level of detail will depend on the nature of your facility. For any facilities that are high-profile or have the potential to become high-profile facilities, you should prepare a full public involvement plan. For other facilities, a less detailed plan may be adequate.

The plan should provide all the specific information necessary to carry out the public involvement program. It can be distributed outside the regulatory agency to members of the public (e.g., by placing a copy in the public library), so that community members can see how the public participation process has been formalized. You also can use the plan to familiarize new project members with the community.

Your public involvement plan document should include the following sections.

- Executive Summary
- Introduction/Overview
- Facility History
- The RCRA Action
- Results of Community Interviews
- Public Involvement Program Activities and Schedule

The following appendices should also be included in your public involvement plan document:

- List of Key Contacts
- Information on Meeting Locations and Possible Information Repository Locations

Chapter 5 discusses in detail how to put together a public involvement plan.

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## **Step Three: How to Implement a Public Involvement Program**

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### **Establish an Open Relationship With Members of the Community**

The discussion below provides some general tips for creating a successful public involvement program.

Establishing an open relationship with community members begins with acknowledging that the community plays an important role in the RCRA process. Community members around a RCRA facility have a vested interest in what happens at the facility. That facility has the potential to affect, directly or indirectly, their health, their jobs, and their homes. By working with community members, you can make improvements to the RCRA action that will make the facility more acceptable to the public.

Open relationships also require that you respect a community member's concerns. Remember that you are a RCRA expert, but most of the community will be unfamiliar with the regulatory and technical processes and the jargon that regulatory agencies and facilities use. Talking in plain terms, even if it takes a little more time to explain, helps. Do not assume that a community member understands you -- make sure to check with the person by asking.

Some of the community's concerns may be based on a misinterpretation of facts; it is your job to find the root of the concern and provide community members with the information that is relevant for them. If a community member disagrees with the regulatory agency's actions, try to see the situation from his or her point of view. Remember that a community member's anger is not directed at you personally, and taking concerns personally can lead to an adversarial relationship with the community rather than an open one. Community members may interpret an adversarial attitude as a sign that you are not being honest with them or are not telling them everything, which can cause communications to break down completely. This does not mean that you should tell community members only what you think they want to hear. Even if your information is not "good news" for the community, they will appreciate your honest answers to their questions and will come to trust your information.

Making yourself available is also important. Try to establish regular contacts with key community leaders, such as the mayor or city council members, the heads of civic organizations or community groups, or someone else whose opinion is respected by the rest of the community or who has a particular interest in the facility. In addition, you can give community members your address and telephone number so they can contact you if they have questions. Include this information on the fact sheets or other mailings you send out to the community.

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## Begin Implementation Early

The advantages of starting your public involvement work early cannot be overstated. The earlier the public hears from you about the RCRA activity, the less likelihood there is for misinformation or mistrust to develop.

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## Re-evaluate and Adjust Your Program

As RCRA activity increases at a facility and becomes more visible, public interest in a site can increase exponentially. It is important to anticipate and plan for sudden changes in the level of interest in a facility. Periodic communication with key contacts can help you anticipate change in the community's attitudes or interest. Make sure to keep key contacts informed of planned activities at the facility that could be visible to members of the community, such as construction work or excavation.

In addition, you may want to conduct follow-up community interviews at a key point in the decision-making process, to help you predict any major shift in public interest or concern.

Evaluate your effectiveness as you go along and pinpoint things that need changing in your public involvement program. The public involvement process is complex, and how you measure success may not be entirely clear to you. Does a successful program mean that all members of the public agree with your position? That you are not receiving any complaints about the RCRA action?

Some indicators that your public involvement program is working include:

- You are not receiving the same questions over and over again from the public;
- Inquiries are being handled by the appropriate person (or people) in a timely manner;
- You are not spending most of your public involvement time trying to correct problems between members of the community and the regulatory agency or facility;
- The channels of communication are well-defined and open;

- Members of the public are providing informed comments on the project to the regulatory agency that are based on technical merit and not emotional appeals or sensationalism; and
- Members of the public are bringing concerns to you first, rather than taking them directly to the press or elected officials.

If the above descriptions do not fit your program, you need to assess the techniques you have used to involve members of the public and determine what needs to be added to, changed, or subtracted from your program. If members of the community are dissatisfied, your activities may not be reaching the right target audiences or your information may not be written at a level that community members can understand. You may also need to provide more detailed information. The best way to find out what needs to be changed is to talk to community representatives and ask them what is working and what they think could be improved. Modify your activities based on their suggestions and your own time limitations.

## Chapter Summary

- The goal of a RCRA public involvement program is to establish two-way communication with the public.
- A good public involvement program will help, not hinder, your project's progress.
- A good public involvement program is based on solid planning.
- The three steps in RCRA public involvement work are:
  1. Assessing facilities to give the most time where needed
  2. Planning the public involvement program
  3. Implementing and re-adjusting program activities
- You can assess your facilities by:
  1. The type of RCRA action
  2. Community members' relationships with the facility and the regulatory agency
  3. The larger socioeconomic and political context in the community
- You can gather background information for the assessment by combining these methods:
  1. Reviewing regulatory agency files
  2. Talking with colleagues who have experience with specific community members
  3. Interviewing several key community leaders
  4. Conducting community assessment interviews with a wider cross-section of community members
- You can plan your public involvement program by:
  1. Identifying appropriate activities to meet community needs
  2. Identifying public involvement responsibilities and assigning them to specific people
  3. Setting a public involvement schedule that will correspond to community needs and technical milestones
  4. Putting together a written public involvement plan
- You can implement your program activities successfully by:
  1. Establishing an open relationship with members of the community
  2. Beginning implementation early
  3. Re-evaluating and adjusting the program as you go along

# Chapter 3

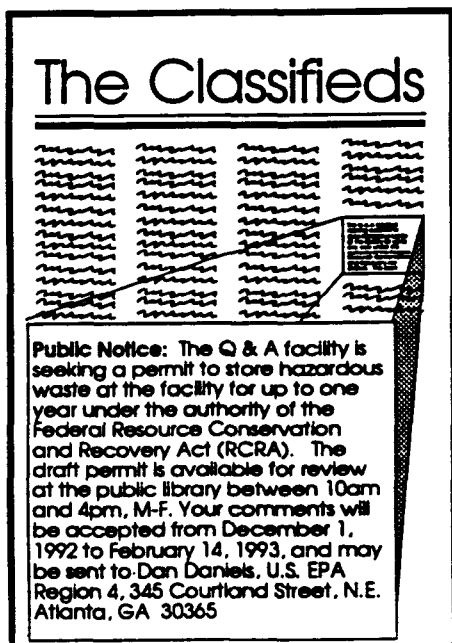
## Public Involvement During the RCRA Permitting Process

### Introduction

The previous chapter examined the importance of public involvement and the critical components of building a successful public involvement program. This chapter describes required and recommended public involvement activities during each phase of the RCRA permitting process, beginning with the review of the RCRA Part B permit application and continuing through the preparation of draft and final permit decisions. The chapter also addresses codified and optional public involvement activities associated with permit modifications initiated after permit issuance.

Section 7004(b)(1) of RCRA and EPA regulations on procedures for decision-making, which are detailed in 40 CFR Part 124 and 40 CFR 270.42, form the foundation for mandatory public involvement activities during the permitting process for both operating and post-closure permits. Even operating permits, however, address closure and often post-closure care. In fact, Subpart G of 40 CFR Part 264 explicitly requires that closure and post-closure plans be submitted with the permit application in accordance with 40 CFR 270.14(b)(13) and approved by the regulatory agency as part of the permit issuance procedures under 40 CFR Part 124. In addition, both operating and post-closure permits may include schedules of compliance for corrective action, where such action can not be completed prior to permit issuance. As described in Chapter 1, such corrective action may have been initiated under a §3008(h) administrative order or other enforcement order.

There will often be situations where the regulatory agency needs to go beyond the required activities detailed in 40 CFR Parts 124 and 270. You should discover early in the permitting process the makeup of the community, the issues that concern it most, and the most appropriate means of communicating with a broad cross-section of the community. If there is active community interest and sufficient resources are available, you may want to consider using the additional public involvement activities described here. You may also want to ask the facility to conduct some of the expanded public involvement activities. Using this approach, which is discussed in Appendix 1, the facility may



foster trust in the community, the public's concerns may be more effectively addressed, and the permitting process may go more smoothly.

Operating conditions, closure, post-closure care, and corrective action are all potential issues of concern to the public during the permitting process. Public involvement activities associated with operating facilities, closure, and post-closure decision-making, including closure at interim status facilities that have not received their permits, are highlighted in this chapter. Given recently proposed changes to the regulatory framework for implementing corrective action and the likelihood of public interest in corrective action activities, this guidance dedicates Chapter 4 to addressing public involvement during the RCRA corrective action process.

The remainder of this chapter presents a detailed discussion of public involvement activities that are required during the permitting process. It also identifies optional activities to enhance the public involvement program. The optional activities described here are not meant to comprise an exhaustive list, nor are the activities necessarily appropriate only in the phases of the process where they are described. Using this chapter as a guide, you can be creative in your planning by matching the phase of the process and the level of community concern with the most suitable and productive activities. Please refer to Chapter 5 for detailed descriptions and instructions on how to conduct each type of public involvement activity that is mentioned in this chapter.

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## **Public Involvement During the Permit Decision Process**

The permit decision process can be divided into three key steps:

- **Step One:** Receipt and Review of Permit Application
- **Step Two:** Preparation of Draft Permit or Decision to Deny and Public Comment Period
- **Step Three:** Final Permit Decision

We examine these steps individually and discuss the required and recommended activities for each one. Refer to Chapter 5 for specific details about the activities listed here. Exhibit 3-1 provides a flow chart that illustrates the relationship between the permitting process and public involvement activities.

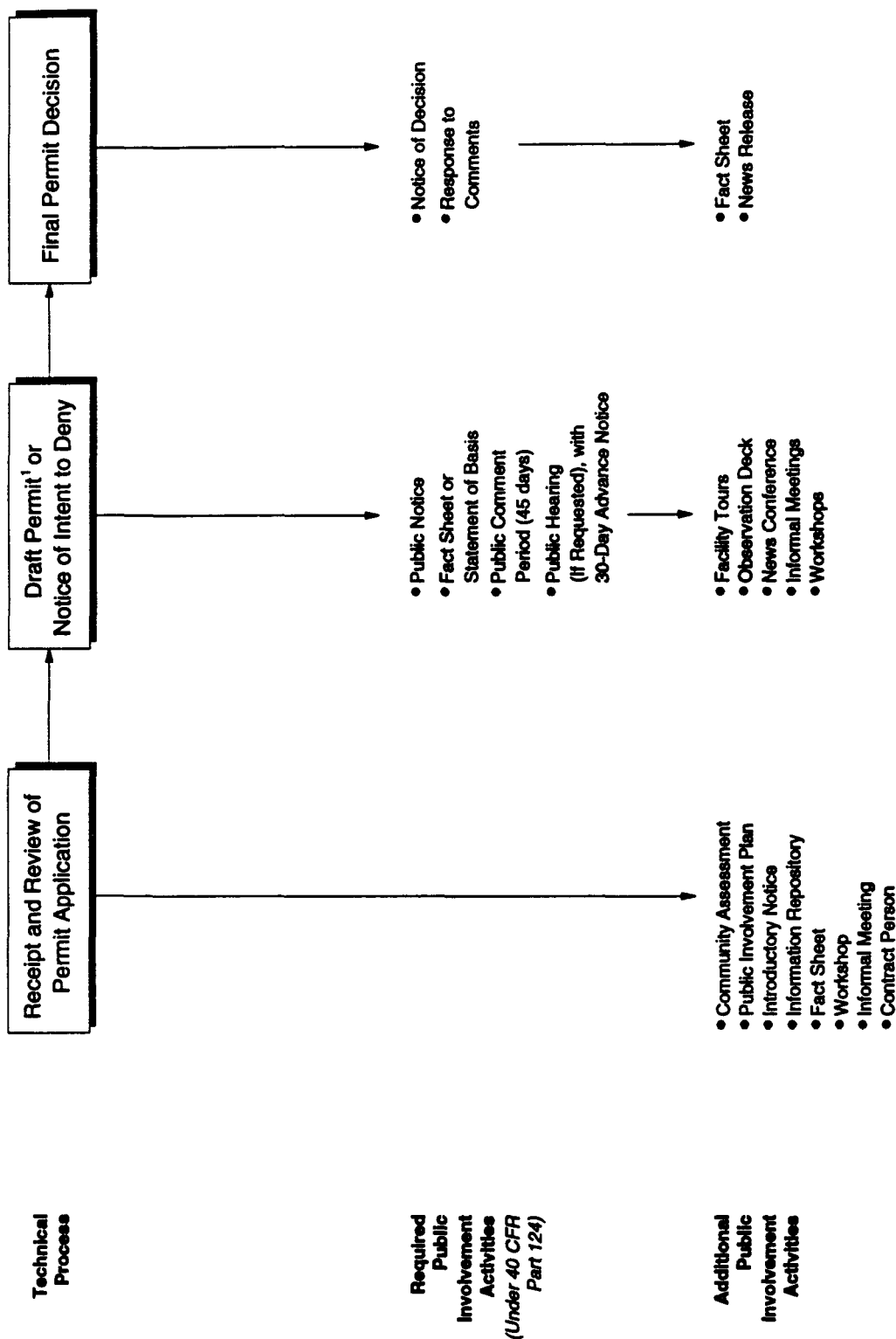
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### **Step One: Submission and Review of Permit Application**

#### **Required Activities**

Owners or operators of facilities subject to RCRA permitting requirements must submit a comprehensive **permit application** covering all aspects of the design, operation, maintenance, and closure of their facility.

# Exhibit 3-1 Public Involvement During the RCRA Permit Decision Process



<sup>1</sup> The draft permit may include a schedule of compliance for corrective action, as well as conditions related to closure and post-closure care, if appropriate. These procedures are those followed by EPA. When individual States are authorized to assume the lead, their procedures may vary.

At the time the facility owner or operator submits the permit application, the regulatory agency must assemble a **mailing list**. The list serves as an important communication tool to allow the regulatory agency to reach interested members of the public with announcements of meetings, hearings, events, and available reports and documents. Consult with local community organizations, neighborhood associations, local and state agencies, the facility, and other sources in the community to compile the mailing list.

## **Additional Activities**

The level of public involvement activities should correspond to the potential level of community interest in the permitting process. To determine the need for additional activities, you should consider conducting a **community assessment**. If the level of interest is high, you will want to do a more thorough needs assessment and prepare a formal **public involvement plan**. You will need to plan for public involvement, even if you simply lay out a rudimentary schedule for required activities. Chapter 2 provides guidance on conducting these assessments.

Other activities that may be warranted at this stage include releasing an **introductory notice** to alert the community that a RCRA action is being considered, establishing an **information repository**, and distributing a **fact sheet** through the mailing list. All of these activities provide the community with information on the facility and the RCRA process early in the game, which can lead to greater cooperation and understanding later.

Remember that the permit 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. If the community appears to need interaction with the regulatory agency and the facility throughout this process, and you have available resources, you should plan activities during that time to keep citizens informed about the status of the process. Holding **workshops** and conducting **informal meetings** about the facility and the RCRA permit process can educate the community and keep it involved in the process. Be sure to identify a **contact person** to accept comments and answer questions from the community during the long submission and review process. This shows the regulatory agency's availability and willingness to talk with the community about its concerns and questions. You can advertise the contact person's name and phone number through the mailing list.

Getting as much input from the community as possible during these initial phases of the RCRA permitting process and before a draft permit is issued will be very useful when writing the draft permit. 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.

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## Step Two: Preparation of Draft Permit or Decision to Deny and Public Comment Period

### Required Activities

After receiving and reviewing the complete permit application, the regulatory agency decides either to deny the permit application or prepare a draft permit for the facility, which includes technical requirements, possible corrective action schedules of compliance,<sup>1</sup> and other conditions relevant to the operation of the facility. As discussed earlier in this section, you should consider the community input you get in the initial stages of the permitting process when preparing the draft permit decision so that it responds to the community's needs and concerns. If a draft permit is prepared for a facility, you must release it to the public for review and give formal **public notice** that it is available for the public's review and comment. You must also notify the public if the regulatory agency plans to deny a permit application. Notice in both cases must be published in a major local newspaper and broadcast over local radio stations. Notice must also be sent to all persons on the mailing list.

In addition, you must prepare a **fact sheet** or **statement of basis** to accompany the draft permit or the notice of intent to deny the permit. A fact sheet should summarize the significant factual and legal bases for the draft permit decision. The regulatory requirements for a statement of basis are fairly similar to those for a fact sheet, although the statement of basis typically does not contain a comparable level of detail. A statement of basis is often used to explain the reasons for denying the permit, but a fact sheet also can be used for this purpose.

**A 45-day public comment period** on the draft permit or notice of intent to deny the permit follows publication of the public notice. The

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<sup>1</sup> Prior to issuing a draft permit decision, the regulatory agency typically conducts a RCRA Facility Assessment (RFA) to identify all solid waste management units (SWMUs) and the potential for release of hazardous waste or hazardous constituents at a RCRA facility. The RFA represents the first stage of the corrective action process and provides initial information on whether corrective action will be a significant issue for the facility. If the RFA indicates a release of hazardous waste or hazardous constituents has occurred, is likely to have occurred, or, based on site-specific circumstances, is likely to occur, from a SWMU, the regulatory agency may require in the permit schedule of compliance (or through an order) that the facility investigate and characterize the SWMU and its releases in a subsequent RCRA Facility Investigation (RFI). The proposed Subpart S corrective action rule (55 FR 30798, July 27, 1990) outlines public involvement activities that may be required, following promulgation, during the RFI and subsequent phases of the corrective action process. Chapter 4 discusses specific public involvement activities recommended for these post-RFA corrective action activities.

comment period provides the public with an opportunity to comment, in writing, on conditions contained in the draft permit or in the notice of intent to deny the permit. If information submitted during the initial comment period appears to raise substantial new questions concerning the draft permit decision, the regulatory agency should re-open or extend the comment period.

Finally, the commenters have the opportunity to request a **public hearing** on the draft permit decision. If requested, you must hold a public hearing and provide **30-day advance notice** to the community concerning the time and place of the hearing. In addition, you can schedule a public meeting or hearing even if the community does not request one. (Note that a hearing is a formal event requiring a hearing officer, court reporter, and written transcript, while a meeting is less formal with more opportunity for two-way communication.) If you feel that it is essential that you personally talk with the community to clarify issues involving the permit, you should initiate a meeting. In many circumstances, scheduling a public meeting or hearing before the public requests one saves valuable time in the permitting process and shows your willingness to meet with the community and hear its questions and concerns. To streamline your efforts, you can give public notice of the draft permit, the public comment period, and the public meeting or hearing at the same time.

### Additional Activities

In situations where a community wants more information about potential operations at a facility and the health and environmental risks of those operations, you may want to work with the facility to provide **facility tours** and **observation decks** during the public comment period so that the community has 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.) You may want to consider these activities for a new facility or when a facility proposes a new or different technology. You may also want to think about doing these activities earlier in the permitting process, such as when the draft permit is being written, so that you can gather as much feedback from the community as possible before going public with a draft permit. Other activities might include conducting a **news conference** and holding **informal meetings** and **workshops**.

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## Step Three: Final Permit Decision

### 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. You 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 permit decision. You must also prepare a written **response to comments** that includes a summary of all significant comments received during the public comment period and an explanation of how they were addressed in the final permit decision or why they were rejected. This summary shows the community that you have considered its concerns when making your decision about the permit. Your 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.

### **Additional Activities**

If there was high interest during the comment period you may want to issue a **news release** and **fact sheet** when the decision is finalized to inform a wide audience. Coordinate with the public affairs office to take on media contact responsibilities.

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## **Public Involvement When Permits Are Modified**

Over time, a permitted facility may need to modify its permit. Just as public involvement 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 involvement requirements. It is important to note that public involvement responsibilities and activities vary depending on who initiated the modification (e.g., the regulatory agency or the facility owner or operator) and 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. Appendix 4 consists of an EPA fact sheet entitled "Modifying RCRA Permits," which provides more detail on permit modifications and associated public involvement activities.

There are many reasons to modify a permit. In some cases, the regulatory agency may initiate a permit modification under 40 CFR 270.41.<sup>2</sup> This section 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

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<sup>2</sup> 40 CFR 124.5(a) allows any interested person to request in writing that the regulatory agency modify, revoke and reissue, or terminate a permit for reasons specified in 40 CFR 270.41 and 270.43. If the regulatory agency decides that the request is justified, the regulatory agency will initiate the action. If the regulatory agency decides the request is unjustified, the regulatory agency need only send the requestor a brief written response giving a reason for the decision. Denials of such requests for modification are not subject to public notice, comment, or hearings.

schedule 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 regulatory 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 or make changes in operations 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 (see Exhibit 3-2). Like regulatory agency-initiated modifications, a decision to grant or deny a Class 3 permit modification request is subject to the permit issuance 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 regulatory agency is also encouraged to use these public involvement activities, even if not required under a regulatory agency-initiated modification.

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### 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, this is relatively *early* notification for 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 involvement for modifications he or she initiates, saving the regulatory agency time and money. 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 involvement efforts are successful, you should find out whether the facility owner or operator knows how to conduct the required activities, and provide guidance and assistance if needed. This guidance manual could help serve that purpose. In addition, Appendix 1 discusses how facilities can assist in conducting public involvement activities.

## Exhibit 3-2

### Public Involvement 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.

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## 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 notify the public by sending a notice to all parties on the mailing list compiled by the regulatory agency.** The facility is responsible for obtaining from the regulatory agency a complete facility mailing list. (For more information on mailing lists see Chapter 5.) Any member of the public may ask the regulatory agency to review a Class 1 modification.

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## Class 2 Modifications

Class 2 modifications include those changes that are necessary to enable a facility to respond to changes in the types and quantities of wastes that it manages, 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.

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 notice must be published and the letter mailed within seven days before or after the facility 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 public comment period provides an opportunity for the public to review the modification request at the same time as the regulatory 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. **The facility must conduct the public meeting no earlier than 15 days after the start of the 60-day comment period and 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 regulatory agency is not required to attend the meeting or respond to comments made at the meeting, and an official transcript of the meeting is not required. We recommend, however, that the regulatory agency attend the meeting to find out whether the public has any concerns about the changes and, if so, how the owner or operator plans to address them. **In addition, the regulatory 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.** It is expected that the meeting will lead to more informed written comments submitted to the regulatory agency, and it may also result in voluntary revisions in the facility's modification request.

The procedures for Class 2 modifications include a default provision to ensure that the regulatory agency responds promptly to the facility's request. The regulatory agency must respond to Class 2 modification requests within 90 days or, if the regulatory agency notifies the facility of an extension, 120 days. At any time during this 120-day period, the regulatory 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 regulatory 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 regulatory 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 regulatory 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 regulatory 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 regulatory agency may also reclassify the request as a Class 3 modification if there is significant public concern about the proposed modification or if the regulatory 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 regulatory agency may approve a temporary authorization under 40 CFR 270.42(b) for 180 days for a Class 2 modification. In addition, the regulatory 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. **However, 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 regulatory 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.

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## 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. As with Class 2 modifications, Class 3 modifications require the facility to submit a modification request and supporting documentation to the regulatory 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 notice must be published and the letter mailed within seven days before or after the facility submits the request to the regulatory agency. The notice must contain the same information as the Class 2 notification, including an announcement of a public meeting to be held 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.**

After the conclusion of the 60-day comment period, the regulatory agency must 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 review and public participation procedures as permit applications**, as specified in 40 CFR 270.42(c). The following public involvement activities are required:

- Preparation of **draft permit modification conditions or notice of intent to deny the modification**;
- Publication of a **notice** of the regulatory 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;
- Consideration and **response to all significant written and oral comments received during the 45-day public comment period**; and
- Consideration and **response to all significant written comments received during the 60-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 regulatory 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 regulatory agency. The public may welcome this opportunity for extensive involvement, for the public is likely to be more concerned about Class 3 modifications than any other. When concern is high, you will want to be absolutely certain the facility knows how to conduct the required public involvement activities and provide guidance and assistance if needed. You may also encourage the facility to go beyond the requirements and hold **workshops** and publish **fact sheets** to explain the change. It is also more important that you attend the facility's public meeting to gauge the public's concern about the proposed change and prepare appropriately for your public hearing, if one is requested. By attending the public meeting, you may learn whether you will need to conduct additional public involvement (e.g., hold a workshop or small group meeting) after preparing the draft permit.

As with Class 2 modifications, the regulatory agency must notify persons on the facility mailing list within 10 days of any decision to grant or deny a Class 3 modification request. In addition, 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, temporary authorizations may be granted 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 regulatory agency may grant a temporary authorization without notifying the public. The regulatory 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 regulatory agency determines that the extension is warranted to allow the facility to continue the activity while Class 3 procedures are completed. See Appendix 4 for an Agency fact sheet on modifying RCRA permits.

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## Public Involvement in Closure/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 regulatory agency. During closure, facility owners or operators complete treatment, storage, and disposal operations; apply final covers to or cap 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.

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## Closure and Post- Closure at Permitted Facilities

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, specifying 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.

You should be aware of any issues relating to the closure of the facility that concern the public and plan public involvement activities accordingly. For example, if the public has reservations about how "clean" the facility will actually be after the facility closes, you may want

to consider releasing a **fact sheet** or conducting **educational workshops** and **informational meetings** about the closure plan and the conditions at the facility. 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, **you should integrate additional activities into your public involvement program for post-closure permitting that address community concerns about corrective action.** (See Chapter 4 for additional information on such activities.) Note, however, that unless corrective action is required in the post-closure permit, public interest in closure plans is usually limited.

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### Closure and Post-Closure at Interim Status Facilities

Facilities may also close under interim status, often under enforcement orders. For example, a large number of land disposal facilities lost interim status in 1985 if they did not certify that they were in compliance with all applicable ground-water monitoring and financial responsibility requirements by the statutory deadline established by HSWA. 40 CFR 265.112 and 265.118 require facilities seeking or required to close under interim status to submit closure and post-closure plans (if appropriate). 40 CFR 265.112(d)(1) specifies the schedule for a facility to submit its closure plan to the regulatory agency prior to the date on which it expects to begin partial or final closure. Similarly, 40 CFR 265.118(e) specifies the schedule for the facility owner or operator to submit the post-closure plan to the regulatory agency prior to the date on which the facility expects to begin partial or final closure of the first hazardous waste disposal unit.

Public involvement 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), which require that **the regulatory agency provide the public and the facility, through a newspaper notice, with the opportunity to provide 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.** In response to a request or at its own discretion, the regulatory 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). **Public notice of the hearing** must be provided by the regulatory agency at least 30 days before it occurs. The regulatory agency will approve, modify, or disapprove the plan(s) within 90 days of their receipt.

Under 40 CFR 265.118(g)(1), the public may also petition the regulatory agency to extend or reduce the post-closure care period applicable to an interim status facility or land disposal unit. Whenever

the regulatory agency is considering a petition on a post-closure plan, it will **provide the public and the facility, through a newspaper notice, with the opportunity to provide written comments within 30 days of the date of the notice.** In response to a request or at its own discretion, the regulatory 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 regulatory agency must provide **public notice of the hearing** at least 30 days before it occurs. If the regulatory agency tentatively decides to modify the post-closure plan, 40 CFR 265.118(g)(2) requires that **the regulatory agency provide the public and the facility, through a newspaper notice, with the opportunity to provide 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 regulatory agency to authorize a change. In addition, the regulatory agency may request modifications to the closure and post-closure plans. **If the amendment to the closure plan is a Class 2 or Class 3 modification, according to the criteria specified in 40 CFR 270.42, 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 is 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.**

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## Example: The Blank Community

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### Background

Now that we have gone through the basics of public involvement in RCRA permitting, let's look at an example of how the public involvement process might work for a high-level interest facility.

Facility A is located in the community of Blank, with a population of 100,000 residents. The facility is applying for a RCRA permit to treat and store wastes, including tetrachloroethylene, using a commercial incinerator that is currently operating under interim status. The facility is located near a residential area. It employs 300 people. The facility has established relatively good relations with members of the community by contributing to charitable efforts and keeping in close contact with officials about facility operations. You would characterize the level of public interest in this facility (and therefore the need for public involvement) as high based on the types of wastes, the waste management practice (incineration), and the facility's proximity to a residential area.

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## Community Concerns

During your community interviews and file search, you discovered that there are three main concerns that the community has expressed with regard to the facility, as well as another issue that you think may be important.

- (1) The residents near the facility are concerned that the incineration of wastes could endanger their health. They are worried that the incinerator could release harmful amounts of hazardous substances if something should go wrong and the incinerator were operating at less than adequate temperatures, or if there were an accident. They noted that several people in the community have developed pulmonary-related illnesses since the incinerator has been operating.

**(They need to be informed about the possible health effects of the incinerator, and satisfied that the incinerator is operating correctly.)**

- (2) The community as a whole (especially fire and police department representatives) is concerned about the transportation of wastes through the city streets, and the possibility of harmful exposures in the event of an accident. In addition, members of the community are concerned that the ash that will be taken from the facility could harm residents if there were an accident.

**(Even though RCRA permits do not cover transportation requirements once hazardous materials have left a facility, the permit application requires a description of traffic patterns, estimated volume and control. In addition, State and local governments may regulate truck traffic and the movement of hazardous cargo. The public needs to be informed of how accidents will be avoided and what emergency procedures will be in place to deal with any accidents. You might note that the Department of Transportation records approximately 200 reported incidents involving hazardous waste (ranging from leaky drums to accidents) each year.<sup>1</sup> Given the large universe of facilities, the probability of a transportation accident at any given site is low.)**

- (3) Community members interviewed expressed a general mistrust of the regulatory agency's ability to monitor the facility adequately.

**(They need to be informed about what regulations the facility must comply with in order to operate the incinerator, and what review process the regulatory agency has for monitoring the facility. They need to know that they have access to all the documents concerning the incinerator. They need to be reassured that the regulatory agency will carefully monitor the facility and enforce regulatory requirements.)**

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<sup>1</sup> Source: United States Department of Transportation, Research and Special Programs Administration, Hazardous Materials Information System.

- (4) Several community members mentioned that they were concerned about their groundwater, although you know that there has been no indication of any potential contamination problems at this facility. Your file search revealed that there is another RCRA facility nearby that has been undergoing a corrective action that involves groundwater contamination with volatile organic compounds. This facility is farther out of town, but there are drinking water wells nearby that are threatened by the groundwater problems. This indicates to you that there may be some confusion in the community between the actions at the two different facilities.

**(They need to have their misunderstanding cleared up before they become unnecessarily concerned, and the distinction between the two activities at the two facilities should be explained more clearly.)**

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## Community Characteristics

During community interviews, you gathered the following information about the community that will be useful in developing public involvement activities:

- (1) The neighborhood nearest the facility is largely middle class, where most people own their homes and have children of school age. They have a high-school/college level education. All of them speak English.
- (2) Most community members prefer to have information mailed to them, rather than attending meetings, because of time constraints.
- (3) Most of the information people now receive about the facility comes from the facility's newsletter, which is distributed to the facility's employees and the facility's neighbors. Coverage has been minimal in the media.
- (4) There are no organized environmental groups in the area. However, many people do belong to some civic organization.

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## Activities

With the information you have gathered, you can choose which public involvement activities will best fit the needs of the Blank community. A comprehensive list of required and expanded public involvement activities is provided in Chapter 5 of this manual. Each description includes a list of what types of situations for which the activity could be useful. There are any number of combinations of activities that may be suitable for a given situation. Part of your choice will be made as a result of which activities you feel comfortable doing and how much time and money you have.

## Required Activities

There are several public involvement activities that you are required to perform as part of a RCRA permit effort. Note that in certain instances, the facility and/or regulatory agency may take the lead in these required activities.

- At the time the permit application is submitted, you must establish a **mailing list** that includes facility neighbors, elected officials, regulatory agency representatives, environmental organizations, and anyone else who has expressed an interest in the facility or who may be affected by it.
- After developing a draft permit (or notice of intent to deny a permit), you must:
  - Provide **public notice** (in a major newspaper and broadcast over local radio stations) that the draft permit or notice of intent to deny the permit is available for public review;
  - Produce a **fact sheet or statement of basis** that explains the factual and legal bases for preparing the permit or issuing the administrative order (Note that generally fact sheets are used for permit issuances while Statements of Basis are used for permit denials); and
  - Hold a **45-day public comment period** on the draft permit decision.
- If there is a written request made during the public comment period, you must hold a **public hearing** for which **30-day advance notice** is provided to members of the public.
- When a final decision is reached on whether to issue or deny a permit, you must send a **notice of decision**, including a **response to comments**, to the facility owner or operator and each person who submitted written comments on the draft decision or who requested a copy of the notice.

## Expanded Activities

From your community interviews, you have discovered that you need to provide members of the community with certain types of information, and get the community's feedback before most of your required activities are implemented.

What sort of information do you need to convey to the Blank community?

- Environmental risk information:
  - Information on the potential risks from the facility's incinerator
  - Information on the technical and institutional safeguards that are in place to prevent exposures
  - The differences between this facility and another nearby RCRA facility that is undergoing corrective action
  - A clarification that this facility is not undergoing a corrective action; therefore, there is no groundwater contamination at the facility
- Transportation information:
  - A description of the contingency plan that has been developed or will be developed as part of the RCRA permit
- Regulatory/process information:
  - A description of the regulations with which the facility must comply
  - A description of the methods used by the regulatory agency to verify and document compliance
  - A description of how community members can ensure that the regulatory agency is enforcing compliance

How can you get the information out?

- (1) Community members have stated a preference for receiving information through the mail rather than attending meetings, so the logical first step is to produce a **fact sheet** for distribution to your **mailing list** that covers the four topics mentioned as important during your interviews (health, transportation, regulatory compliance, groundwater). Remember to keep explanations simple but complete, and to use graphics when possible to help explain difficult concepts. You should include the name, address, and phone number of the designated regulatory agency contact person (probably you) on the fact sheet. You can supplement the fact sheet with a **news release** and **informational press conference** for local media so that your information will be distributed to a wider audience.

If you don't have the time or resources to produce your own fact sheet, an alternative is to ask the facility to include the information in its **facility newsletter**. However, the facility newsletter will not reach all of the people who are interested in

the project because of its limited distribution. You could ask the facility to distribute the newsletter to your mailing list, or use the **news release** and **informational press conference** mentioned above to increase circulation. Furthermore, you should be careful about using a facility newsletter if the facility has had difficult relations with the community.

- (2) Because health is a major concern of community members nearest the facility, and because of the complicated nature of the issue, a fact sheet may not address their concerns adequately. Since community members have stated a preference not to attend extra meetings, you may offer **brief presentations at regularly scheduled meetings of other civic organizations**, with time for questions and answers.

You also may use the **fact sheet** to solicit interest in a **workshop** on health issues, just to make sure that community members have the opportunity to meet if they feel very strongly about the issue. If 10-20 people express interest, you should plan a workshop to discuss the issues in more detail and allow time for questions and answers. You may want to prepare some **posters** and **handouts** that explain the health risks graphically and outline the monitoring procedures that will ensure the incinerator is operating properly. Because there are currently some health conditions that community members perceive may be related to the facility, you may want to include a **health specialist**, such as the county and/or State toxicologist, on your presentation team to answer specific health questions.

- (3) You can establish an **information repository** at the public library or other public building so that the community can have access to all the technical documents concerning the facility. The information repository should be announced in a **public notice** in the newspaper and in the **fact sheet**.
- (4) You need to build the community's trust in the regulatory agency. One way you can start this process is to keep up **regular telephone or personal contact with key community leaders** to update them on the permit progress and/or the corrective action order process and to ask for their feedback on how the regulatory agency can best involve them in the process. You also need to maintain that trust. Since the RCRA permitting process and some administrative orders requiring compliance may take a long time, it is important that you **periodically update community members on the permit or order status, even when there isn't much going on in the way of permitting milestones**. In the absence of information from the regulatory agency, it is common for community members to become suspicious that things are

progressing outside of the normal, public channels. Periodic contact will help dispel those suspicions.

- (5) It is obvious to you that community members are confusing the two RCRA facilities in the area. The first step you can take is to **send a RCRA §3007 Request for Information to the nearby facility to gather relevant information and then coordinate your public involvement efforts with the facility.** Make sure that materials you send out to members of the public are clearly marked as addressing one site or the other. The **fact sheet** for your facility will clearly state that there are no identified areas of soil or groundwater contamination at your facility, and that your RCRA action involves a permit, not a corrective action. It is important to clear up the misunderstanding with all community members so that you don't have to keep addressing this issue throughout the RCRA process. If concern seems to be widespread, you may want to publish the number of a **RCRA information hotline** that community members can call with questions. You can also issue a **news release** summarizing information about the facility and distinguishing between the action at your facility and at the one nearby.

## Chapter Summary

- The permit decision process and the required public involvement activities can be divided into three key steps :
  1. Submission and Review of Permit Application
    - Develop a mailing list
  2. Preparation of Draft Permit or Notice of Intent to Deny and Public Comment Period
    - Issue public notice
    - Prepare fact sheet or statement of basis
    - Announce a 45-day public comment period
    - Hold a public hearing, if requested, with 30-day advance notice
  3. Final Permit Decision
    - Respond to all significant comments raised during the public comment period, or during any hearing
    - Issue notice of 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 involvement 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

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><u>Facility Requirements:</u></p> <ul style="list-style-type: none"><li>- Notify mailing list and public newspaper notice</li><li>- Announce 60-day public comment period</li><li>- Place modification request and supporting documentation in an accessible location in the vicinity of the facility</li><li>- Hold public meeting</li><li>- 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</li></ul> | <p><u>Regulatory Agency Requirements:</u></p> <ul style="list-style-type: none"><li>- Allow 60 days for public comment on the modification request</li><li>- Consider all written comments and respond in writing to all significant comments</li><li>- Issue notice to the mailing list within 10 days of any decision to grant or deny a modification request</li><li>- Issue notice to the mailing list within 10 days after an automatic authorization goes into effect</li></ul> |
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## Chapter Summary, continued

### 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 regulatory 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 regulatory 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 regulatory 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.
- A fictitious case study of the Blank Community illustrates how public involvement planning and implementation would work at a facility with a high-level of public attention.

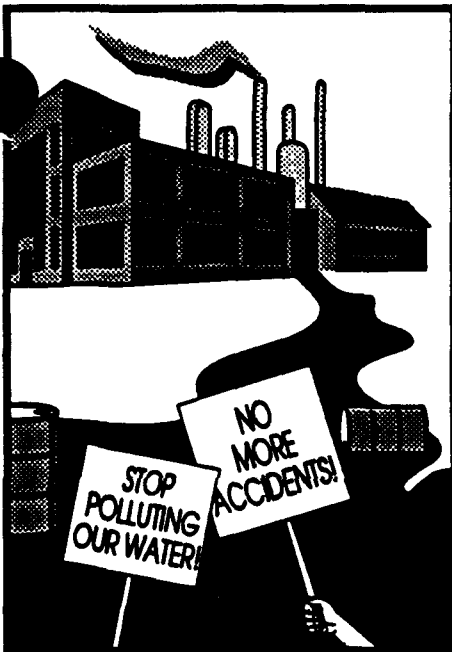
# Chapter 4

## Public Involvement for RCRA

### Corrective Action Under Permits and §3008(h) Orders

#### Introduction

Public involvement is an important part of RCRA corrective action. RCRA facilities are generally brought into the corrective action process at the time the regulatory agency is considering a permit application for the facility (§3004(u)), or when a release justifying action under a §3008(h) enforcement order is identified. This chapter addresses public involvement activities for corrective actions under permits and §3008(h) orders.



As discussed in Chapter 3, the corrective action process begins with a RCRA Facility Assessment, which is conducted by the regulatory agency. The RFA includes (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. If, after completion of the RFA it appears likely that a release exists, the regulatory agency typically develops a schedule of compliance, to be included in the facility's permit, for further studies and actions the facility owner or operator must undertake to fulfill the responsibilities imposed by §§3004(u) and (v). Alternatively, the regulatory agency might issue an order pursuant to §3008(h) to compel corrective action.

As described in Chapter 3, the public can comment on the schedule of compliance for corrective action during permit issuance and subsequent permit modification. Current EPA policy also requires a 30 to 45 day public comment period and a public hearing for remedy selection under §3008(h) orders.

The proposed Subpart S rule (55 FR 30798, July 27, 1990), which defines both the procedural and substantive requirements associated with §§3004(u) and (v), contains public involvement activities for corrective action in addition to those currently required under 40 CFR Parts 124 and 270. For example, the rule proposes that facilities, rather than the regulatory agency, be required to conduct certain public

involvement activities such as establishing an information repository. The rule also proposes the use of specific types of permit modifications (e.g., Class 2 and 3 modifications) for adding or making changes to corrective action requirements contained in the facility permit, and proposes a new permit modification procedure for streamlining changes to the schedule of compliance initiated by the regulatory agency.

This chapter outlines the public involvement activities associated with different stages of the corrective action process under both permits and §3008(h) orders. It describes public involvement activities currently required under federal regulations and policies, as well as suggested additional public involvement activities. In addition, this chapter discusses the public involvement requirements for corrective action activities contained in the proposed Subpart S rule.

Additional guidance for public involvement in corrective action 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).

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## **Public Involvement During Corrective Action in Permitting**

Community concerns during corrective action may differ from concerns during either the permitting of a new facility or a permit modification not related to corrective action. Because a release or potential release of hazardous waste has been identified, the community is more likely to take an active interest in the site. 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. All of these activities 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.

If the RFA indicates the presence of actual or potential releases of hazardous waste, a number of additional activities may be taken to complete the corrective action process. These activities can be divided into seven key steps:

- 1) RCRA Facility Investigation (RFI);
- 2) Corrective Measures Study (CMS);
- 3) Proposed remedy selection;
- 4) Final selection of remedy;
- 5) Corrective measures implementation;
- 6) Completion of remedy; and

- 7) Interim measures or stabilization, which can take place anytime in the process.

These steps, and the public involvement activities associated with them, are discussed below. Exhibit 4-1 provides a flow chart that illustrates the relationships between the corrective action process and public involvement activities. Refer to Chapter 3 for additional information on permitting, including permit modifications, and Chapter 5 for specific details on public involvement activities described in this chapter.

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## Step One: RCRA Facility Investigation (RFI)

Following the RFA, the next step in the corrective action process is the RCRA Facility Investigation. An RFI is imposed when a potentially significant release has been identified in the RFA; its purpose is to characterize the nature and extent of contamination at the facility.

If the RFA indicates that a release poses an immediate exposure risk, the regulatory agency can require the facility, through the permit, to undertake interim measures to minimize or stabilize this risk. The regulatory agency may also choose to institute a phased RFI, gathering data necessary to make stabilization decisions early in the RFI process. Similar to interim measures, stabilization activities are designed to control releases and prevent further spread of contamination during the first phase of corrective action at a facility.

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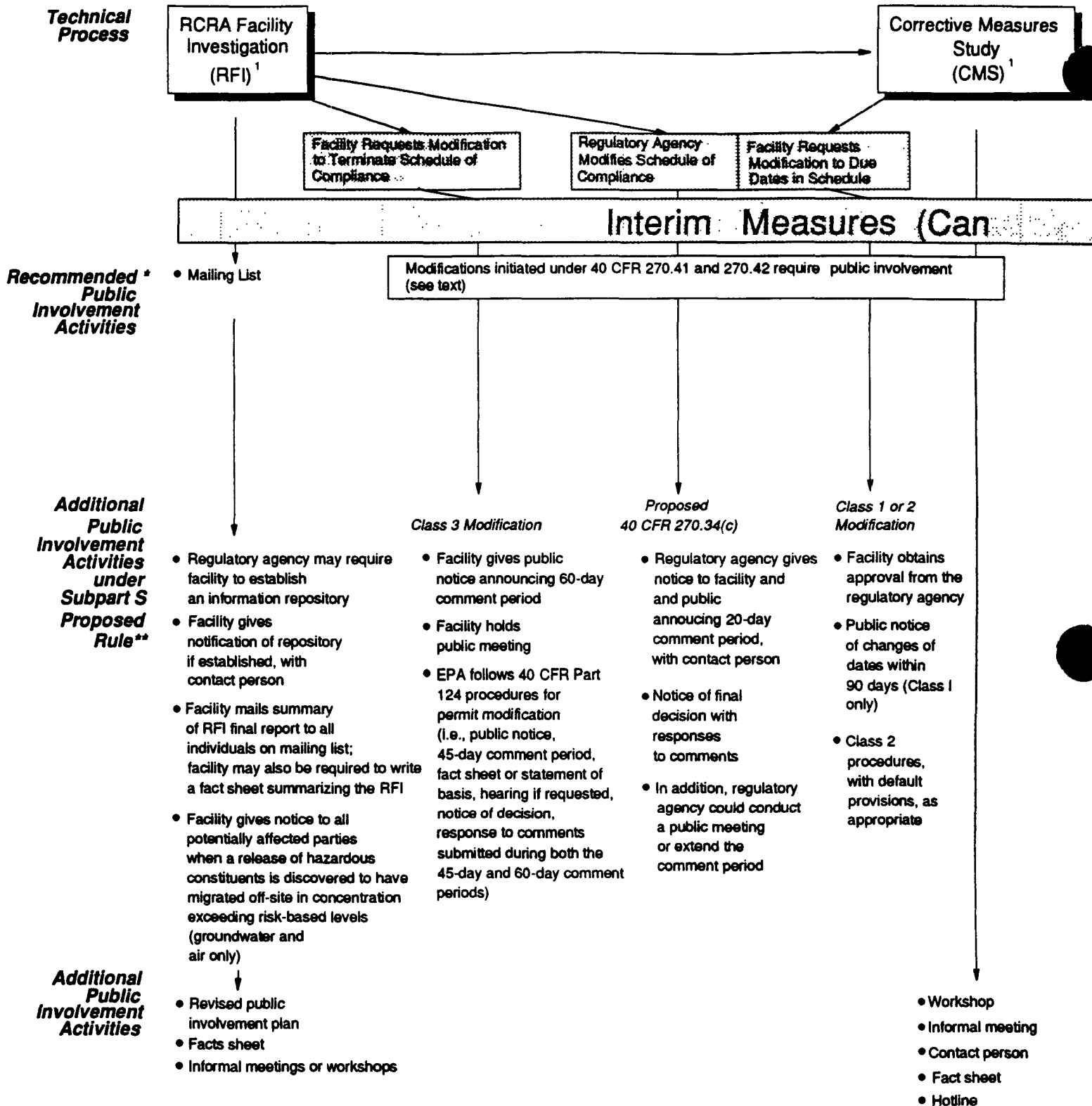
## Required Activities

As discussed in Chapter 3, the public has the opportunity for **notice and comment on the permit schedule of compliance for corrective action, including its RFI provisions, at the time of permit issuance**. The **mailing list** developed during the initial stages of the permitting process should be used and updated throughout the permitting and corrective action processes in order to keep members of the community informed. (See Chapters 3 and 5 for more information on facility mailing lists.)

Sometimes the results of the RFI indicate that the schedule of compliance for corrective action in the facility permit needs to be modified to account for new information. Currently, the regulatory agency can initiate **modifications to the corrective action schedule of compliance** under 40 CFR 270.41, following the procedures in 40 CFR Part 124. In addition, the facility owner or operator can request modifications under 40 CFR 270.42.

## Exhibit 4-1

## Public Involvement Activities in the RCRA

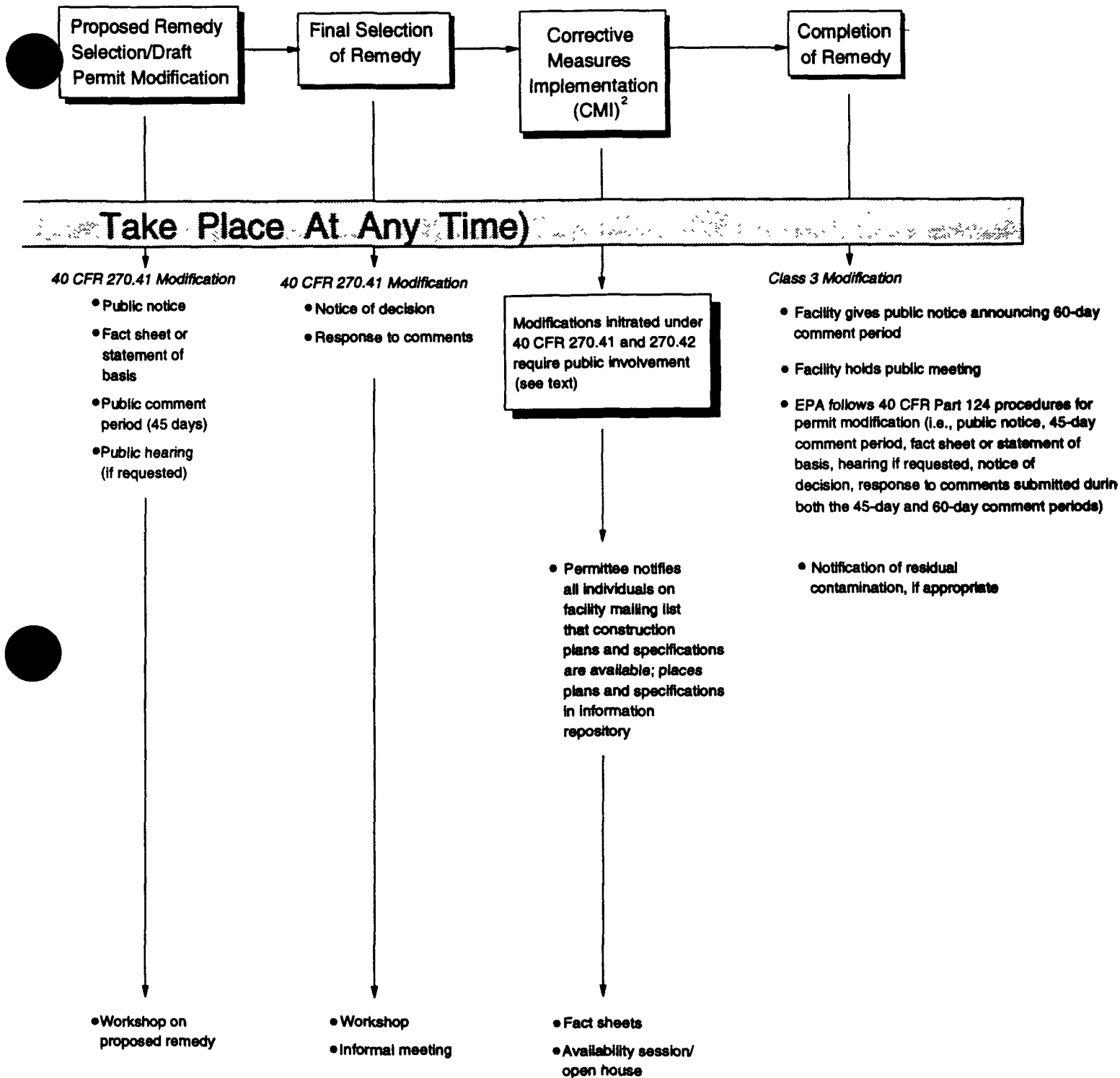


\* These activities are strongly encouraged, but not required, for corrective action under §3008(h) orders.

\*\* Activities included in proposed rules under 40 CFR 264 and 270, 55 FR 30873 ff.

<sup>1</sup> The public has the opportunity for notice and comment on the permit schedule of compliance for corrective action, including its RFI and CMS provisions, at the time of permit issuance.

# Corrective Action Process (During RCRA Permitting)



<sup>2</sup> As indicated in this exhibit, the public receives notice of and has the opportunity for comment on the permit schedule of compliance for corrective measures implementation during the remedy selection modification under 40 CFR 270.41.

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## Additional Activities

Once the RFA and RFI are completed, it is usually appropriate to reevaluate community concerns and the level of public involvement based on any new information collected, and to revise the **public involvement plan** accordingly. In addition, care should be taken to integrate public involvement activities for corrective action with other public involvement activities related to the permit. 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. **Informal meetings** or **workshops** also provide valuable forums for discussing community concerns.

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## Additional Requirements and Recommended Activities Proposed Under Subpart S

PROPOSED

The Subpart S corrective action rule proposes additional requirements and recommended activities for public involvement after the RFA and during the RFI. It also proposes a new permit modification process for certain modifications to the schedule of compliance initiated by the regulatory agency. The proposed public involvement activities and new permit modification procedures described below cannot be used until the Subpart S rule has been promulgated. This information is provided in the event that this proposed rule is promulgated and because facility owners/operators may have heard of this proposed rule. You can not currently require owners/operators to abide by these proposed activities. However, you may use these guidelines if you and the owner/operator agree on them.

### Proposed RFI Activities Under Subpart S

Under the Subpart S proposed rule, the regulatory agency may require the facility to establish an **information repository** in the community where the facility is located. The repository would serve as a resource containing all reports, findings, and other information relevant to ongoing corrective action activities at the facility (e.g., RFI workplans and reports). Following promulgation of the rule, you can assist your managers in determining whether an information repository would be useful by presenting the results of your initial needs assessment. If the level of community interest is moderate or high, and if there is moderate or high potential for exposure, an information repository should be established.

Subpart S also proposes that the facility inform the public of the existence of the repository by sending a **notification of public information repository** to all individuals on the mailing list. This notification should identify a **contact person** to whom comments can be submitted. Subpart S also proposes to provide regulatory agencies with the flexibility to require the facility to publish **notice of the repository in a local newspaper and broadcast notices** on local radio and television stations.

Upon completion of the RFI, Subpart S proposes that the facility **mail a summary of the final RFI report** to all individuals on the mailing list. In addition to this formal report summary, some Regions may also require the facility to write a **fact sheet** summarizing the RFI report. These documents should be written in language that can be understood by the general public and should be translated for non-English speaking members of the community, as appropriate.

#### **Proposed Notifications for Contamination Under Subpart S**

Subpart S proposes two **notifications for discoveries of contamination**, such as that which might occur during the RFI. If at anytime the facility discovers that hazardous constituents in ground water that may have been released from a SWMU at the facility have migrated beyond the facility in concentrations exceeding risk-based levels, Subpart S proposes that the facility must, within 15 days of discovery, provide written notification to the regulatory agency and to any person who owns or resides on the land which overlies the contaminated ground water. In addition, the rule proposes that the facility must provide written notice and initiate actions to provide notice to individuals who have or may have been subject to exposure to air releases from SWMUs at the facility that have or are migrating beyond the facility boundary in concentrations that exceed risk-based levels.

#### **Proposed Modifications to Corrective Action Schedules of Compliance Under Subpart S**

When initiating modifications to the permit schedule of compliance for corrective action, the Subpart S rule proposes that the regulatory agency decide on a case-by-case basis whether to conduct the modification under 40 CFR 270.41 or under proposed 40 CFR 270.34(c). Proposed 40 CFR 270.34(c) specifies public involvement requirements for situations where the regulatory agency initiates a modification to change the schedule of compliance prior to remedy selection (e.g., to modify due dates for reports or to add or delete some activities from an approved workplan). Under the proposed requirements of this section, the regulatory agency must perform the following public involvement activities:

- Prepare a **public notice** that includes a description of the proposed modification, reasons for the modification, the location of available supporting information, the end date of the **20-day modification comment period**, and the name of a regulatory agency **contact person** to whom comments can be made;
- Distribute the notice to the facility, mailing list, and information repository, if one has been established; and
- Publish the notice in a local newspaper.

If no comments are received regarding the proposed modification, it becomes final five days after the close of the comment period. At that point, the regulatory agency must **notify the facility and all community members on the mailing list** in writing and place a copy of the modified permit in the information repository.

If written comments on the proposed modification are received, the regulatory agency must make a final determination within 30 days after close of the comment period, if practicable. In addition, the regulatory agency must perform the following public involvement activities:

- Prepare a **public notice** that gives the effective date of the modification and an explanation of how comments were considered in developing the final modification;
- Provide a copy of the notice and the final modification to the facility; and
- Publish a copy of the notice in a local newspaper and place a copy of the notice and the final modification in the information repository, if one has been established.

Since the proposed 40 CFR 270.34(c) procedure is less complex administratively and should take substantially less time to make modifications effective, this process, once promulgated, should be used for modifications that are relatively routine, do not include very large additions or changes to the requirements already specified in the schedule, or are time-critical. The regulatory agency could conduct a **public meeting during the comment period for modifications initiated under proposed 40 CFR 270.34(c)**, if it was determined to be appropriate in addressing the concerns of the facility or the public, or both. In other cases, the **comment period might be extended** for some period to allow for additional review or comment.

On the other hand, some regulatory agency-initiated modifications, because of the nature, scope, or anticipated resource burden of complying with the new requirement, may continue to be more appropriately handled under 40 CFR 270.41. For example, imposing

requirements that are especially sensitive or controversial from the community's perspective may be best handled under 40 CFR 270.41, which allows maximum public input into the substance of the permit modification.

In addition, if the facility cannot meet due dates in the schedule of compliance, proposed 40 CFR 270.34(b) requires that the facility request a modification of the schedule under 40 CFR 270.42 within 15 days of the determination. Changes in dates during the RFI phase are typically considered either Class 1 or Class 2 modifications.

#### **Proposed Modification to Terminate the Schedule of Compliance Under Subpart S**

Subpart S proposes the use of Class 3 permit modification procedures for requests by facility owners or operators to terminate corrective action schedules of compliance during the corrective action process, if the facility can demonstrate that there are no releases of hazardous waste from SWMUs that may pose a threat to human health or the environment.

## **Step Two: Corrective Measures Study (CMS)**

### **Required Activities**

If the need for corrective measures is verified during the RFI, the facility may be required to perform a Corrective Measures Study to identify and evaluate potential remedial alternatives.

**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 from one to three 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. While there are no additional required public involvement activities specific to the CMS beyond those associated with the initial permitting process or **modifications to the corrective action schedule of compliance**, some additional public involvement activities may be useful during this phase of corrective action.

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## Additional Activities

Holding **workshops** and **informal meetings** about the CMS process, the remedies being considered, and the activities being conducted at the facility will keep the community involved and informed. You should also consider mailing out **fact sheets** at significant milestones during the CMS to keep the community abreast of the progress that has been made.

Providing a **contact person** at the regulatory agency to accept comments and answer questions from the community is a good way to provide information, shows a willingness on the part of the regulatory agency to talk with the community, and gives the regulatory agency an opportunity to respond to public concerns. You may even consider establishing a **hotline** if a large number of people call with questions. You can advertise the availability of the hotline through the mailing list or in local newspapers.

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## Step Three: Proposed Remedy Selection

Once the regulatory agency identifies its proposed remedy for a facility, the facility's permit must be modified to incorporate the proposed corrective measures.

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## Required Activities

A permit modification for remedy selection is initiated by the regulatory agency.<sup>1</sup> For such a modification, 40 CFR 270.41 requires the same level of public involvement as is required for a draft permit.<sup>2</sup> The permit containing the proposed modification must be released for **public review and comment**, and the community must receive **public notice** that the proposed modification is available for review. You must publish this notice in a major local newspaper and it must be broadcast over local radio stations. Notice must also be sent to all persons on the mailing list. In addition, you 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.

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<sup>1</sup> EPA promulgated 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. Additional guidance on public involvement and procedures for the designation of CAMUs and temporary units will be forthcoming.

<sup>2</sup> Note that Subpart S also explicitly proposes the use of 40 CFR 270.41 for specifying the remedy. The modifications that are initiated under 40 CFR Part 270.41 go through the 40 CFR Part 124 permit issuance procedures.

The statement of basis describes the proposed remedy, but does not select the final remedy for a facility. This approach allows for additional information to be considered during the public comment period. Following this period, public comment and/or additional data may result in changes to the remedy or in another choice of remedy. After the regulatory 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, you must re-open or extend the comment period.

The affected community may request a **public hearing** on the draft permit modification. If a hearing is requested, you must give a **30-day advance notice** to the community that states the time and place of the hearing. You may schedule a public meeting or hearing even if the community does not request one. In many cases, scheduling a public hearing before the public requests one saves valuable time in the modification process and shows a willingness to meet with the community to hear its questions and concerns.

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## Additional Activities

Holding **workshops** on the proposed remedy would be useful in further explaining the corrective measures to the community.

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## Step Four: Final Selection of Remedy

After the public comment period closes, you must review and evaluate all written and oral comments and issue a final decision on the permit modification.

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## Required Activities

You must also 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.

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## Additional Activities

It may be useful to hold a **workshop** or **informal meeting** during the public comment period to inform the public about the proposed remedy, especially when information about corrective measures in a draft permit modification is quite technical or the level of community concern is high.

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## Step Five: Corrective Measures Implementation

Once a remedy is selected and a permit modification is approved, the facility must implement the remedy. The modified permit schedule of compliance should include conditions that specify how the corrective measures are to be designed, constructed, operated, maintained, and monitored.

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## Required Activities

**The public can comment on these draft permit conditions during the permit modification for the selection of remedy.** In addition, **any requested changes to the selected remedy in the modified permit would be subject to 40 CFR Part 270.41 or 270.42 procedures**, depending on which party initiated the change (e.g., the regulatory agency or the facility). While there are no additional required public involvement activities specific to remedy implementation, beyond those associated with the permit modification, some public involvement activities may be useful during this phase of corrective action.

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## Additional Activities

As mentioned earlier, the corrective action process often takes years to complete. You may want to consider including additional public involvement activities 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. You may want the facility to participate in conducting these activities as well.

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## Additional Requirements and Recommended Activities Proposed Under Subpart S

PROPOSED

As part of the public involvement requirements of proposed Subpart S, the rulemaking proposes that the facility must **notify all individuals on the mailing list that the construction plans and specifications are available for public inspection**. This information should be placed in the information repository, if one has been established, otherwise the notice must specify where the plans and specifications are available for inspection.

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## Step Six: Completion of Remedy

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### Required Activities

Once a remedy has been completed, the facility owner or operator may request a permit modification to remove compliance schedules and other language related to the corrective action from the permit.

Because this is a significant change to the permit, such modification requests are handled as Class 3 modifications under 40 CFR 270.42. Accordingly, the facility must issue a **public notice** and provide a **60-day comment period and public meeting**. After the conclusion of the 60-day comment period, the regulatory agency then initiates the permit issuance procedures of 40 CFR Part 124 for the Class 3 modification. For example, the regulatory agency will prepare a draft permit modification, **publish a notice allowing a 45-day public comment period** on the draft permit modification, hold a **public hearing** on the modification of requested, and **issue or deny the permit modification**. In addition, the regulatory agency will **consider and respond to all written comments** received during the 60-day public comment period as it conducts the activities required by 40 CFR Part 124.

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### Additional Requirements and Recommended Activities Proposed Under Subpart S

PROPOSED

Subpart S explicitly proposes the use of Class 3 permit modification procedures for requests by facility owners or operators to terminate corrective action schedules of compliance following the completion of remedies. If hazardous wastes or hazardous constituents in SWMUs, or which have been released from SWMUs, will remain in or on the land after the term of the permit has expired, Subpart S also proposes that the regulatory 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.

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## Step Seven: Interim Measures

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### Required Activities

The regulatory agency may require an interim measure(s) and/or stabilization at the facility at any time during the RFI or CMS. Interim measures may be required in situations where contamination poses an immediate threat to human health or the environment. They may also be required to prevent further environmental degradation or contaminant migration prior to implementing the final remedy.

Specific interim measures and/or stabilization measures may be identified in the permit. Conversely, the permit may include 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 language in the draft permit as part of the permit issuance process**. There are no additional required public involvement activities corresponding to interim measures beyond those associated with the permitting process.

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## Additional Activities

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 can incorporate activities related to interim measures into the rest of your public involvement program.

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## Public Involvement Activities Under §3008(h) Orders

The first part of this chapter examined public involvement for facilities undergoing corrective action in permitting as outlined in existing regulations and proposed Subpart S (50 FR 30798). RCRA §3008(h) provides similar authority for requiring corrective action at non-permitted RCRA facilities when there is evidence of a release of a hazardous waste or constituent to the environment. The facility may be operating under interim status (prior to receiving a permit), or may be closed or closing under interim status.

The regulatory agency issues §3008(h) enforcement orders to facilities 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, while a unilateral order is issued to a facility when the regulatory agency and the facility have been unable to agree about the need for or scope of corrective action.

This section examines how to conduct public involvement for facilities undergoing corrective action under a §3008(h) enforcement order. The corrective action activities discussed here for §3008(h) orders are nearly the same as those discussed earlier for corrective action in permitting. Rather than repeat the information provided at the beginning of this chapter about the steps in corrective action, we will focus on the issues relevant to public involvement that distinguish corrective action under a §3008(h) order from corrective action in the permitting process. If you are not familiar with the corrective action process, read the beginning of this chapter before proceeding.

In some cases, it may be useful to begin public involvement under §3008(h) orders 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 involvement is discussed in greater detail in Chapter 2.) The public involvement activities selected for corrective action under a §3008(h) order should meet the needs of the community. There are three important distinctions, however, between conducting public involvement in corrective action under a §3008(h) order and during permitting:

- Under a §3008(h) order, there may be limitations on the regulatory agency's ability to release or discuss certain information;

- No public involvement activities are *required* under §3008(h), but they are strongly encouraged; and
- Facilities may agree to conduct public involvement activities under a consent order, but under a unilateral order public involvement responsibilities will likely fall to the regulatory agency.

Caution should be exercised prior to notifying the public of the contents of an order prior to issuance. In some cases, public notice of draft orders may hamper ongoing negotiations.

**Limitations on Releasing Information:** When the regulatory 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 try to resolve differences, thereby allowing the agency to issue an order on consent rather than unilaterally. Public disclosure of some information could jeopardize the success of the negotiations. Therefore, public involvement planning must be coordinated with the appropriate staff working on the enforcement action.

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

**Strongly Suggested Versus Required Activities:** U.S. EPA's Office of Solid Waste and Emergency Response has issued two directives addressing public involvement 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 involvement activities, even though there are no statutory requirements for public involvement. 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 regulatory agency may consider conducting additional public involvement activities, particularly activities that involve the public early in the corrective action process.

Below is a discussion of strongly suggested and other public involvement activities to consider during corrective action under §3008(h) orders. Again, please note that the type and timing of public involvement activities are generally the same as for corrective action in permitting.

**Consent Versus Unilateral Orders:** If the regulatory agency is issuing a consent order, the agency should consider negotiating with the facility to have it write a public involvement plan (if community interest in the facility is high), or at least conduct public involvement activities as terms of the order. If the regulatory agency is issuing a unilateral order, however, circumstances may be such that it is necessary and/or appropriate for the regulatory agency to assume all or most public involvement responsibilities. Care must be used regarding the disclosure of information prior to the issuance of a unilateral order. Respondent/Agency relations are often strained in situations where unilateral orders are issued. Premature disclosure of information regarding the draft order may place additional strain on such relationships.

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### Issuance of an Order Following the RCRA Facility Assessment

If a RCRA Facility Assessment (RFA) at an interim status facility indicates a release of hazardous waste or constituents, the regulatory agency will consider issuing a §3008(h) order requiring the facility to begin investigating and cleaning up the contamination. It may take many months of discussions with the facility before the order is issued. In the meantime, the regulatory agency may assess the community and develop a **mailing list**. This list should include local officials; interested, affected, and potentially affected private citizens; residents close to the facility (e.g., within a one-half mile radius); and media representatives.

On the day the order is issued, the administrative record, containing all information considered by the regulatory agency in developing the order, is made available for inspection by the public. You may also

want to keeping a copy of the administrative record at a local library close to the facility.

You may also consider writing a **fact sheet** that gives details of the order and the corrective action process, or holding an **open house** or **workshop** if there is a high level of interest in the facility.

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## RCRA Facility Investigation (RFI)

Following issuance of the order, the facility will conduct an RFI according to the terms of the order and approved workplan. While public involvement activities are not required for this phase of the process, you should consider conducting activities for an RFI under a §3008(h) order similar to those you would conduct for an RFI in a permit.

The previous section recommended setting up a mailing list and information repository at the time the order is issued. Other suggested activities include the following:

- Write two **fact sheets**: One prepared at the beginning of the RFI, summarizing the overall remedial process from start to finish, existing contamination at the facility, possible impacts on the local community, RFI objectives, any interim measures being taken or planned at the facility, and upcoming events in the corrective action process. The second fact sheet should be prepared at the end of the RFI, and should summarize the final RFI report findings;
- Prepare **written notice** to potentially affected parties if a release of hazardous constituents that exceeds action levels (as defined under proposed 40 CFR 264.521) is discovered; and
- Hold **workshops**, **availability sessions**, or **open houses** to educate and speak with the community about the corrective action process, as well as how and when community members can become involved in the process.

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## Corrective Measures Study (CMS) and Remedy Selection

If the RFI indicates that remedial action is necessary, the facility will conduct a CMS to identify possible remedies. Once these are identified and documented in a Corrective Measures Report, the regulatory agency reviews the report and proposes a remedy. That is a good time for the regulatory agency to get public comments on the proposed remedy. It is current EPA policy to conduct the following activities:

- Write a **statement of basis** to identify and explain the proposed remedy;

- Provide **public notice** that a proposed remedy has been identified and is available for public comment. The notice should be published in a major newspaper and broadcast over local radio stations;
- Allow a 30-45 day **public comment period** on the proposed remedy following the public notice. The comment period provides the public an opportunity to comment on corrective measure alternatives contained in the statement of basis;
- Hold a **public hearing** if requested by the public; and
- Write a **final decision and response to comments**, which includes a summary of substantive comments received during the public comment period and an explanation of either how they were incorporated or addressed in the remedy selection. These should be placed in the Administrative Record for public review.

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## Remedy Implementation

Based on the results of the Corrective Measures Study and public comment on the proposed remedy, the regulatory agency will select a remedy for implementation. If the initial §3008(h) enforcement order did not include provisions to implement the selected remedy, a second §3008(h) enforcement order is issued to require the facility to design, construct, and implement the remedy.

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## Corrective Measures Implementation and Completion of Remedy

You should consider sending out a **summary fact sheet** that reviews the overall progress at the facility during the entire corrective action process. A summary fact sheet offering the community a synopsis of accomplishments at the facility may help citizens to understand and appreciate all aspects of the corrective action process, including the time necessary to carry out all activities. This information may also serve to instill a sense of trust within the community in your ability to complete a remedy, and may help pave the way for good relations in the future between the community and your agency.

## Chapter Summary

- In addition to the public involvement activities for RCRA permitting and modifications requirements for public involvement related to corrective action in permitting.
- The corrective action process can be divided into seven key steps (with corresponding suggested public involvement activities that are currently required or suggested):
  1. RCRA Facility Investigation
    - Update mailing list, if necessary
    - Revise public involvement plan
    - Develop fact sheets on the investigations
    - Hold informal meetings or workshops
  2. Corrective Measures Study
    - Hold informal meetings or workshops
    - Identify a contact person
    - Develop fact sheets on the study
    - Establish a hotline
  3. Proposed Remedy Selection
    - Follow 40 CFR 124 procedures for the permit modification
    - Hold workshop on proposed remedy
  4. Final Selection of Remedy
    - Send out notice of decision
    - Issue response to comments
    - Hold informal meetings or workshops
  5. Corrective Measures Implementation
    - Develop fact sheets on remedy implementation
    - Coordinate availability session/open house
  6. Completion of Remedy
    - Facility may request Class 3 modification to remove schedules of compliance from the permit
  7. Interim Measures (can take place anytime in the process)

## Chapter Summary (cont'd)

- The public can also comment on corrective action schedules of compliance in the draft RCRA permit at the time of permit issuance; there are also public involvement activities associated with permit modifications.
- Corrective actions can also take place under §3008(h) orders.
- The type and timing of public involvement activities for §3008(h) orders are generally the same as those for corrective action in permitting.
- There are three important distinctions between conducting public involvement 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 involvement activities are required under §3008(h) but they are strongly encouraged in guidance. In addition, the regulatory agency may require the facility to conduct additional public involvement activities as a term in the order; and
  3. Facilities may agree to conduct public involvement activities under a consent order, however, under a unilateral order public involvement responsibilities will likely fall to the regulatory agency.
- EPA strongly suggests conducting the following minimum activities:
  1. Developing a mailing list

After a proposed remedy has been selected:

  2. Writing a statement of basis
  3. Providing public notice
  4. Allowing a 30-45-day public comment period
  5. Holding a public hearing, if requested
  6. Making a final decision
  7. Responding to comments
- Additional public involvement activities during the various stages of corrective action may be helpful.

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# ● Chapter 5

## Public Involvement Activities: How to Do Them

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### Introduction

This chapter presents a "how-to" for a broad range of activities that can be used to promote and encourage public involvement in RCRA permitting or corrective action. Public involvement staff in the EPA Regional Offices or in State agencies are the intended audience for this chapter. However, RCRA technical staff as well as staff at RCRA facilities who may be asked to help with or to conduct specific public involvement activities should also find this chapter helpful.

The chapter provides brief summaries of each activity that describe what it is, how and when to conduct it, an estimate of how much effort it requires, and advantages and limitations of using it. Each summary includes a checklist to help you in conducting the activity. Examples of public notices and fact sheets are also provided.

The activities are grouped into four categories: planning, required activities, additional activities, and meetings.

Use this directory to locate specific activities:

#### Planning Activities

|                                       |         |
|---------------------------------------|---------|
| Community Interviews                  | p. 5-3  |
| Public Involvement Plan               | p. 5-8  |
| Revision of a Public Involvement Plan | p. 5-11 |

#### Required Activities

|                                |         |
|--------------------------------|---------|
| Mailing Lists                  | p. 5-14 |
| Public Notice                  | p. 5-18 |
| Fact Sheets/Statement of Basis | p. 5-24 |
| Public Comment Period          | p. 5-31 |
| Public Hearings                | p. 5-34 |
| Notice of Decision             | p. 5-41 |
| Response to Comments           | p. 5-43 |

## **Additional Activities**

|                                         |                |
|-----------------------------------------|----------------|
| <b>Introductory Notice</b>              | <b>p. 5-46</b> |
| <b>Information Repository</b>           | <b>p. 5-49</b> |
| <b>Exhibits</b>                         | <b>p. 5-53</b> |
| <b>News Releases</b>                    | <b>p. 5-56</b> |
| <b>Translations</b>                     | <b>p. 5-60</b> |
| <b>Use Existing Groups/Publications</b> | <b>p. 5-63</b> |
| <b>Contact Person</b>                   | <b>p. 5-66</b> |
| <b>Telephone Contacts</b>               | <b>p. 5-69</b> |
| <b>Door to Door Canvassing</b>          | <b>p. 5-72</b> |
| <b>News Conferences</b>                 | <b>p. 5-76</b> |
| <b>Facility Tours</b>                   | <b>p. 5-79</b> |
| <b>Telephone Hotline</b>                | <b>p. 5-82</b> |
| <b>Observation Deck</b>                 | <b>p. 5-85</b> |
| <b>On-Scene Information Office</b>      | <b>p. 5-88</b> |

## **Meetings**

|                                          |                 |
|------------------------------------------|-----------------|
| <b>Informal Meetings</b>                 | <b>p. 5-91</b>  |
| <b>Availability Sessions/Open Houses</b> | <b>p. 5-96</b>  |
| <b>Workshops</b>                         | <b>p. 5-99</b>  |
| <b>Briefings</b>                         | <b>p. 5-104</b> |
| <b>Presentations</b>                     | <b>p. 5-107</b> |

## **Summary of Public Involvement Techniques** **p. 5-110**

The planning activities can assist you in determining which public involvement activities are best for a particular facility. As Chapter 2 describes, these activities can be either a small or a large effort. The required activities listed above are discussed in Chapters 3 and 4, which explain where in the permitting and corrective action processes you would conduct these activities. The additional activities and meetings provide more options for providing information to the community and engaging the public in dialogue about activities at the facility. These are also referred to in chapters 3 and 4. Some of the additional activities require very little effort or resources to carry out, while others require substantial effort. Time estimates are given for each activity. Consider how much calendar time you will need to integrate these activities into the appropriate permitting schedule. Design a program to best address the information needs and concerns of the community. You are encouraged to implement interactive activities as much as possible.

## Planning Activities

- ✓ Community Interviews
- ✓ Community Evaluation & Needs Assessment
- ✓ Public Involvement Plan

### Schedule:

OCTOBER 1994

|    |    |    |    |    |    |    |
|----|----|----|----|----|----|----|
|    |    |    |    | 1  | 2  | 3  |
| 4  | 5  | 6  | 7  | 8  | 9  | 10 |
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 | 31 |

- ☐ Oct. 3 Interview
- ☐ Oct. 6 Interview
- ☐ Oct. 7 Fact Sheet
- ☐ Oct. 8 Public Meeting
- ☐ Oct. 15 Press Conference

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## Community Interviews

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### 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. Information obtained through these interviews is typically used to assess the community's concerns and information needs and to prepare a public involvement 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, schedule approximately four hours per interview for research and preparation, the interview itself, and follow-up activities. If time and/or resources are limited, you can conduct interviews by phone.

### How to Conduct the Activity

To prepare for community interviews:

1. **Identify potential people to interview.** If you have not compiled a mailing list, 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. Other agency staff 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.
2. **Determine how many interviews to conduct.** You are encouraged to conduct as many interviews as possible to obtain a broad range of perspectives and provide sufficient information to develop an effective public involvement plan. However, the actual number of interviews is likely to depend on the time and resources you have available 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 agency files that contain 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.
  - 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. Determine which communications tools are likely to be most effective -- e.g., mailings, meetings, broadcast media.
  - The best public meeting facilities and most relied upon media outlets.
4. **Arrange the interviews.** Telephone the people you have selected to interview 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. **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 involvement strategy. Explain that while the public involvement plan will be part of the administrative record established for the facility, 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.
2. **Identify other possible contacts.** During the discussions, ask for names and telephone numbers of other persons who are interested in activities at the facility.

3. **Gather information on past citizen participation activities.** Determine the interviewee's perceptions of past Agency or facility public outreach activities.
4. **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 wellbeing of community residents?
  - Agency credibility -- Does the public have confidence in the capabilities of the regulatory agency?
  - 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)?
5. **Assess how citizens would like to be involved in the RCRA permitting or corrective action process.** Briefly explain the RCRA public involvement 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.

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## When to Use

Community interviews should be conducted:

- Before developing a public involvement plan to gauge firsthand the community's level of interest and concerns in the facility.

- Before revising a public involvement 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, agency 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.

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### Accompanying Activities

As stated above, community interviews are conducted to gather information to develop an appropriate public involvement strategy 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 interviews. If one has not yet been established, the interviews themselves can provide the basis for the list.

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### 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 agency staff. 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 agency 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 involvement strategy is available in the repository

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## Public Involvement Plan

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### Description of Activity

A public involvement 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 assesses the level of community interest as well as the types of concerns identified through community interviews and other sources of information and recommends specific activities for involving the community in the RCRA process.

### Level of Effort

A Public Involvement Plan may take several days to two weeks to complete. 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 Involvement Plan is based on information collected during community interviews as well as information obtained from other sources such as file searches and reviews of past media coverage of the facility. This information is analyzed and organized into a community-specific plan. Typical sections of a public involvement plan are outlined below:

- 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.
- Community Concerns -- several paragraphs to several pages summarizing the concerns identified during the community interviews.
- Objectives of the Public Involvement 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 Involvement 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 involvement 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 listened to specific community concerns and developed a specific program around those concerns.

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## When to Use

Public involvement plans may be prepared:

- At the beginning of the RCRA process to schedule activities and assign responsibilities;
- After community interviews are completed.

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## Accompanying Activities

A public involvement plan cannot be developed without conducting at least some community interviews. The public involvement plan typically includes the mailing list and provides the locations of the information repositories and public hearings.

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## Advantages and Limitations

Public involvement 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.

Because the plan represents the Agency's commitment to dedicate significant resources to the activities specified, Agency staff should make certain that resources are available to implement all activities identified in the plan.

Community concerns can change significantly and may require that the public involvement plan be revised periodically. Community interviews may need to be conducted for each revision. Therefore, public involvement plans must be considered to be "evolving" documents. You should be prepared to revise activities or expand activities as the project proceeds.

### **Checklist for Public Involvement Plan**

- Review facility background file and other information sources
- Review comments gathered during the community interviews
- Write draft public involvement 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 Public Involvement Plan -- explains the major objectives of the plan relating to specific concerns outlined in the previous section of the document
  - Public Involvement 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 public involvement plan
- Prepare final plan based on comments received during internal review
- Distribute plan to information repositories

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## Revision of Public Involvement Plan

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### Description of Activity

Revisions of all or parts of the public involvement plan for a facility may be done in order to incorporate new information, reflect changes in community concern, and adjust public involvement 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 involvement activities were effective and which were not.

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### Level of Effort

Revision of a public involvement plan could take a few days to a week to complete. If additional interviews are needed, further time may be required.

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### How to Conduct the Activity

The process for revising a public involvement plan is similar to the process for writing the plan initially. Review new information obtained through new developments at the facility, new community interviews, or other events. Evaluate how this new information changes the community concerns and recommended public involvement activities outlined in the original plan. Revise and update the plan accordingly. Refer to the previous section for further information on the contents of public involvement plans.

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### When to Use

Public involvement plans should be revised:

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

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### Accompanying Activities

The response to comments document, which is prepared for major Agency decisions, is likely to provide some information for assessing changes in citizen concerns as a result of Agency actions. You should also conduct additional community interviews if you believe that significant changes in concerns and attitudes have taken place from the time the initial plan was written.

---

### Advantages and Limitations

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 involvement planner; for example, the contacts list can incorporate changes in addresses, new telephone numbers, and the names of new officials.

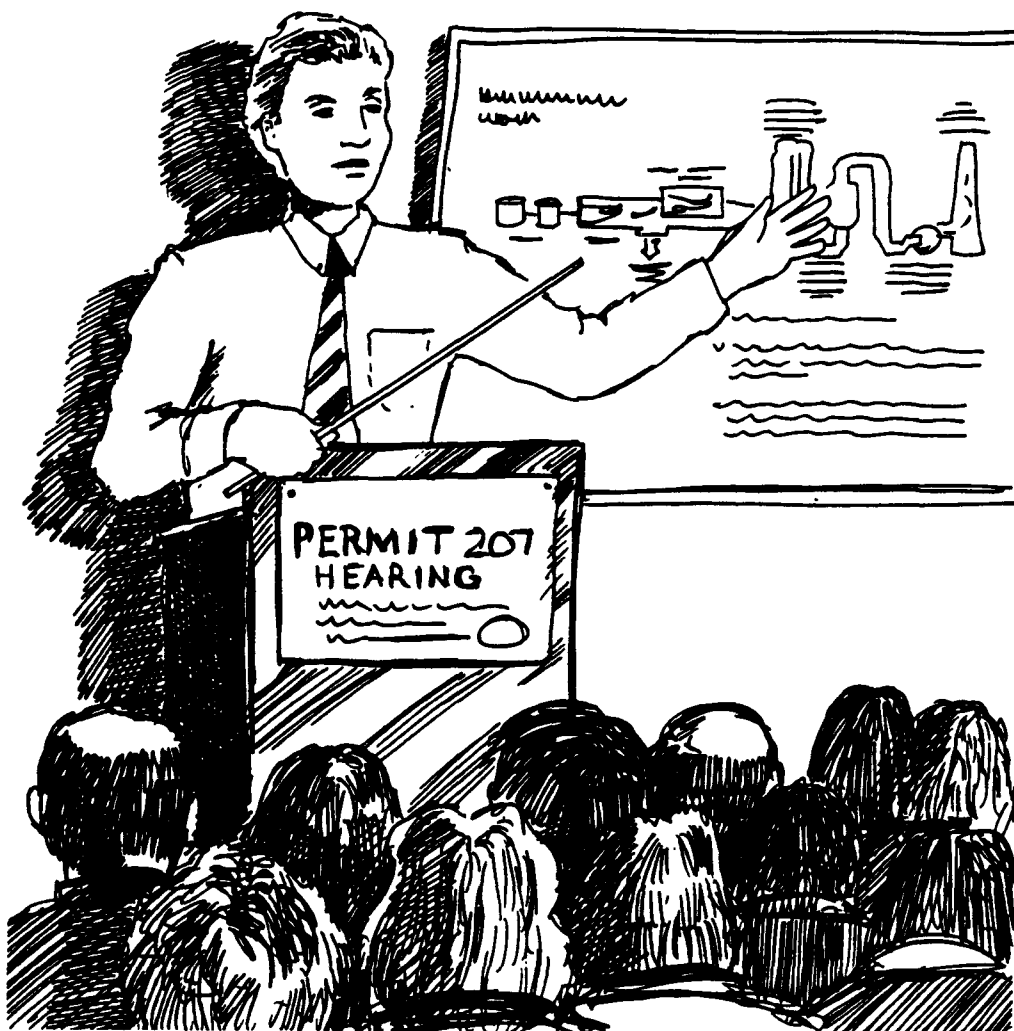
As with the original plan, Agency staff should make certain that there are resources available to implement all activities identified in the revised plan. Again, attention must be paid to changes in community issues, and activities should be revised accordingly.

### **Checklist for Revision of Public Involvement Plan**

- Determine need for revision of public involvement plan
- Review facility background file
- Determine the number of interviews to conduct and with whom
- Conduct the interviews
- Draft revisions to the public involvement plan
  - Introduction -- explains the purpose of the document
  - Project History -- reviews activities that have taken place since the initial plan was prepared
  - Community Concerns -- reviews concerns outlined in the original plan and describes changes that have taken place since the time the initial plan was written. This discussion is based on information obtained during community interviews and through public comments.
  - Objectives of the Public Involvement Plan -- explains the major objectives of the plan relating to specific concerns outlined in the previous section of the document
  - Public Involvement Activities -- describes the specific activities to be conducted to meet the objectives of the plan
  - Appendices -- updates information on key contacts, media, public meeting and information repository locations.
- Coordinate internal review of public involvement plan
- Prepare final plan based on comments received during internal review
- Distribute plan to information repositories

# Required Activities

- ✓ Mailing & Distribution Lists
- ✓ Public Notice
- ✓ Fact Sheets/Statements of Basis
- ✓ Public Comment Period
- ✓ Public Hearings
- ✓ Notice of Decision
- ✓ Response to Comments



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## Mailing Lists

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### 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 an agency to reach broad or targeted audiences with its messages. 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, 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 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.

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### Level of Effort

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

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### 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. 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 the 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, environmental organizations, health organizations, state organizations, universities);
- 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 agency 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.

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### When to Use

A mailing list is a required public involvement activity for permitting and is included in the proposed Subpart S corrective action rule.

- 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.

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### 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.

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### Advantages and Limitations

Mailing lists allow RCRA officials to maintain a listing of individuals and groups interested in activities at RCRA facilities. However, they can be expensive and time consuming to develop, and they require constant maintenance.

## Checklist for Mailing Lists

### Mailing List Development:

- ☐ Verify Agency format (i.e., name, title, company, address, phone number)
- ☐ Identify people to be included on the list:
  - ☐ 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 groups (i.e., League of Women Voters, government associations, churches, homeowner's 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

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## Public Notice

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### Description of Activity

Public notices provide an official announcement of proposed Agency decisions and provide the public with the opportunity to comment on the proposed decision. EPA decisionmaking regulations require the regulatory agency to give public notice for the following activities: draft notice of intent to deny a permit application; preparation of a draft permit. Owner/operators requesting permit modifications are responsible for issuing public notices for these modifications. Public notice requirements vary depending on whether the modification is a Class 1, 2, or 3 modification (see 40 CFR 270.42).

Separate public notices can be issued to announce public hearings, or these notices can be issued as part of the public notice for the agency decision. RCRA public notices must be published in a daily or weekly major local newspaper, broadcast over local radio stations, and sent to all persons on the mailing list.

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### Level of Effort

Preparing a public notice and arranging for its publication takes a day or two, depending on the need for review.

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### How to Conduct the Activity

To prepare a public notice:

1. **Identify the major media contacts.** While there may be many 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. Similarly, select radio stations with large audiences.
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.
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 Agency's decision;
  - Name, address and telephone number of an individual who can be contacted for further information on the action;
  - 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.
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 or various religious and non-religious holidays.
  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 the comment period.
  6. **If possible, review a typeset version of the notice before it is published to ensure accuracy.**
  7. **Arrange with the newspaper to provide you with at least one "tear sheet", or proof of publication, for your files.**

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## When to Use

As stated above, official public notices are required when the Agency prepares a draft RCRA permit, proposes to deny a permit, or modifies the permit. In addition, the Agency can use informal public notices to announce other major milestones or events in the permit review or corrective action process.

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## 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 as well as the availability of fact sheets.

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## Advantages and Limitations

Public notices are an efficient, simple means of alerting the public to important events. However, public notices should never substitute for other activities that involve direct communication with the public.

## Checklist for Public Notice

- \_\_\_ 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 from whom interested parties may obtain additional information
  - \_\_\_ Facility owner/operator and description of facility activities
  - \_\_\_ Purpose of public notice
  - \_\_\_ If applicable, date, time, and location of public hearing (or meeting)
  - \_\_\_ Description of the procedures governing the public's participation in the process
- \_\_\_ Draft public notice and public service announcement (for radio announcements)
- \_\_\_ Coordinate review of 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, and coordinate submission to radio stations

### For publication in local newspaper(s):

| <u>Name of Newspaper</u> | <u>Publication Days</u> | <u>Advertising Deadline</u> |
|--------------------------|-------------------------|-----------------------------|
| _____                    | _____                   | _____                       |
| _____                    | _____                   | _____                       |

- \_\_\_ 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

### For distribution to the mailing list:

- \_\_\_ Verify that facility mailing list is up-to-date

### **Checklist for Public Notice (continued)**

- ☐ Produce mailing labels
- ☐ Distribute to the mailing list

#### **For broadcast on local radio stations:**

- ☐ Verify media list
- ☐ Prepare procurement request or advertising voucher for public notice spots
- ☐ Obtain price quotes
- ☐ Distribute to radio stations
- ☐ Request proof of airing and file in facility file

## SAMPLE

**PUBLIC NOTICE  
REGARDING  
U.S. DEPARTMENT OF ENERGY  
ABANDONED INDIAN CREEK OUTFALL,  
KANSAS CITY, MISSOURI**

The U.S. Environmental Protection Agency (EPA) is seeking public comment on the Resource Conservation and Recovery Act (RCRA) Facility Investigation, Corrective Measures Study, and Statement of Basis for initiating contaminated soil and ground water corrective measures at the U.S. Department of Energy (DOE) Abandoned Indian Creek Outfall subsite in Kansas City, Missouri. The outfall is just south of the main DOE plant between 95th Street and Bannister Road.

Field and test work conducted in 1987 and 1989 at the outfall have demonstrated excessive levels of polychlorinated biphenyls (PCBs), surpassing public health and environmental standard criteria. The goal of the corrective-action proposal is to remove the threat to the public around the outfall area by reducing the concentration of PCBs.

The EPA and the Missouri Department of Natural Resources concur with DOE's proposed methods of remediation:

- Excavation and removal of PCB-contaminated soil.
- The disposal of all non-liquid PCB-contaminated soils by placement in an EPA permitted chemical waste landfill.

These methods of remediation are detailed in the "RCRA Facility Investigation/Corrective Measures Study For the Abandoned Indian Creek Outfall" report and were selected based on the Alternative Rating System. The Alternative Rating System is based on technical, human health, environmental and cost-effectiveness criteria.

Citizens will have the opportunity to comment on the proposal at a public hearing at 7:30 p.m. September 20, 1990, in the Galleon Room of the Ramada Inn Southeast, 6101 East 87th Street, Kansas City, MO.

The RCRA law emphasizes the importance of public input of EPA actions at RCRA sites. A final decision on this remedy will not be made until all interested members of the community have had an opportunity to review and comment on the RCRA Facility Investigation, Corrective Measures Study, and Statement of Basis. A 45-day public comment period is open from August 22, 1990 to October 5, 1990. Written comments should be submitted to:

Kenneth S. Ritchey  
U.S. Environmental Protection Agency  
RCRA Branch  
726 Minnesota Avenue  
Kansas City, Kansas 66101

The administrative record file is available for public review at the following locations:

Red Bridge Branch of the Mid-Continent Library  
11140 Locust  
(Red Bridge Road and Locust in the Red Bridge Shopping Center)  
Kansas City, Missouri  
Hours: Monday-Thursday 9 a.m. - 9 p.m., Friday 9 a.m.-  
6 p.m., Saturday 9 a.m. - 5 p.m.

Phone: 816 942-1780

and

U.S. EPA Region VII Library  
726 Minnesota Avenue  
Kansas City, Kansas  
Hours: Monday-Friday, 8 a.m. - 5 p.m.

Phone: 913 551-7241

An official determination will be made regarding the preferred remediation method after reviewing comments made by the public. If you have any questions, you may contact Mr. Ritchey at (913) 551-7641.

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## Fact Sheets/ Statements of Basis

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### Description of Activity

Fact sheets and statements of basis summarize the current status of a permit application or corrective action. They present technical and/or procedural information in a format that uses clear and understandable language. They can vary in length and complexity from simple two-page documents to 12-page documents complete with graphic illustrations and glossaries.

Fact sheets are useful for informing all interested parties about the basis for the 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. The statement of basis summarizes the information contained in the RFI/CMS reports and the administrative record, and is 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 regulatory agency has taken into consideration all comments from the public. An important function of the statement of basis is to solicit public comment on all possible alternatives (alternatives not evaluated in the CMS may be proposed by the public at this time).

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## 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 EPA.

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## How to Conduct the Activity

The first step in preparing a fact sheet is to determine the information to be presented. EPA decisionmaking regulations require that RCRA permit fact sheets contain the following types of information:

- A brief description of the type of facility or activity which is the subject of the draft permit;
- The type and quantity of wastes covered by the permit;
- A brief summary of the basis for the draft permit conditions and the reasons why any variances or alternatives to the 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. 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 a fact sheet or statement of basis that has been typeset with clear, informative illustrations. Moreover, a well-designed document suggests that the Agency takes its public involvement 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. Public involvement staff should review them to ensure that the communication goals are being met.

Arrange for printing.

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.

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## When to Use

While fact sheets 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, a new technology, or an emergency action.

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

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## 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.

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## Advantages and Limitations

Fact sheets and statements of basis are effective in summarizing facts and issues involved in permitting and corrective action processes. These documents allow the regulatory agency to communicate a consistent message to the public and the media. Produced throughout the permitting or corrective actions processes, they serve to educate 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 can be produced relatively inexpensively and 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. Fact sheets and statements of basis also 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 Sheet/Statement 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

# FACT SHEET



## POST-CLOSURE PERMIT BLACK HAWK COUNTY LANDFILL WATERLOO, IOWA

JULY 1990

The Black Hawk County Landfill has applied for a post-closure permit relating to the hazardous wastes disposed of in the landfill from the time it was opened in the mid-1970s until 1985. The U.S. Environmental Protection Agency (EPA) has made a tentative decision to issue the permit.

The landfill is on Washburn Road in the southern portion of Black Hawk County, Iowa. Wastes disposed of in the landfill included hazardous wastewater treatment sludges, baghouse dust, spent solvents, and wastes containing heavy metals.

**Procedures for Reaching a Final Decision:** All facilities that treat, store or dispose of hazardous wastes are required to obtain a permit under the Resource Conservation and Recovery Act (RCRA). EPA will make the final decision on the RCRA post-closure permit after a 45-day public comment period. Written comments received during the comment period, the requirements of the hazardous waste regulations, and EPA's permitting policies will be considered.

When EPA makes a final decision, notice is given to the applicant and to each person who submits written comments or requests notice of the decision. If none of the commenters request a change in the draft permit, the final permit becomes effective when it is issued. If changes are requested, the final permit becomes effective 30 days after notice of the decision or at a later date if a review of the permit is requested.

**Conditions in the Draft Permit:** EPA has included conditions for monitoring the ground water to detect movement of hazardous constituents from the landfill and actions that must be taken if these constituents are detected in the ground water. The permit also includes requirements to inspect and maintain the cap covering the wastes in the landfill.

**Proposed Permit Availability:** The administrative record on the draft permit is available for public review. It includes the draft permit, Black Hawk County Landfill's permit application, and other background information.

The administrative record will be available from July 25 to September 10 at the reference desk of the Waterloo Public Library, 415 Commercial, Waterloo, Iowa; the EPA Region 7 Library, 726 Minnesota Avenue, Kansas City, Kansas; the Iowa Department of Natural Resources, Air

Quality and Solid Waste Protection Bureau, Wallace State Office Building, 900 East Grand Des Moines, Iowa; and the Iowa Department of Natural Resources Region 1 Office, 209 North Franklin Street, Manchester, Iowa.

**Opportunities for Public Comment:** Citizens are invited to comment on the draft permit. The comment period will begin with a public notice in the Waterloo Courier July 25 and end September 10, 1990.

Comments must be received during the comment period. Interested citizens will also have a opportunity to comment on the draft permit verbally or in writing at a public hearing Tuesday, August 28, 1990. The hearing will be at 7 p.m. in the Waterloo City Council chambers, 715 Mulberry Street. All correspondence or questions concerning the draft permit should be directed to Ken Herstowski, EPA Region 7, RCRA Branch/IOWA Section, 726 Minnesota Avenue, Kansas City, KS 66101. Copies of the draft permit and additional copies of this fact sheet may be obtained by writing to Mr. Herstowski, by calling him at (913) 551-7058, or by calling Region 7's toll-free Environmental Action Line, (800) 223-0425.

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## Public Comment Period

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### Description of Activity

A public comment period is a designated time period in which citizens can formally review and comment on the agency 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.

### 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 **Public Notice** summary on page 5-18 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 regulatory agency as well as Class 3 modifications requested by the facility. Comment periods for Class 1 and Class 2 modifications are discussed in chapters 3 and 4.

### Accompanying Activities

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.

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## Advantages and Limitations

Public comment periods allow citizens to comment on regulatory agency proposals and to have their comments incorporated into the formal public record.

However, public comment periods only allow indirect communication between citizens and agency officials because, in some cases, the formal responses to the comments may not be provided for some time. Also, in some cases, comments may not be responded to individually. A public involvement program should provide other activities that allow dialogue between agency officials and the community.

### **Checklist for Public Comment Period**

- 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

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## Public Hearings

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### Description of Activity

Public hearings provide an opportunity for the public to provide for comments and oral testimony on proposed Agency actions.

Occasionally the Regulatory 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 is intended for two-way discussion between regulators and the community and is not recorded for the public record.

Public meetings are sometimes offered in conjunction with public hearings to afford community members an opportunity to ask questions of the Regulatory Agency prior to submitting oral or written comments. Because there are no formal time limits for a public meeting, as there generally are for a public hearing, public meetings are the preferred forum for discussing detailed or complex issues. In this way, public meetings can be used to educate the public as well as provide an opportunity for the community and the regulatory agency to communicate informally. Ideally, a public hearing will follow a public meeting.

Permittees have no role during a hearing. The hearing is a regulatory requirement of the permitting agency.

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### 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.

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### 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 in the evening or on a weekend to 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. 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 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 is 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 should establish any time limits on a

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 regulatory 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 regulatory agency should be those who will be most involved with making the actual decision -- that is the permit writer, and more 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 briefly explaining the decision being made (e.g., "We are here to discuss a proposed modification to the facilities permit to conduct the following activities...").

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## 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-days 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.

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## 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, a Response to Comments must be prepared. This documents all public comments submitted and includes the agency's responses to these comments. 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.

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## Advantages and Limitations

A hearing provides a record of communication so citizens can be sure that their concerns and ideas reach the 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 the public earlier with access to information and opportunities for involvement. Earlier opportunities should answer most questions and arguments that are based on emotion or sensationalism, thereby freeing the hearing for factually based questions. The public may be reluctant to become actively involved in the permit process or corrective action issues. 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.

A high level of citizen concern may precipitate a disorderly public hearing, because the hearing provides a platform for citizen groups to present their positions. The hearing 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

- ☐ 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

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## Notice of Decision

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### 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 a Subpart S 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 should 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 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 Notice 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

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## Response to Comments

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### 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 Agency's final decision and how public comments were considered.

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### 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.

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### 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.

In addition, the Response to Comments should include a summary that includes 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.

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### When to Use

A response to comments is required for all final permit decisions.

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### Accompanying Activities

A response to comments usually accompanies the notice of decision.

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### Advantages and Disadvantages

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 involvement efforts and planning for subsequent activities.

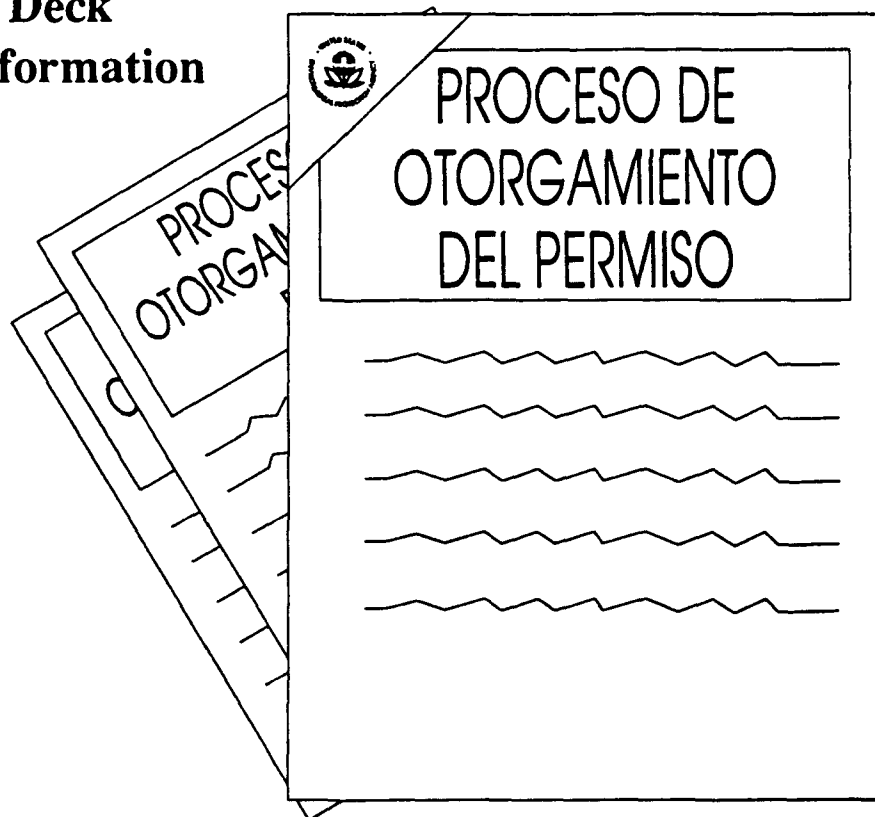
Comments may be difficult to respond to at times, like when the public raises new issues, questions, or technical evidence during the public comment period. EPA may need to develop new materials to respond to these questions.

## **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:
  - ☐ 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

## **Additional Activities**

- ✓ **Introductory Notice**
- ✓ **Information Repository**
- ✓ **Exhibits**
- ✓ **News Releases**
- ✓ **Translations**
- ✓ **Use Existing Groups/Publications**
- ✓ **Contact Person**
- ✓ **Telephone Contacts**
- ✓ **Door-to-Door Canvassing**
- ✓ **News Conferences**
- ✓ **Facility Tours**
- ✓ **Telephone Hotline**
- ✓ **Observation Deck**
- ✓ **On-Scene Information Office**



The illustration shows a stack of three forms. The top form is titled "PROCESO DE OTORGAMIENTO DEL PERMISO" in a rectangular box. To the left of the title is a circular logo containing a stylized anchor or similar symbol. Below the title box, there are five horizontal wavy lines, likely representing a space for a signature or a series of checkboxes. The forms are slightly offset, showing the edges of the ones underneath.

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## Introductory Notice

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### Description of Activity

An introductory notice explains the agency's permit application review process or the correction action process and the opportunities for public involvement 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. 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 that 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 the agency if they would like additional information or to be placed on the facility 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.

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## 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 Notice**

- ☐ Determine how you will distribute the notice.
  - ☐ Public notice in newspaper
  - ☐ Fact sheet or flier sent to the mailing list
- ☐ Prepare draft introductory notice
- ☐ 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

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## Information Repository

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### Description of Activity

The information repository is a collection of documents related to the permit or corrective action. It is located in a convenient, public facility such as a library so that interested members of the public can easily review all relevant information on the facility and the nature of the proposed permit or corrective action activities.

### Level of Effort

Depending on the amount of documentation available, 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.

### How to Conduct the Activity

To establish an information repository:

1. **Determine a suitable location.** One or more locations may be identified during community interviews. Typical locations are local public libraries, town halls, or public health offices. Ensure that someone is identified as the information repository contact who can make sure that the information is kept 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 itself, and the other in the county seat. At least one repository should be open during evening hours and on weekends. The repository should also be accessible to the handicapped.

2. **Select and deposit the materials to be included in the file.** At a minimum, the repository for RCRA activities should include copies of the following:
  - Background information on the company or facility;
  - 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; and
- Copies of relevant RCRA guidance and regulations.

The following materials also are strongly suggested for the repository:

- 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; 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).

The documents should be organized 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.** 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.** For some projects that are of high community interest, or are controversial, several copies of key documents may need to be provided so that they can circulate within the community by being checked out of the repository.

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## When to Use

An information repository is recommend:

- When the regulatory agency requires the facility to establish an information repository; and
- When interest in the facility is high and the public needs convenient access to relevant facility documents.

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## Accompanying Activities

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

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## Advantages and Disadvantages

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 officials are 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 the agency and citizen. The information repository also includes technical documents, which may be difficult for citizens to understand.

### **Checklist for Information Repository**

- ☐ Determine location of Information Repository
- ☐ Establish contact with the director of the location determined above
- ☐ Mail a letter to the director confirming the location of the Information Repository
- ☐ 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
- ☐ Place public notice in local newspaper(s) indicating the availability of the Information Repository
- ☐ Update the Information Repository as key public documents are available and at key technical milestones

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## Exhibits

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### Description of Activity

Exhibits are visual displays such as maps, charts, diagrams, or photographs. These may be accompanied by a brief text explaining the displays and the purpose of the exhibit. Exhibits allow you to illustrate in a creative and informative display issues such as health risks or proposed corrective actions. They make technical information on the RCRA program more accessible and understandable.

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### Level of Effort

Exhibits may take from one day to one week to write, design and produce depending on the complexity of the exhibit. Allow time for review of the exhibit's design and concept. Short Cut: EPA has developed a set of generic posterboards that may be used as part of an exhibit.

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### How to Conduct the Activity

To develop and display an exhibit:

1. **Identify the target audience.** Possible audiences include:
  - General public;
  - Concerned citizens;
  - Environmental 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 involvement 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 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.

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## 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).

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## Accompanying Activities

Exhibits are useful to display at public meetings or public hearings. If an observation deck is installed at a site, a nearby exhibit could explain corrective action or compliance activities under way.

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## 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 a one-way communication tool. One solution to this drawback is to attach blank postcards 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 who can answer questions during working hours. However, these requests must be answered or citizens may perceive the Agency as unresponsive to their concerns.

### 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

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## News Releases

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### Description of Activity

News releases are statements released to the news media that discuss RCRA-regulated actions. News releases allow the Agency to publicly announce 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, and describe how citizen concerns were considered in the permit decision or corrective action. Coordinate with the public affairs office to take on media contact responsibilities.

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### Level of Effort

News releases generally take eight hours to write, review, and distribute to the media.

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### How to Conduct the Activity

To prepare news releases:

1. **Consult with external affairs personnel who regularly work with the local media.** External affairs personnel will assure that you adhere to agency policy on news releases. They will assist in drafting the release and can provide other helpful suggestions.
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.
3. **Contact other involved agencies at the Federal, State, and local level** to ensure that all facts and procedures are coordinated and correct before releasing any statement. However, draft news releases should not be shared -- they are internal documents.
4. **Select the information to be communicated.** Place the most important and newsworthy elements up front and present additional information in descending order of importance. For example, a new release prepared when a draft permit is completed should contain the following facts:
  - Name of the facility applying for the permit;
  - Statement of why the activities are subject to the permit;
  - Statement of what regulations are being met by the permit; and
  - Next steps.

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 or other sources for relevant documents.

5. **Be brief.** Limit the news release to essential facts and issues.
6. **Use simple language.** Avoid the use of professional jargon, overly technical words, and acronyms.
7. **Identify the agency issuing the news release.** The top of the sheet should include:
  - Name and address of the issuing agency;
  - 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 action taken.
8. **In some cases, send copies of the release to local officials and citizen group leaders** at the same time the release is given to the news media. Coordinate with the public affairs office to determine appropriateness.

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## When to Use

Some of the occasions when you may want to issue a news release include:

- When significant findings are made at the site or during the process;
- When program milestones are reached;
- When schedules are delayed;
- Before a public meeting to announce subject, time, place; and
- A news release should not 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).

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## Accompanying Activities

News releases can accompany any formal public hearings or public meetings held by the Agency. They commonly accompany news conferences. They should include the name of the contact person should interested reporters want more information.

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## Advantages and Limitations

A news release to the local media can reach a large audience quickly and inexpensively. 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 agency activities.

News releases also can not 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 **Public Notice** summary on page 5-18.

## Checklist for News Releases

- Coordinate news releases with the Agency Public Affairs Office
- Determine purpose of news release
- Coordinate writing and distribution of release with the public involvement coordinator
  - 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 --.
- Coordinate internal review of news release
- Prepare final news release based on review comments
- Distribute news release to local media

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## Translations

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### Description of Activity

Translations provide written or verbal information in a foreign language to a predominantly non-English speaking community. 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.

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### 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.

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### 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 involvement activities being planned. Consider whether citizens' ability to take part in a public involvement 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 verbal 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. If possible, arrange to have another person, preferably a staff member who can speak or read the foreign language, check the translator's work to ensure that the content and tone are in keeping with the agency's 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.

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## When to Use

A translation can be used:

- When a large percentage of the community is non-English speaking. 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 lead agency's efforts to communicate with community members.

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## Accompanying Activities

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

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## Advantages and Limitations

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

Translations are very costly, especially simultaneous translations of public meetings. Sentence-by-sentence verbal 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, much less trained in, the RCRA permitting and corrective action processes. For facilities having highly volatile or sensitive problems, it may be difficult to communicate the lead agency'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

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## Using Existing Groups/Publications

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### Description of Activity

You can use the publications and mailing lists of established local, civic or community organizations as vehicles to inform a community of site activities.

### Level of Effort

Identifying and using existing groups and their publications may take approximately two to four hours each time you determine the need to use these publications.

### How to Conduct the Activity

To use existing groups/publications:

1. **Identify existing groups and publications.** Groups that may help to publish information to the community or in organizing meetings include:
  - Local civic or environmental groups;
  - Rotary clubs;
  - Church organizations;
  - Local trade associations, farmers' associations, and cooperatives;
  - The League of Woman Voters; and
  - Local water companies or other independent agencies or utilities.

Some types of appropriate publications may include:

- Newsletters, newspapers, magazines, or bulletins;
  - Newsletters of homeowners' associations; and
  - Local/community independent or commercial newspapers.
2. **Contact groups/editors to determine if they are willing to provide mailing lists, publish site information, or organize meetings.** Just as important is the need to determine whether such groups are appropriate for communicating agency information. By publishing information through a group that has a specific political interest or bias, the agency may be perceived as endorsing these views. Groups that are "friendly" also may be inappropriate if they appear to represent the agency's interests.

Make sure that the relationship between the Agency and any group is clearly understood by both the group itself and by the public.

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## When to Use

Use existing groups and publications:

- When the RCRA process starts, to establish contacts and develop a mailing list;
- When meeting announcements or brief, non-technical statements, are distributed; and
- When resources for production of your own publications are limited.

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## Accompanying Activities

Existing groups and their publications may be useful for identifying individuals for purposes of community interviews, mailing lists, and door-to-door canvassing efforts.

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## Advantages and Limitations

The principal benefit of using existing groups and publications is that they provide access to an established communication network. Less time and expense will be needed to develop mailing lists and to organize meetings.

Working too closely with existing groups, or working exclusively with just one group, may be misperceived by other groups within the community.

### **Checklist for Using Existing Groups/Publications**

- ☐ Identify existing groups and publications
  - ☐ Contact existing groups
  - ☐ Determine if the publication editors are willing to provide mailing lists or publish site information
  - ☐ Document all calls
- ☐ Provide information to the groups as it becomes available

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## Contact Person

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### Description of Activity

The contact person is one designated staff member who is responsible for responding to questions and inquiries from the public and the media.

### Level of Effort

The amount of time that the contact person spends responding to citizen concerns and questions will depend on the level of interest the community has regarding the facility's permit or corrective action activities. A contact person may spend several 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

Designate a contact person for each permit or corrective action who will respond to citizens' requests for information, answer their questions, and address their concerns on any aspect of the permit or cleanup process. If citizens are able to interact with the same staff person throughout the RCRA process, they may gradually develop more trust and confidence in Agency actions.

When a contact person is assigned to a facility:

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 these 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 all agency staff members and liaisons of other offices who are involved with the facility the name, address, and phone number of the contact person.** Let staff members know they may be approached for information and that they should coordinate the release of information with the contact person.
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.

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## Accompanying Activities

Designation of the contact person should be announced in news releases and fact sheets. The contact person also should be responsible for making sure that the facility's information repository, if required, is kept up-to-date.

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## Advantages and Limitations

A contact person can assure citizens that the Agency 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; his or her role may be limited to providing information and facilitating communication between appropriate Agency staff and citizens. If, for any reason, the identity of the contact person changes, it is important to inform the community about this change quickly and to designate a replacement as soon as possible.

### **Checklist for Contact Person**

- Determine agency official to serve as contact person for the facility:  
\_\_\_\_\_
- Notify media of the name, mailing address, and phone number of the contact person
- Inform all agency staff members and liaisons of other offices who are involved with the facility
- Have contact person maintain a log book of all citizen requests and comments received

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## Telephone Contacts

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### 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.

### 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 summary on community interviews (page 5-3) 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 or citizens 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 involvement activities such as news briefings, informal meetings, and presentations.

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## 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 agency 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
  - ☐ Concerned citizens
  - ☐ Media
  - ☐ Environmental 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

### **Ongoing contacts:**

- ☐ Maintain up-to-date telephone contact list
- ☐ Prepare information to discuss on telephone before each set of calls

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## Door-to-Door Canvassing

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### Description of Activity

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Door-to-door canvassing allows you to distribute information by calling on community members individually and directly to provide fact sheets or other materials and discuss the facility.

### Level of Effort

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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. You will need to send canvassers in pairs in areas where there may be a lot of contention or in high crime areas. Allow at least a day to plan for the door-to-door canvassing. 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

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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** in the designated area that staff members will be calling door-to-door in the area and explaining when canvassers will be in the neighborhood and the purpose of the canvassing program. Advance notice will reduce the suspicions of residents and encourage their cooperation. Also, notify city officials so they are aware of the door-to-door canvassing.
3. **Provide canvassers with the information they will need** to know 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. 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 written fact sheets or other written materials.

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.

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## 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 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 area has a low literacy rate and written materials aren't useful to the community;
- 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.

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## 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.

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## Advantages and Limitations

This activity involves face-to-face contact, thereby ensuring that citizens' questions can be directly and individually answered.

Canvassing demonstrates to the community that you are committed to public involvement, and is a very effective means of gathering accurate, detailed information.

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 not typically 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. You may need additional staff so that people can work in teams of two or three people or you may need to hire security to travel with your staff.

### **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 utilizing 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 an agency 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
- Sent thank you letter to all residents in the canvassed area

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## News Conferences

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### 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 at the same time. Enlist the aid of the Regional Public Affairs Office as the media contact should be coordinated through the Public Affairs Office rather than the RCRA Program Office.

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### Level of Effort

Allow one to two days to prepare for, rehearse, and conduct a news conference.

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### How to Conduct the Activity

To conduct news conferences:

1. **Coordinate all media activity through the agency public affairs office.** Public affairs personnel will assure that you adhere to agency 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 results, and preliminary information other public involvement techniques such as **fact sheets**, **news releases**, and **public meetings** may be more appropriate. A news conference announcing preliminary results of technical studies may unnecessarily add 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 underscores the agency's responsiveness and 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 agency decisions by reviewing the corrective action 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 agency officials, local officials, and any other experts present. Have technical staff on hand to answer any technical questions. Decide ahead of time who will answer what types of questions.

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## 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.

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## 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.

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## Advantages and Limitations

News conferences provide a large public forum for the agency to announce plans and 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, the agency 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 the Agency Public Affairs Office
- ☐ 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

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## Facility Tours

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### Description of Activity

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

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### Level of Effort

Facility tours generally take a day to plan and conduct.

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### How to Conduct the Activity

To conduct facility tours:

1. **Coordinate tours with the facility.**

- 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, 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;
- Representatives of local citizen or service groups; and
- Representatives of local newspapers, television stations, 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.

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## 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.

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## Accompanying Activities

Fact sheets and 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 showing activity and operations at the facility. This would be effective in cases where tours cannot be conducted for safety or other reasons.

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## 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 the community and the agency.

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

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## Telephone Hotline

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### Description of Activity

A hotline is a toll-free telephone number in an agency office that provides citizens with an opportunity to ask questions and obtain information promptly about RCRA activities.

### 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 citizen 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 citizens reaching a busy signal when they call. If staff are not available throughout the day, install an answering machine directing citizens to leave their name, number, and brief statement of concern, and informing them that an agency official will return their call promptly. 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 written 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 citizen 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).

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### Accompanying Activities

The hotline can supplement all other public involvement activities.

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### Advantages and Limitations

A hotline can provide citizens with a relatively quick means of expressing their concerns directly to the agency and getting their questions answered. This quick response can help to reassure citizens that the agency is listening to their concerns. A telephone hotline also can help monitor community concerns. A sudden increase in calls could indicate that additional public involvement efforts may be warranted.

Citizens calling the hotline must receive responses to their questions or concerns quickly, or they may become frustrated with the agency. If the number of calls is large, responding quickly to each inquiry could prove burdensome to agency staff. Furthermore, dialing a hotline number and receiving a recorded message on the hotline could irritate or alienate some members of the public.

### **Checklist for Telephone Hotline**

- ☐ 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 citizens of availability of telephone hotline
  - ☐ Public notice
  - ☐ Fact sheet
  - ☐ Mailing to facility mailing list
- ☐ Coordinate staffing of hotline
- ☐ Follow-up on calls to hotline

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## Observation Deck

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### 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

An observation deck may be a time-intensive activity depending on the deck's hours of operation. You could spend up to 40 hours a week staffing the deck. Short Cut: Consider hiring a contractor to staff the deck.

### How to Conduct the Activity

To use an observation deck:

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 the observation deck with the facility.** Determine the best location for the observation deck keeping in mind safety issues. Coordinate construction of the deck.
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.

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### Accompanying Activities

An observation deck could complement periodic facility tours or an on-scene information office. Citizens can initially be educated 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.

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### 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 Deck**

- ☐ 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

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## On-Scene Information Office

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### Description of Activity

An on-scene information office is a trailer (or small building) on the facility site staffed by a full-time or part-time person 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 an agency representative is there for some specified period during the week.

### How to Conduct the Activity

To provide an on-scene information office:

1. **Rent a trailer** or arrange with the owner of the facility to designate space in the facility to be used as an office and launching area.
2. **Install a telephone** and an answering machine to respond to inquiries and publicize the number in local newspapers and your public involvement publications.
3. **Assign someone to staff the trailer.** Establish **regular** hours, including some during the weekend and weekday evenings. Publicize the trailer's hours and the services it offers.
4. **Equip the trailer with the same materials normally contained in an information repository.** Equip the office with 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.

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## Accompanying Activities

The on-scene staff person can conduct meetings to inform citizens about the status of the corrective actions and prepare and distribute fact sheets and weekly news updates to local residents. They also can conduct facility tours and man telephone hotlines. With the telephone contacts they make, they can add to and update mailing lists and revise public involvement plans.

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 involvement activities may represent a large part of their function. In addition to distributing information to local residents, on-site staff will be responsible for maintaining data bases of residents' addresses, the status of access to property, and a daily log of citizen inquiries. It is important that on-site staff monitor public perceptions and concerns daily. On-scene staff often can make useful recommendations to the agency regarding citizen concerns. Finally and perhaps most importantly, on-site staff members will frequently serve as a liaison between the public and other agencies at the Federal, State, and county levels, as well as facility owners and contractors.

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## Advantages and Limitations

An on-scene information office can be an effective activity for ensuring that citizens are adequately informed about the agency's actions 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 Office**

- ☐ Determine need for an on-scene information office
- ☐ Identify staff to work in information office
- ☐ Rent a trailer or space at the facility 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 citizens 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 citizen calls

# Meetings

- ✓ Informal
- ✓ Availability Sessions/Open Houses
- ✓ Workshops
- ✓ Briefings
- ✓ Presentations



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## Informal Meetings

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### Description of Activity

Informal meetings are meetings with individual groups that the agency has identified as having particular interest in the facility. 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 state and local officials, while citizens have the opportunity to ask questions and explore topics of interest regarding the facility in question.

Public meetings 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 page 5-34 for a further description of public meetings.)

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### 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.

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### How to Conduct the Activity

To conduct informal meetings:

1. **Identify interested citizens and officials.** Contact each citizen group and local agency that is directly affected by the facility, or contact individuals who have expressed concern regarding the facility. 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 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 community members and officials are interested than expected, 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 or public library meeting room 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. 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 citizens' work schedules.
4. **Begin the meeting with a brief overview.** This short presentation should include a summary of the permit review schedule and how the public 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 decision-makers** (major agencies and individuals responsible for enacting and enforcing RCRA regulations.) Citizens 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 citizens want done. Some concerns may be addressed by making minor changes in the agency's 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.**

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### 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 the agency;
- When groups want to discuss specific issues in detail in which the community as a whole isn't interested.

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### Accompanying Activities

Community interviews or phone calls 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.

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### Advantages and Limitations

The primary benefit of informal meetings is that they allow two-way interaction between citizens, local officials, and the agency. Not only will citizens be informed about the developments, but 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 both citizens and officials a chance to increase their familiarity with how the process works, increase awareness of each others point of

view, and actively promote public participation. Informal meetings also may diffuse any tension between the community and the agency.

Some opposition groups may perceive the agency's 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 additional informal meetings with those organizations who express concern about being left out of the process.

Irate groups or individuals also may accuse agency staff of telling different stories to different groups at these small meetings. The agency can avoid this criticism by inviting a cross-section of interests to each small meeting or by having a large public meeting. Alternatively, agency staff can keep a written record of the informal discussions and make it available upon request. A record of discussions is required for any legally-required meetings held during the public comment period.

## Checklist for Informal Meetings

- ☐ 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

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## Availability Sessions/Open Houses

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### Description of Activity

Availability sessions/open houses are informal meetings in a public location where people can talk to agency officials on a one-to-one basis. The meetings allow citizens to ask questions, express their concerns directly to project staff, and accommodate individual schedules.

### 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 agency 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, 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 posterboards, 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 agency 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 agency staff and rehearse for the session.** Anticipate questions that may be asked during the session and prepare answers.

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## 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 agency credibility with the community;
- When staff is available; and
- When larger crowds will make it difficult for certain members of the public to raise questions.

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## Accompanying Activities

Exhibits and fact sheets can provide background information that enables citizens to ask more informed questions about the site during the availability session/open house.

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## 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 agency staff. An informal, neutral setting will keep officials and the public relaxed and make communications smoother.

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

- ☐ 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 agency officials to attend availability session/open house:
- ☐ 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 information material for availability session/open house

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## Workshops

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### 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 on 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 the public's understanding of permit conditions or hazardous waste problems at a facility and to prevent or correct misconceptions. Workshops also may enable agency staff to identify citizen concerns and to receive citizen's comments.

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### 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.

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### 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 agency personnel 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 site 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.

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## 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 need 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 they understand the material.

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## 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 be used at workshops.

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## 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, agency staff 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

- ☐ Determine purpose of workshop \_\_\_\_\_
- ☐ Determine number of attendees \_\_\_\_\_
- ☐ 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, lavalier)
  - ☐ 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

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## Briefings

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### Description of Activity

Briefings are held with key state and local officials to inform them of 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. Agency staff conduct these sessions in person, and the briefings usually precede release of information to the media or occur before a public meeting.

### 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 key state and local elected and agency officials** 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 or a conference room. 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 announce 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 by state and local officials, find out in advance the information they seek and prepare to answer these and related questions.

### When to Use

Briefings are appropriate:

- When state or local officials have expressed a moderate to high level of concern about the facility;
- 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.

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## Accompanying Activities

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

## Advantages and Limitations

Briefings allow state and local officials to question the agency directly about any action prior to public release of information regarding that action. By doing so, officials and citizen leaders will be prepared 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 involvement process. Avoid the perception that the agency may be trying to bury facts or favor special interest groups.

Although briefings can be an effective tool for updating state and local officials and community leaders, they always should be complemented by activities to inform the general public, such as informal meetings, 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

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## Presentations

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### Description of Activity

Presentations are speeches or panel discussions 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 and explain how the agency will address these issues and involve the community in the process.

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### 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.

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### How to Conduct the Activity

Develop procedures that easily can be changed 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, RCRA, the process, and the facility;
  - Describe the issues that affect your audience;
  - Discuss what is being currently done; and
  - Discuss how citizens can assist the agency 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 period.
4. **Schedule presentations at convenient times**, possibly evenings or weekends, or during regularly-scheduled meetings of other groups.
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.**

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## 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.

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## 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.

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## Advantages and Limitations

Because the presentation is delivered in person, the audience has a chance to ask questions, and the agency 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 the agency'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 period 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 after presentations
  - ☐ Respond to questions you were unable to answer
  - ☐ Contact group regarding other presentation topics in which they may be interested

## Exhibit 5-1 Summary of Public Involvement Techniques<sup>1</sup>

| Technique                                                    | Features                                                                                                                                           | Advantages                                                                                                                                                                                                                                               | Disadvantages                                                                                                                                                         |
|--------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Briefings                                                    | Personal visit or phone call to key officials or group leaders to announce a decision, provide background information, or answer questions.        | Provide background information. Determine reactions before an issue "goes public." Alert key people to issues that may affect them.                                                                                                                      | Requires time.                                                                                                                                                        |
| Feature stories                                              | In-depth story about the RCRA project in newspapers or on radio and television.                                                                    | Provide detailed information to stimulate interest in the RCRA process, particularly at key junctures. Often used prior to public meetings to stimulate interest.                                                                                        | Newspaper will present the story as editor sees fit -- project proponent has no control over how the story is presented, except to provide full information.          |
| Mailing out key technical reports or environmental documents | Mailing technical studies or environmental reports to other agencies and leaders of organized groups or interests.                                 | Provides full and detailed information to people who are most interested. Often increases credibility of studies because they are fully visible.                                                                                                         | Costs money to print and mail. Some people may not even read the reports.                                                                                             |
| News conferences                                             | Brief presentation to reporters, followed by question-and-answer period, often accompanied by handouts of presenter's comments.                    | Stimulate media interest in a story. Direct quotes often appear in television/radio. Might draw attention to an announcement or generate interest in public meetings.                                                                                    | Reporters will only come if the announcement/presentation is newsworthy. Cannot control how the story is presented, although some direct quotes are likely.           |
| Newsletters                                                  | Brief description of what is going on in the RCRA process, usually issued at key intervals for all people who have shown an interest in the study. | Provide more information than can be presented through the media to those people who are most interested. Often used to provide information prior to public meetings or key decision points. Also maintain visibility during extended technical studies. | Require staff time and cost money to prepare, print, and mail. Stories must be objective and credible or people will react to newsletters as if they were propaganda. |
| Newspaper inserts                                            | Much like a newsletter, but distributed as an insert in a newspaper.                                                                               | Reach the entire community with important information. Is one of the few mechanisms for reaching everyone in the community through which you can tell the story your way.                                                                                | Requires staff time to prepare insert, and distribution costs money. Must be prepared to newspaper's layout specifications.                                           |

## Exhibit (cont'd)

### Summary of Public Involvement Techniques

| Technique                                   | Features                                                                                                                 | Advantages                                                                                                                                   | Disadvantages                                                                                                                |
|---------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| News releases                               | A short announcement or news story issued to the media to get interest in media coverage of the story.                   | May stimulate interest from the media. Useful for announcing meetings or major decisions or as background material for future media stories. | May be ignored or not read. Cannot control how the information is used.                                                      |
| Paid advertisements                         | Advertising space purchased in newspapers or on radio or television.                                                     | Effective for announcing meetings or key decisions. Story presented the way you want.                                                        | Advertising space can be costly. Radio and television may entail expensive production costs to prepare the ad.               |
| Presentations to civic and technical groups | Deliver presentations, enhanced with slides or viewgraphs, to key community groups.                                      | Stimulates communication with key community groups. Can also provide in-depth feedback.                                                      | Few disadvantages except some groups may be hostile.                                                                         |
| Press kits                                  | A packet of information distributed to reporters.                                                                        | Stimulates media interest in the story. Provides background information which reporters use for future stories.                              | Has few disadvantages, except may be ignored. Cannot control how the information is used.                                    |
| Public service announcements                | Short announcement provided free of charge by radio and television stations as part of their public service obligations. | Useful for making announcements such as for public meetings.                                                                                 | Many organizations compete for the same space. Story may not be aired or may be aired at hours when there are few listeners. |

<sup>1</sup> Source: *Sites for Our Solid Waste -- A Guidebook for Effective Public Involvement*, OSWER, EPA 530-SW-09-019, March 1990.

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# ● Appendix 1

## When the Facility Has a Role in the Public Involvement Program

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### Introduction

You may not have the resources to do the necessary public involvement activities for every RCRA action. One option is to have the facility provide support for some public involvement activities under permitting agency oversight. Another option is to encourage the facility to conduct its own public involvement activities. As noted in Chapter 3, EPA regulations already require facilities to conduct public involvement activities under certain conditions (i.e., permit modifications, and certain activities proposed in the Subpart S rules.)

Delegating public involvement tasks to a facility is analogous to delegating technical tasks (such as RFI/CMS studies, risk assessments and other technical studies required in TSDF permit applications) to a facility. In neither case does the permitting agency give up its oversight role or decisionmaking power; in both cases, the facility is expected to provide appropriately skilled personnel to carry out the tasks according to guidance or professional standards. In some cases, working with a facility on public involvement can be very similar to working with one of EPA's contractors: you provide a scope of work and guidance, they provide skilled personnel who must do the work to your satisfaction.

This appendix addresses some of the issues associated with facilities becoming involved in the permitting agency public involvement program. When is it appropriate and when is it not appropriate to have the facility help the permitting agency conduct public involvement activities? If it is appropriate, what are the avenues for getting the facility to conduct agency public involvement activities? Which activities should you delegate? What kind of oversight is necessary? How can you keep your credibility with the community intact? What problems may you encounter with facility participation in public involvement activities? The appendix concludes with examples illustrating how a facility and agency worked together on a public involvement program.

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## **Deciding Whether a Facility Should Have a Role in the Agency's Public Involvement Program**

Before you consider involving a facility, complete your initial assessment of public involvement needs for the permitting or corrective action process, following the approach in Chapter 2. Once you have a rough idea of the level of attention the public involvement effort will require (i.e., minimum required, moderate, high), evaluate your resources. If you are unable to carry out required or expanded activities for a particular facility in-house, you may want to consider having the facility assist you or suggest that it undertake some activities itself.

In each case, look carefully at the situation. Key issues to assess are the facility's credibility with the community, its capability in-house or through contractors to provide public involvement support, and the likelihood that it will cooperate with the permitting agency in carrying out the effort.

If the facility lacks credibility in the community, its public outreach efforts are unlikely to be effective. If the community sees the permitting agency working jointly with the facility, they may extend their mistrust to the permitting agency. In extreme cases of community disenchantment with a facility, it is inappropriate to give the facility any role in the permitting agency public involvement effort and you may want to distance yourself from any effort it undertakes on its own. However, in most cases where there is some distrust, you can use facility assistance if you restrict it to support functions such as the development of an initial mailing list and draft informational materials that you will review and revise before releasing under permitting agency letterhead. Or you might ask the facility to identify meeting places or appropriate media for public notices, but you would be the contact with the public at the meetings, and you would place the notices.

If the facility is unfamiliar with the concept of public involvement (as being different from public affairs and public relations), it may need guidance from you in determining whether it has in-house staff who can do the job or whether it will need to hire public involvement contractors. If you are requiring a facility to support you (see below) and it does not have prior experience with the approach, you can require that its work meet specific guidance and standards that you enforce in your oversight role. However, if you are asking the facility to support you voluntarily (see below) and it does not have prior experience with the approach and is unwilling to hire specialists, you may find that it is not worth the effort to ask for much assistance because of the extra oversight that will be required.

---

## How to Get the Facility to Do The Work

If you decide that you do want the facility to support your public involvement program or conduct its own, you may require them to do so in some circumstances, and ask them to do it voluntarily in others.

- For corrective action, write public involvement tasks into a corrective action schedule of compliance or §3008(h) order. Some EPA regions routinely require development of a public involvement plan as part of the RFI workplan. In the approved public involvement plan, roles and responsibilities for the facility and the permitting agency are spelled out.
- For TSDf permitting, ask the facility to voluntarily undertake some public involvement tasks and coordinate its public involvement efforts with yours. In the future, permitting agencies may require public involvement activities as part of the permit application process. Currently, you cannot impose a permit condition requiring public involvement activities early enough to provide for assistance when it is most needed: during the phases of application processing, draft permit preparation and public comment before the permitting agency decides whether or not to issue the permit. However, you can educate the facility about the goals and benefits of public involvement and, in many cases, enlist their support in developing and carrying out a public involvement program throughout the permitting process.

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## When the Facility Has a Role: Appropriate Activities and Agency Oversight

You must determine the facility's role in agency public involvement activities and your role in oversight on a site-by-site basis. It is possible to have a facility assist with the entire agency public involvement program with agency oversight. However, there are always some activities (such as public hearings on a draft permit or major permit modification) that you must conduct and, depending on the situation, it may be inappropriate or unwise to delegate certain tasks to the facility.

In assigning tasks, you must distinguish between facility support of the permitting agency effort, whether required or voluntary, and the facility's own effort. For the permitting agency public involvement program, all activities should be entirely under your oversight and control, and the public should be able to see that clearly -- through techniques such as the use of permitting agency letterhead or logo on written material, the presence of permitting agency spokespersons at all public events, and referrals to permitting agency contact persons for questions and comments. All facility tasks will be support tasks (e.g., draft mailing lists, draft written materials, arrangements for interviews and meetings). The permitting agency stamp will be on all final products.

For the facility's public involvement program, you are at most a friendly advisor, and the public should not see your letterhead, logo, or sponsorship of the facility's activities. However, if you and the facility agree to coordinate and cooperate in your efforts, some of your program needs (such as a fact sheet that explains operations at a TSDF) might be met by a facility activity that it voluntarily conducts under your oversight. Of course, for required activities, such as mailings and public meetings to be conducted by a facility when it initiates permit modifications, you have a mandate to assure that their efforts fulfill the requirements.

In assigning tasks for corrective action under a schedule of compliance or Section 3008(h) order, a common approach is to require the facility to develop a formal Public Involvement Plan, based on a needs assessment that includes community interviews. Some regions specify a minimum set of activities that must be included in the plan, such as development of a mailing list, establishment of an information repository, and issuance of two fact sheets. You should specify that the permitting agency must approve the list of interviewees and be given the opportunity to conduct all interviews. In situations where there is community distrust of the facility, you should conduct all interviews. At a minimum, you or some permitting agency representative should be present at all interviews with public officials and agency staff.

You should discuss the findings of the community assessment and your ideas about necessary public involvement activities with the facility before it prepares a draft plan. In reviewing the draft plan, be sure that it provides for all required activities as well as additional activities that you judge appropriate, based on the findings of the community assessment. The plan should clearly state that it was prepared for the permitting agency, with permitting agency oversight, and it should specify for each activity the respective lead and support responsibilities of the permitting agency and facility.

As a general rule, you can use the facility for any support activity so long as a representative of the permitting agency is present at all public meetings, a permitting agency contact is named in all written communications, and no outreach material is released without prior approval of content and form by the permitting agency. In cases where a facility representative makes a presentation at a meeting or media conference, you should make it clear that you have requested them to do so. Likewise, you should not allow the facility to respond to questions or comments at public meetings except as you direct them to do so. The public must see the permitting agency in control at meetings that are part of the agency's public involvement effort.

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## **Example -- When A Facility Conducted Public Involvement Activities With the Agency**

### **EPA Region 7 and DOE**

EPA Region 7 successfully delegated non-required public involvement activities during RCRA corrective action at the U.S. Department of Energy (DOE) plant in Kansas City, Missouri, to the DOE and its contractors. This enabled the Region to focus its own resources on the public hearing effort, which owed much of its success to the prior DOE work to inform the concerned public about the ongoing effort.

The public involvement team included Region 7's public involvement coordinator, compliance officer, attorney, and technical contractor; and the public affairs staff at Allied-Signal Aerospace Company, which operates the plant under contract with DOE. Without exception, every member of the team was in tune with the concept of providing the public the best available information for informed decisions. Allied-Signal's public affairs staff developed a draft Public Involvement Plan under a RCRA consent order. Region 7 reviewed the draft plan and approved it after Allied-Signal made requested revisions. The plan did not address EPA's public involvement effort, but it specified the EPA-approved activities that Allied-Signal would carry out for DOE during the corrective action process. In other words, this was the facility's public involvement program, developed under EPA's order and subject to EPA's approval, but not directly a part of EPA's own program.

A primary goal of the Allied-Signal program was to inform the community, plant employees, news media, and government officials of the RCRA consent order and its five-year, \$84 million plan to address 35 contaminated sites at the plant. Techniques included letters mailed to thousands of nearby residents asking what information they wanted, in-person interviews, video spots played for employees on TV monitors throughout the plant, public meetings, an environmental newsletter, and separate plant tours for environmental organizations, the news media, government officials, and local homeowners associations. Allied Signal's public affairs staff planned and carried out all of these activities as specified in the plan.

Allied Signal's community relations efforts prompted the Kansas City Star to note that DOE had come out from behind its traditional veil of secrecy at the plant, which produces non-nuclear components for nuclear weapons. The concerted effort to share environmental information also won praise for EPA and DOE from local environmentalists in The Star's news pages. In this case, the public welcomed the outreach and did not raise questions about EPA collusion with DOE, probably because Region 7 took no active role in the program once it had reviewed and approved the plan.

Region 7 scheduled a formal public hearing on DOE's proposal to clean up the first of the 35 subsites, a PCB-contaminated area that had once run off into a creek leading to the nearby Blue River before the creek was rerouted. Agency officials spent hours of preparation in refining and practicing a slide show for this hearing. The slide show was so succinct that local TV stations were able to show large parts of it on their evening news broadcasts. Approximately 60 people attended the hearing, yet only one person asked to make a statement for the record. This was a well-known local environmentalist who stated that EPA and DOE had selected exactly the right remedy, and that he wholeheartedly supported the decision.

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# Appendix 2

## Case Histories

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### Chemical Manufacturer in the Northeast

*This case illustrates a situation in which EPA might have averted a contentious permitting process by anticipating problems, educating the public with regard to the other agencies involved in regulating the facility, and focusing on resource problems/workload adjustments. Upon the request of the involved facility, the company name has been withheld. For ease of discussion, the facility shall be referred to by the fictitious name, "ChemCo."*

#### **Background**

The ChemCo facility has operated a chemical manufacturing facility since 1958 in a highly populated, highly developed area along a highway in the southern part of a New England state. The facility is located on the banks of a river, which is the drinking water source for approximately 250,000 people in several cities across the state boundary to the north of the facility. Consequently, public and news media interest in the ChemCo facility extends across state boundaries.

The facility has had four chemical releases in the past few years and was the subject of a five-day multi-media safety audit by EPA in 1989. The most serious accident was in 1988, when a release of hydrochloric acid vapor forced the evacuation of 2,400 residents of two cities for several hours.

#### **Regulatory Involvement**

In 1985, the State issued a RCRA permit to the ChemCo facility for the tank and drum storage of hazardous waste. The reapplication process for this permit began in summer 1989. In July 1989, EPA released for comment a draft corrective action permit that required the facility to conduct a comprehensive environmental assessment of the facility property through a RCRA Facility Investigation (RFI), set cleanup levels, and propose cleanup methods. Immediately, the public was confused over the difference between the two permits. The facility also operates under four additional State and federal permits.

### Public Comment Period Begins

Two weeks before the release of the RCRA corrective action permit for public comment, the water level along the river dropped, exposing a bright blue stain (iron-cyanide) that extended for a quarter mile along the western bank of the river. The stain was caused by the interaction of metals in the soils with a cyanide compound that had apparently been released into the ground from the ChemCo facility sometime in the past. Local residents were initially able to piece the story together sooner than EPA, which contributed to the public's lack of confidence in EPA's ability to handle the situation. Investigations by the Agency for Toxic Substances and Disease Registry showed the health risks from the compound to be extremely low. Nevertheless, the surrounding communities expressed tremendous concern and fear over the chemical's discovery. This incident heightened the public's health and safety concerns, and fueled their frustration with both the regulatory agencies and the company.

EPA held an information meeting two weeks before the public hearing on the proposed RCRA permit issuance. This was the first time that the public had been told of EPA's plans to issue the facility a permit and community reaction was angry and contentious. Meeting presentations were punctuated by angry shouts and screaming from the attendees. Given recent events, they did not understand how EPA could even consider giving the facility a "permit to pollute." People drove in from many of the surrounding states in order to attend meeting presentations.

Approximately 75 people attended the public hearing that was held in August 1989. The same people who attended the information session also attended the hearing. The meeting was highly charged. A number of environmental groups were in attendance, one of which distributed an information sheet containing questions for residents to raise at the hearing. Both meetings generated significant press coverage. The primary issue was anger over EPA's plans to issue a permit to a facility that, in the public's opinion, was a major threat to the community. It also became quite apparent during that period that the general public was confusing the HSWA corrective action permit with the hazardous waste storage permit due for reissuance by the State.

Thus, in addition to becoming a focal point for questions regarding the iron-cyanide discovery and past releases, the public expected EPA to field questions on regulatory issues apart from the RCRA permit. Issues raised by the community included the extent to which the facility was releasing emissions to the air; suspected violations of the NPDES discharge standards; the adequacy of emergency planning procedures; and possible safety threats to the surrounding community.

Many community members commented on the need for more public involvement, possibly in the form of an EPA-organized citizens' group. EPA suggested that it was more appropriate for the citizens to form such a group and the facility responded by inviting a number of people -- primarily businessmen, teachers, health professionals, and public officials -- to form a Citizens' Advisory Board. Some environmentalists and others who were not a part of the Board formed their own group, called the Citizens' Oversight Committee.

Elected officials at a number of levels pressured EPA not to issue the permit. Despite the controversy, EPA went ahead with its plans and issued the RCRA permit (which the company subsequently appealed) in September 1989.

#### Community Relations Program is Initiated

Following the public hearing, EPA decided to initiate an intensive community relations effort targeted at the two interest groups described above (Citizens' Advisory Board and the Citizens' Oversight Committee). EPA augmented its public involvement resources with contractor support and began by identifying all of the agencies involved at the site and their areas of responsibility. EPA then developed a fact sheet and mailing list with those ten other government agencies involved in some way with the regulation of the facility. The fact sheet listed the names, affiliations, and telephone numbers for each of the government agencies. After the fact sheet was distributed, EPA conducted community assessment interviews with members of the two interest groups, as well as with local and elected officials. The two information repositories were reorganized so that the public would better understand the regulatory structure under which the ChemCo facility functions. EPA also established contacts with the news media and began meeting with the two interest groups.

Two years later, both EPA and the State are in a much stronger position with the community. Communication has been established, information has been exchanged, and EPA, especially, has earned the trust of both interest groups.

#### **Analysis**

Although EPA did issue the RCRA corrective action permit, the permitting process was highly time-consuming, contentious, and frustrating for all parties concerned. Probably the biggest problems that EPA staff faced were: (1) sorting out the public's confusion over the multiple entities involved in regulating the facility, (2) lingering suspicions engendered by the Agency's failure to give the community adequate advance notice regarding its intention to issue the permit, and (3) a lack of understanding on the part of the community regarding

what a corrective action permit is -- that "permit" is a misnomer unless it is used in the context of an overall facility permitting process.

In the end, EPA established and implemented an excellent public involvement program for the facility. However, a lot of confusion and aggravation might have been avoided if the program had been established earlier in the process.

Some of the lessons that can be drawn from this experience include:

1. **Anticipate rather than react.** At the outset of the permitting or corrective action process, you should conduct at least a "mini-assessment" of the community(ies) affected by facility operations to determine the likelihood that RCRA actions will stimulate interest or outright opposition on the part of the public. See Chapter 2 of this manual for a complete discussion of how to assess the level of public interest in a site. In the case of this facility, key indicators of the potential for heightened community concern were past activism around a ChemCo "sister" facility, past activism around other Superfund sites in the area, the facility's location in a densely populated urban area, and the record of past releases to the environment and resultant news media attention caused by those releases. You should always conduct community assessment interviews for high profile facilities such as this one.

If EPA had developed a better sense of the strength of community concerns about the facility, it might have chosen to put more distance between the public hearing and (a) the iron-cyanide release, and (b) the beginning of the reapplication process for the state permit. In so doing, EPA would have reduced the likelihood of the public hearing becoming a "lightning rod" for these issues.

Finally, you should lay groundwork in the form of a few basic fact sheets and information meetings well in advance of a public hearing. Had EPA given the community at least a "heads up" that the permit was coming, and educated them about the differences between corrective action and ongoing facility operation, it is unlikely that EPA and company officials would have been suspected of trying to sneak a regulatory approval past the community.

In the case of this facility, there was strong opposition to approving the permit from residents and environmental groups both close to and outside of the facility community. Ultimately, EPA had to deal with not one but two organized interest groups. In retrospect, EPA might well have considered establishing some kind of community advisory group to try to constructively channel and resolve ongoing community concerns about the facility. By forming such a group early in the process, you can conserve your own resources (time saved in meeting with one large group rather than several smaller ones), and create a

situation where the participating individuals and groups are more likely to work jointly (with you and each other) than at cross purposes.

**2. Educate the public on the various agencies involved in regulating a facility.** One of the first things that the EPA project manager did, following the disastrous public hearing, was to determine which agencies were involved in regulating the ChemCo facility and get that information out to the public. Had this been done earlier in the process, the public's confusion might have been minimized. Developing a fact sheet at the very beginning of the process that provides information on all of the regulatory activities relevant to a facility and the community can be a very valuable public involvement building block. Subsequent mailings from the various agencies might include a box devoted to updating the community on other regulatory activities associated with the facility. You might also consider including a continuously updated timeline.

You should also give the involved agencies an opportunity to review and comment on your technical schedules and public participation plan (if you develop one). Prior to developing such a plan, be sure to find out if other agencies are doing public involvement activities at the facility, and see if you can coordinate activities to complement each other.

EPA might also have decided to have state representatives available at the information session to answer questions about state-regulated activities and steer future questions from the public to the right people. In the case of a public hearing, while all of the agency representatives need not be in attendance, you should know the general status of other projects and have a sheet of contact names and numbers available for referral to interested members of the public.

**3. Focus on resource problems/workload adjustments.** EPA's job was exacerbated by the fact that (a) the project manager had no support from an Agency community relations specialist, and (b) given the reputation of the facility in the community, EPA was reluctant to turn over any responsibilities for community relations to the facility. What did the EPA project manager do? He got contractor support.

If you assess the facility to be a high profile site, you need to immediately think about how to maximize and possibly augment the community relations resources available. If you are unable to get staff assistance, you may be able to access a community relations contractor.

You also need to think about adjusting your workload to allow you to devote additional time to public involvement activities. Recognize that public involvement pressures are usually cyclical (i.e., correspond to technical milestones). The more work that is done up front, the less time you usually need to devote later on.

Also, although the company's standing in the community precluded the EPA project manager from enlisting the company's help in the public involvement effort, you can oftentimes ask a facility to contribute to the public involvement program in a way that does not compromise the credibility of the program. For example, you might have the facility do the time-consuming work of pulling together information materials and setting up meetings, but arrange to have the material go out under your name or jointly. Be creative about working with the facilities. Help them see that they are the ones who most directly benefit from the fruits of a good public involvement program.

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## **The Ensco Hazardous Waste Management Facility in Mobile, Arizona**

*This case illustrates a facility permitting effort that would have benefitted from the implementation of a concerted public involvement program early on in the process. It also points to the value (in hindsight) of taking advantage of what other EPA and state personnel have learned from meeting with the community on similar permitting projects -- in this case, one that involved several proposed incinerators.*

### **Background**

In the late 1970s, the State of Arizona began the development of a State Hazardous Waste Management Program. The Arizona Department of Health Services (ADHS) developed preliminary hazardous waste regulations and began to investigate possible locations for siting a hazardous waste management facility. A "best site" was identified in 1978 in Yuma County and a public meeting was held in the county to advise the local residents of ADHS' tentative decision. In response to intense local opposition, the State legislature became involved in the issue.

The passage of the State's Hazardous Waste Siting Act in 1980 directed ADHS to conduct a new siting study, including generation of another list of potential sites. ADHS completed the analysis and developed a draft report that was the subject of three public hearings. A total of 368 people attended the hearings; 53 people testified; and 200 pieces of written testimony were submitted. The 1981 report narrowed the search down from eleven sites to three. The report also made two significant recommendations: (1) that the facility be owned by the State (to provide for perpetual management) and be operated by a private entity under contract; and (2) that a "full and open debate" be solicited on allowing the facility to accept (import) waste from other states. This second recommendation was based on projections related to the relatively low volumes of hazardous waste that would be generated in Arizona during the early years of the facility's operations, and the consequent projected high costs for disposal during those years. By importing waste from other states, the operating costs would be significantly reduced.

In response to the draft report, legislative hearings were conducted and, within a relatively short period of time, the Legislature chose the Rainbow Valley site (near the town of Mobile) for the facility. This action was codified into law in February 1981 by Governor Bruce Babbitt.

The Arizona legislature also directed ADHS to acquire title to the one-square mile site for facility development. ADHS took steps in 1981 to begin acquiring federal land from the Bureau of Land Management for the facility and prepared an Environmental Impact Statement on sale of land to Arizona for purposes of constructing a hazardous waste treatment, incineration, and landfill facility. The League of Women Voters was selected to initiate the EIS scoping process and two days of meetings were held in Mobile and Phoenix in February 1982. Approximately 60 people and 45 people, respectively, participated in the meetings.

In updates to the State legislature that year, ADHS further discussed issues relating to waste importation. ADHS conducted one public meeting and two public hearings on the draft EIS in February and March 1983. Substantial comments were received, including written comments from 31 individuals and organizations and oral comments from 6 people. One of the issues addressed in the EIS was the potential impacts from interstate shipment of PCB and other organic wastes to the facility. All of the comments were addressed in the final EIS, which was issued in July 1983. BLM developed a proposed decision on the sale of the land to ADHS and initiated public notice in September 1983. A group calling itself Concerned Citizens of Rainbow Valley collected approximately 1,185 signatures in opposition to the Mobile site. Despite the petitions, BLM proceeded with its plans to transfer ownership of the land to the State. The plan to require private financing of the proposed facility was included in an amendment to the State Hazardous Waste Siting Act in 1983.

ENSCO was the company chosen for the job of financing, designing, constructing, and operating the facility, following a competitive bidding process. During that same time, ADHS conducted a survey of the Rainbow Valley residents to enable the State to understand the precise nature and strength of community concerns. According to State officials, the results were mixed. Although the survey results revealed opposition to the project, area residents welcomed the anticipated new jobs that the project would create, and were reassured by the existence of a buffer zone planned for the site.

The State assumed legal ownership of the Rainbow Valley property in 1984. In January 1986, the State signed a contract with ENSCO that provided for a "full service facility" with storage and treatment units (including incineration), and land disposal. In that same year, ADHS

approved ENSCO's updated business plan that included phased construction of at least two incinerators.

In July of 1987, the Arizona Department of Environmental Quality (ADEQ) was extracted from ADHS as an independent agency. In August, ENSCO submitted a revised plan to expand the landfill and add a third incinerator; the plan was partially approved by ADEQ. The EIS was not revised subsequent to this change. However, a transportation risk assessment study was completed, which discussed the risks associated with waste importation to the site.

ENSCO was required to get a number of permits pursuant to its contract with the State, including an ADEQ-issued Air Quality Installation Permit for the three incinerators; a State-issued Solid Waste Approval permit; a State-issued Groundwater Protection Permit; and a federal PCB incineration permit. At the time that the State permits were issued, ADEQ had no regulatory authority to hold public hearings on the proposed air quality permits. In February 1988 ADEQ did hold a public hearing in Mobile on the proposed Groundwater Protection permit. According to State officials, the meeting did not reveal any major opposition to the Project at this point. By 1989 ADEQ had approved all of the State permits and minor construction activities began on the site. Development of additional permit applications was in progress.

In April 1990 ADEQ announced its plans to hold a joint ADEQ/EPA public hearing on additional RCRA permit applications needed to install and test the incinerators. The hearing date was scheduled for May 7, 1990 in Mobile.

EPA had just recently held a RCRA hearing on an incinerator in Southern California that became very unruly, and so contacted the State to offer advice about meeting preparations for the ENSCO facility. Members of Greenpeace, one of the primary activist groups participating in the California hearing process, had actually picketed EPA's regional office in San Francisco. At the California hearing, attendees blew whistles and overturned tables and chairs.

In fact, in the weeks prior to the May hearing, local Arizona news media were reporting that Greenpeace organizers had been talking with area environmental groups. In late-April, Greenpeace members staged two major protests: one an ongoing vigil on the Capitol Mall in Phoenix; the other a one-day protest on the facility site, where Greenpeace members chained themselves to trucks and hung a banner on a building. It was rumored that public opposition to the facility siting process was gaining tremendous momentum.

ADEQ officials did not accept EPA's offer to help in the meeting planning arrangements, but they did increase the number of chairs both

in and outside of the meeting facility and set up speakers on the lawn to enable an overflow crowd to hear the proceedings from outside. Despite these preparations, ADEQ was wholly unprepared for what happened at the meeting.

The room was far too small for the 300 people who came, and most people were forced to remain outside. Greenpeace organizers and other environmentalists were present in large numbers. Members of the crowd became extremely agitated and the situation quickly got out of control. The agitation of the crowd was evident by the pushing, shoving, and screams from both inside and outside. The meeting was punctuated by shouting and yelling, and the pounding of fists on the windowglass outside. ADEQ officials feared that the windows would soon shatter. The police overreacted, and violence erupted. The situation deteriorated to the point that the Sheriff's Department used stun guns on angry community members and environmental organizers. Following the stun-gunning and arrests of twelve people, the State decided to continue with the meeting, rather than shutting it down and rescheduling. The meeting went well past midnight. Following the meeting, people from both ADEQ and Greenpeace received death threats.

The Governor's office stepped in after the meeting and proposed to extend the public comment period through November 1990 and conduct additional meetings. In June, a two-day public hearing was held in Phoenix and a one-day hearing was held in Tucson. These meetings were held in very large rooms (5,000 + capacity) and involved heavy security and detailed contingency plans. The State and EPA collaborated on the meetings, which emphasized low-profile security, adequate meeting space, and involvement of a neutral party as facilitator. While still very close to becoming unruly, these meetings were more successful in allowing the community to voice its opinions about the ENSCO facility. Nevertheless, the meetings were hampered by participation by individuals who seemed more intent on disrupting the proceedings than in listening to the information that the agencies had to offer.

Also in June, ENSCO voluntarily ceased work at the site and began conducting a media campaign regarding the facility. Prior to this time, ENSCO had issued brochures and other informational material about the facility and, in 1988, the company had conducted a tour of the facility for a delegation from the State legislature. According to State officials, further efforts were not deemed necessary, given the relatively low level of community concern that had been evidenced prior to 1990.

ADEQ received approximately 1,700 public comments during that public comment period, covering approximately 200 subject areas. The concerns covered a range of issues, with strong opposition to

importation of hazardous wastes, and the charge that the State and ENSCO were in collusion to keep the real details of the project hidden from the public. The EIS was said to be wholly inadequate, as well.

There was a change in governorship in 1991, and Fife Symington (the new governor) directed ADEQ to look into the feasibility of buying out ENSCO. This is because the State recognized that the ENSCO project could not possibly go forward if waste importation was part of the deal; however, the Agency was bound to allow importation by the terms of its contract with ENSCO. The State's only options were to either buy ENSCO out of the company's part of the contract, or risk losing an estimated \$150 million lawsuit filed against the State by ENSCO. In May 1991 Symington announced that the State would buy out ENSCO for \$44 million. Governor Symington declared that ENSCO had agreed to completely shut down the facility and that the project was "mothballed" and that all ADEQ permitting efforts had been suspended. At this time, it's not clear how the Project will proceed. ADEQ still needs hazardous waste capacity, but the political climate that resulted from the recent chain of events makes any course of action difficult to pursue at this time.

### **Analysis**

The RCRA public involvement requirements are much less stringent than are those of Superfund. No actual public involvement activities are required until the point that the draft permits are set to go out for public comment. Thus, if you follow the letter of the requirements, you risk being surprised, as was the state, when vehement opposition to your project develops -- seemingly out of nowhere. Some of the lessons learned out of this case include the need to:

- 1. Reevaluate the politics of your project on a continuous basis. Be prepared to adjust your public involvement program at any point to best suit the needs of both you and your public.** In hindsight, ADEQ should have put off the hearing for a few months and used the time to go out and meet with the various factions that had developed within and outside of the community. A public hearing is the last place where you want to learn -- in this case for the first time -- who is your concerned public and what they think about the project. This is especially the case when you suspect the public hearing may be used as an opportunity for media attention on the part of some members of the public.

As the technical process develops, you need to be continuously analyzing and trying to understand the public's information needs, issues, and "stakes" in the process. Meet with residents and community groups prior to major meetings -- in small groups if possible, or in a series of information sessions. Continue to meet until you understand

the community's point of view and the strength and depth of community concern and/or opposition.

**2. Consider the operation you are permitting in the broader context.** In fact, opposition to incineration had become a highly controversial issue by the late '80s. ADEQ's experience in Mobile and EPA's experience in Southern California were just the tip of the iceberg of an emerging local and national activism that groups like Greenpeace were spearheading.

Take advantage of what others know: use your professional network. You cannot get too much help and advice from others who have been through a similar situation, when it comes to dealing with the public on environmental issues. Although there is no guarantee that closer collaboration with EPA would have resulted in a public hearing that did not help to derail the permitting process, it is highly likely that the hearing would have been a lot less contentious and inflammatory had ADEQ taken EPA's advice about room size and strategies.

**3. Institute a two-way public involvement program.** Although the concept of providing for more give and take in the outreach process is beginning to be embraced in the corporate PR philosophy, the environmental public involvement programs are significantly different from classic PR campaigns. While environmental public involvement is designed to provide for two-way communication between the agencies and the public, public relations campaigns are primarily about one-way communication to sell a project or a service. Whether you are an agency responsible for the public involvement program, or you have delegated that responsibility to the facility, it is crucial that this distinction be made and that a genuine public involvement program be established.

While it is appropriate -- oftentimes necessary -- to have the facility handle a large part of the public involvement responsibilities, you as the permitting agency must be in contact with the affected community in order to establish a relationship that will not only withstand the involvement of outside interests, but will result in a project that is mutually acceptable to you, the facility, and the community.

In the ENSCO case, some kind of regular communication process should have been established with the Rainbow Valley residents from the day the petition was submitted. Mailing lists should have been developed from previous public meetings and hearings, and notes made of the groups that were testifying in front of the State legislature in earlier years. Given the magnitude of the project, the signs of public discontent (albeit sporadic) and the political controversy surrounding incineration projects nationwide, a dynamic, two-way public involvement program should have been established that signalled a recognition on the part of ADEQ of the project's sensitivity.



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# Appendix 3

## Public Involvement Resources

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There are a variety of resources available to help you plan and conduct RCRA public involvement activities. Below are a few of the things available to you.

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### Your RCRA Public Involvement Coordinator

Many EPA Regions and State agencies have a staff person dedicated to RCRA public involvement. The person is often called the RCRA Public Involvement Coordinator (PIC) and is usually a member of your agency's public affairs staff. The PIC can help you plan and conduct public involvement activities. A coordinator also serves as a liaison between the public and permit writers, enforcement personnel (both EPA and state), facility owners/operators, and other appropriate individuals or groups.

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### RCRA Public Involvement Reference Catalog

This three-volume document contains hundreds of sample public involvement materials as well as valuable information on a variety of hazardous and solid waste issues. Each EPA Regional headquarters office has a copy of this document. Contact the EPA Regional Public Involvement Coordinator or Public Affairs Office in your EPA Region if you would like to use the catalog.

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### RCRA Storyboards

EPA has created numerous freestanding, laminated storyboards for each EPA Region to illustrate important RCRA-related issues, such as the permitting process. These storyboards are excellent for openhouses, workshops, public meetings, and the like. Contact the EPA Regional Public Involvement Coordinator or Public Affairs Office in your EPA Region if you would like to use the storyboards.

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### Fact Sheet Templates

Your EPA Region may have fact sheet templates. Templates are "skeletons" of a fact sheet in a computerized graphic format. The templates include standard RCRA information (e.g., an explanation of the steps in the corrective action process) but leave room for you to drop in facility-specific information. These templates allow you to produce a polished fact sheet without rewriting or designing. Contact the EPA Regional Public Involvement Coordinator or Public Affairs Office in your EPA Region if you would like to use the templates.

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## **Training and Other Videos**

Some EPA Regions have instructional videotapes on RCRA public involvement and other relevant topics, such as risk communication. Ask your EPA Regional Public Involvement Coordinator or Public Affairs staff if they have access to instructional videos.

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## **Facilities**

Even though it is essential to clarify that oversight of public involvement activities is the sole responsibility of the permitting agency, facility owners and operators are a valuable resource available to you in implementing your public involvement strategy. Public education activities may be initiated by owner/operators and should be encouraged, particularly when resources are limited. The more public outreach the facility conducts, the more time you will have to devote to other public involvement activities at that facility or another one. See Appendix 1 for more information on influencing facilities to conduct public involvement activities.

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## **Contractors**

There may be contractors working for your Region who can conduct some of the more time-consuming activities, such as conducting community interviews, coordinating logistics for public meetings, and preparing routine fact sheets. You also may want help from graphic designers, typesetters, public affairs and management personnel, and support staff. You should contact your contract officer for advice on getting contractor support for your public involvement needs.

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# ● **Appendix 4**

## **Modifying RCRA Permits**







# 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 its 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 industrial, 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.*

## 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 by day 300. At any time during the Class Two 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. The 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) 264-8882

**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

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# ● **Appendix 5**

## **Draft Strategy for the Combustion of Hazardous Waste**



# Environmental News

FOR RELEASE: TUESDAY, MAY 18, 1993

## EPA ADMINISTRATOR BROWNER ANNOUNCES NEW HAZARDOUS WASTE REDUCTION AND COMBUSTION STRATEGY

Robin Woods 202-260-4377

U.S. Environmental Protection Agency Administrator Carol M. Browner today announced new steps to protect public health and the environment by reducing the amount of hazardous waste produced in this country and strengthening federal controls governing hazardous waste incinerators and industrial furnaces.

"Beginning today," said Browner, "we are changing our approach to hazardous waste management in this country, to ensure maximum protection to the public. I am directing EPA's regional offices to immediately give their highest priority over the next 18 months to bringing existing facilities under rigorous permit controls. This will have the general effect of a temporary capacity freeze as we reexamine our national waste strategy."

Administrator Browner said she is also taking a series of immediate additional actions to permanently enhance the hazardous waste prevention and combustion programs:

- conducting a major overhaul of federal rules governing waste combustion;
- starting today, requiring full risk assessments, including those for indirect exposure, in all new permits to ensure that they are based on the best scientific evidence;
- immediately requiring new permits to include an appropriate dioxin emission standard;
- immediately requiring new permits to include an appropriate, more stringent control for metals;
- calling for hazardous waste producers to commit to waste reduction programs;



-- calling for a national review of the relative roles of waste combustion and waste reduction in hazardous waste management; and,

-- calling for greater public involvement opportunities.

"I believe today's actions are a significant step toward enhancing the safety of disposal operations for industrial wastes, but even more importantly, they move us closer to my goal of reducing hazardous waste," said Browner. "The Clinton Administration is committed to using every tool available under the law to make changes that will result in the safety of hazardous waste disposal.

"My highest priority is the prevention of pollution at its source, before it is ever created," said Browner. "Hazardous waste reduction represents the future of waste control in this country as well as the future in safeguarding the health of our citizens.

Hazardous waste producers must commit to waste reduction programs using guidelines issued today. These guidelines specify necessary elements for these programs and are the first-ever hazardous waste reduction guidelines EPA has ever published. Under the federal hazardous waste law, the Resource Conservation and Recovery Act (RCRA), hazardous waste producers have been required since 1984 to have waste reduction programs in place, but no specific guidance has been issued to define those programs until today.

Nearly five million tons of hazardous wastes, equal to the amount which could be carried in enough 6,000 gallon tank trucks to cover 2400 miles, end-to-end, from Washington, D.C. to Los Angeles, are burned each year in 184 incinerators and 171 industrial furnaces, including 34 cement kilns. About half of the five million tons are burned each year at 15 large commercial incinerators and the 34 cement kilns, which also take commercial wastes. The remaining incinerators and industrial furnaces are "on-site" facilities, permitted for non-commercial use only.

"It has been 12 years since the federal rules governing the safety of hazardous waste incinerators have been reviewed or strengthened," said Browner. "Today we are taking significant interim steps to vastly improve permits, as well as conducting a complete review of the incinerator standards and the more recent industrial furnace rules to reflect changes in advanced pollution control technologies."

Until new rules are published, EPA will continue to use its general "omnibus" permitting authority to require new controls and risk assessments in each new permit when necessary to protect the public or the environment.

Browner emphasized the important role of the public in the permitting process: "I will provide for increased public participation opportunities in the permitting process, such as during test burns, to help local citizens assure themselves that facilities in their neighborhoods are operated safely."

Browner also will convene a task force of EPA and state officials to undertake a broad evaluation of the role of hazardous waste combustion in the nation's management of hazardous waste, specifically to include waste reduction.

Currently, federal rules do not routinely require full risk assessments or the new emission controls. For dioxin, federal rules now generally only require that hazardous waste be burned to a percentage destruction of dioxin. The use of risk assessments, including those on indirect exposure, along with the addition of an appropriate emission limit for dioxin in new permits, will provide a greater measure of certainty that dioxin does not present an unacceptable risk.

Browner also today tightened the controls for particulate matter (pm) in new permits, used to control metals emissions. The new, more stringent, standard is based on the availability of advanced technology.

Over the next 18 months, as a result of Browner's new directive, EPA's regional offices will work with the states to begin bringing incinerators and industrial furnaces under full permit controls. This will include all of the 171 industrial furnaces, including over 30 cement kilns.

Browner's directive to fully permit existing capacity prior to considering additional capacity is based on EPA data indicating that, at this time, there is approximately 2.7 million tons of commercial combustion capacity available. Of this, approximately 55 percent of the liquids combustion capacity is being utilized while nearly 90 percent of the solids combustion capacity is being utilized.

STATEMENT BY CAROL M. BROWNER  
EPA ADMINISTRATOR

America today disposes of nearly five million tons of hazardous waste by burning them in 184 incinerators and 171 industrial furnaces, including 34 cement kilns. This volume is the equivalent of full tank trucks stretched nose to tail from Washington D.C. to Los Angeles. How we safely dispose of this great quantity of waste is an issue that affects the health and safety of all Americans.

Today, I am taking steps designed to immediately strengthen the environmental safeguards for hazardous waste incinerators and industrial furnaces -- while at the same time taking steps that move us in the direction of the real solution to the problem, which is simply reducing the amount of waste we produce. The Clinton Administration will use every tool under the law to assure real change for the safest possible hazardous waste disposal.

Until the late 1970s, much waste was disposed of on the ground, leading to hazardous waste sites. Recent efforts under the Resource Conservation and Recovery Act have sought to discourage land disposal, and as a result, the amount of wastes being burned has steadily increased. Now it is time to review the overall strategy.

Among my highest priorities at EPA is the development of policies that prevent pollution at its source, before it is ever created. No system of disposal, no matter how safe or well regulated, can be as environmentally effective as minimizing the amount of wastes presently generated. The reduction of such wastes in our commercial enterprises represents the future of hazardous waste control, as well as the future of safeguarding the health of our citizens and assuring the protection of our environment.

To begin this process, I would first like to announce today that I am issuing guidelines for waste reduction programs that generators of hazardous waste must develop in order to meet their responsibilities under the current law governing hazardous waste, the Resource Conservation and Recovery Act.

These guidelines are important because I will be making public the list of generators required to certify that they have such programs, and I will ask these generators to make the details of their programs publicly available.

In addition, I am taking action today to immediately strengthen our program for the regulation of incinerators and industrial furnaces that burn hazardous waste:

Beginning today, EPA will make its chief permitting priority over the next 18 months bringing already-operating hazardous waste incinerators and industrial furnaces under permit controls. I

(more)

believe that we must devote our resources to ensuring the safest operation of existing facilities. This means that over the next 18 months we will give low priority to processing requests for new capacity. This will have the general effect of temporarily freezing capacity at existing levels.

Second, we will use our existing permitting authorities to include in final permits for incinerators and industrial furnaces, for the first time, dioxin emission standards, where necessary to protect human health or the environment. Currently, the federal rules generally only require that hazardous wastes must be burned to a certain percentage destruction level for dioxin. The addition of an emission standard provides a greater measure of certainty that the actual emissions will present no unacceptable risks to human health or the environment.

Third, under the same permitting authorities, we will, starting today, be adding to new permits more stringent controls for particulate matter which controls metals. Currently, federal rules require an older, less stringent standard for particulate matter.

Fourth, we will be requiring that any issuance of a new hazardous waste combustion permit be preceded by a complete risk assessment. Currently, such risk assessments are not required. This will assure that our permitting decisions incorporate the best possible scientific basis.

Fifth, we will ensure that the issuance of hazardous waste combustion permits be preceded by better and more timely public participation. Currently, the public does not have the right to participate in some significant aspects of permitting decisions, such as a test burn. This will provide local citizens with the opportunity to assure themselves that facilities in their neighborhoods be operated safely.

All of these new guidelines will be applied not only to existing facilities awaiting final permits, but, in time, to all existing facilities as their permits come due for renewal.

Finally, I will be convening a task force of EPA and state officials to undertake a broad evaluation of the role of hazardous waste combustion in our national hazardous waste management strategy. And I am asking that their evaluation and recommendations specifically include methods for promoting waste reduction.

I believe today's actions are a significant stride toward strengthening our controls on hazardous waste incinerators and industrial furnaces and, more importantly, they move us closer to the ultimate goal of generally reducing the amount of hazardous waste we generate.

# Environmental Fact Sheet

## Source Reduction and Combustion of Hazardous Waste

*The Environmental Protection Agency (EPA) is issuing a directive to its Regional Offices outlining the importance of source reduction and a series of protective actions to be taken during the permitting of hazardous waste incinerators and boilers and industrial furnaces (BIFs). In addition, EPA is issuing guidance on the elements that should be included in a generator's waste minimization program in order to properly certify that the generator has a waste minimization program in place. Finally, EPA is issuing a draft strategy as the starting point for a broad and open evaluation of how source reduction and waste combustion must be integrated in the nation's hazardous waste management strategy.*

### Overview of the Combustion Debate

The role that combustion plays in hazardous waste management has changed dramatically over the last decade and a half. Early on, disposal of hazardous waste primarily involved putting wastes into landfills and surface impoundments. As we reached the mid-1980's, there arose a widespread recognition that land-based disposal practices were continuing to present long term pollution problems, particularly with respect to contamination of the nation's ground water.

In 1984, the Resource Conservation and Recovery Act (RCRA) was substantially amended by the Hazardous and Solid Waste Amendments (HSWA). These Amendments charted a new course for hazardous waste management -- away from historic land disposal practices and towards much greater use of treatment technologies prior to disposal. HSWA also further articulated the national policy to emphasize pollution prevention as the first and primary goal for the waste management program.

As a result of this change, combustion of hazardous waste in incinerators and boilers and industrial furnaces (BIFs) began to increase substantially. Concurrent with increased use of combustion as a form of waste management, public concerns began to be voiced about the safety and reliability of combustion facilities. In addition, citizens began to ask whether an overabundance of combustion capacity serves to undercut reduction of waste generated at industrial facilities.

At this juncture, EPA has decided to initiate a fresh look at how to achieve a fully integrated waste management program in which source reduction is given its proper emphasis and in which the role of combustion is carefully considered. As detailed below, this involves the establishment of a broad dialogue on these national policy questions under the joint leadership of EPA and the states. At the same time, EPA will take a series of interim actions designed to further ensure the safety and

reliability of hazardous waste combustion in incinerators and BIFs while longer-range scientific research is being conducted and while technical amendments to the regulations are being evaluated. These interim actions will help to ensure that operation of combustion facilities do not present unacceptable risks to human health or the environment.

## **Background Facts and Figures**

About 5 million tons of liquid, semi-solid, and solid hazardous waste are burned each year in hazardous waste incinerators and BIFs. In everyday terms, these 5 million tons would fill up a line of tank trucks stretching from Washington, D.C. to Los Angeles, some 2400 miles. About 90% of the wastes combusted today are generated by 10 industry categories, which comprise major segments of American industry, for example, petroleum refineries, agricultural chemical manufacturers, and organic and inorganic chemical plants. Common types of wastes being combusted are spent solvents, distillation bottoms, and off-spec organic chemicals and products.

EPA's incinerator regulations were adopted under the Resource Conservation and Recovery Act (RCRA) in 1981. In 1988, EPA's Office of Solid Waste issued supplemental guidance that directed use of the RCRA "omnibus" permit authority to add controls for emissions of metals, products of incomplete combustion (PICs), and hydrochloric acid (HCl) into new incinerator permits on a case-by-case basis.

As of July 1, 1993, there are 190 hazardous waste incinerators, 149 of which can operate under final permits and another 22 of which are operating in interim status pending final resolution of their permit applications. Another 19 facilities have submitted permit applications for new incinerator units. There are 27 commercial incinerators in the United States, 21 of which are in commercial operations today.

Major types of BIFs burning hazardous waste include cement kilns, lightweight aggregate kilns, and industrial and utility boilers. Currently, there are 159 BIFs, of which some 34 are commercial facilities accepting wastes from other generators. BIFs are subject to comprehensive EPA RCRA regulations that were promulgated on December 31, 1990 (56 *Fed. Reg.* 7134, Feb. 21, 1991). Among other key features, these regulations contain controls on metals, PICs, and HCl being emitted from BIF facilities. At the present time, these controls are imposed as interim status standards. No BIFs have yet received final permits although a number of permit applications have been recently filed.

## **EPA's Objectives**

In taking these actions, EPA has articulated several goals that will guide its future actions and will provide the framework for debate on EPA's draft strategy. These goals are:

- To establish a strong preference for source reduction over waste management, and thereby reduce the long-term demand for combustion and other waste management facilities.
- To better address public participation in setting a national source reduction agenda, in evaluating technical combustion issues, and in reaching site-specific decisions during the waste combustion permitting process.
- To develop and impose implementable and rigorous state-of-the-art safety controls on hazardous waste combustion facilities by using the best available technologies and the most current science.
- To ensure that combustion facilities do not pose an unacceptable risk, and use the full extent of legal authorities in permitting and enforcement.
- To continue to advance scientific understanding with regard to waste combustion issues.

## **The Process for Pursuing a National Strategy**

Under RCRA, EPA and the States are partners and co-regulators of the generation, transportation, treatment, storage, and disposal of hazardous waste. EPA is firmly committed to the view that any evaluation of the role of hazardous waste combustion in the hazardous waste management system must be undertaken as a joint federal and state effort. To that end, an EPA-State Committee on Hazardous Waste Management has been formed to further develop the national strategy. The initial charge to this Committee includes focusing on aggressive source reduction measures, improvements to technical and permitting standards, facilitation of alternative treatment technologies, and developing a better scientific foundation for decision making.

Furthermore, EPA intends to involve all stakeholders in this dialogue. EPA is issuing a draft combustion strategy as a starting point for debate on needed source reduction actions and regulatory changes that must be pursued, and will engage the widest range of interested parties in this debate. In particular, EPA is emphasizing aggressive use of source reduction as the first and primary goal to be pursued with respect to the generation of combustible wastes. However, EPA will immediately pursue a number of actions to ensure that existing combustion facilities are operated safely and without unacceptable risks to human health and the environment while the discussions on the source reduction and the national waste management strategy are taking place.

## **Actions Being Taken**

While the national dialogue on source reduction and hazardous waste combustion is taking place, EPA has issued a directive to its Regional Offices that, effective immediately, calls for a series of actions to be taken in connection with making permit decisions on incinerators and BIFs. These actions include:

- aggressive use of waste minimization measures as part of permitting and enforcement efforts involving generators of combustible waste as well as incinerators and BIFs,
- ensuring that a comprehensive risk assessment, including indirect exposures, is conducted at each facility site,
- use of omnibus permit authority to include, where necessary to protect human health and the environment, dioxin/furan emission limits and a stringent particulate matter standard in new permits,
- providing for earlier and more effective public participation, and
- giving low management priority to permitting any new incinerator and BIF capacity over the next 18 months unless the new facilities would replace and be a significant improvement over existing capacity.

In addition, the directive targets incinerators and BIFs for enhanced inspection and enforcement efforts regarding compliance with EPA's regulations and with individual facility permit conditions. These enhanced inspection and enforcement activities will also include use of waste minimization requirements as part of compliance actions.

With respect to source reduction, EPA is also issuing interim final guidelines on the elements of a sound waste minimization program. These elements, which span administrative, financial, and technical areas, should be contained in a generator's waste minimization program in order for that generator to make a proper certification under RCRA. The RCRA statute requires that each generator of hazardous waste make such a certification.

On a broader scale, the Administrator is convening a task force of EPA and state officials to undertake a broad evaluation of source reduction and waste combustion as integral components of the national waste management strategy. Concurrently, EPA is issuing a draft combustion strategy as a starting point for discussion on source reduction and waste combustion.

EPA is committed to ensure that all waste management technologies are fully protective of human health and the environment. EPA will not tolerate operation of waste management facilities that present unacceptable risks to human health and the environment. The series of short and longer-term actions set forth in the Administrator's directive to the Regions and proposed for discussion in the draft combustion strategy are designed to achieve this end. These actions will ensure that EPA doing what it can to pursue aggressive source reduction, to enhance controls on existing combustion facilities, and to promote public participation in permitting and source reduction efforts.

*Revised August 1993*



# Environmental Fact Sheet

## Hazardous Waste Minimization: Interim Final Guidance for Generators

*The concept of waste minimization enjoys widespread support and achieves one of the Environmental Protection Agency's (EPA's) primary goals of preventing or minimizing the generation of hazardous waste. To this end, the Agency is developing guidance to help hazardous waste management organizations and facilities design satisfactory programs that fulfill the provisions of the Resource Conservation and Recovery Act (RCRA), and that meet their specific waste management and economic needs.*

### Background

RCRA sets national policy that emphasizes the importance of reducing or preventing the generation of hazardous waste. It also contains provisions to promote implementation of waste minimization programs at hazardous waste management facilities. Under those provisions, hazardous waste generators must certify that they have a waste minimization program in place to reduce the volume or quantity and toxicity of their waste to the degree they determine to be economically practicable. Owners and operators of facilities that receive a permit for the treatment, storage, or disposal of hazardous waste that they generate on the premises also are required to make the same certification at least once a year.

### Action

EPA is issuing interim final guidance that describes the basic elements of a hazardous waste minimization program and defines the term *waste minimization*. The term waste minimization includes source reduction, or preventing waste from being generated in the first place (using the legal definition of source reduction that is found in the Pollution Prevention Act) and certain forms of recycling. (Those forms of recycling that closely resemble conventional waste management practices are not included in the definition.)

By describing the basic elements of a hazardous waste minimization program, hazardous waste generators may be able to properly certify

programs that are more suited to their individual needs. EPA believes that a "program-in-place" includes:

- top management support;
- characterization of waste generation and waste management costs;
- periodic waste minimization assessments;
- appropriate cost allocation;
- encouragement of technology transfer; and
- program implementation and evaluation.

The public is encouraged to submit comments on this interim final guidance. The Agency is committed to establishing a strong partnership with the states to develop a network of pollution prevention programs. While this interim guidance is designed to encourage generators of hazardous waste to reduce the amount and toxicity of their waste, the states play a key role in assisting all industries in implementing pollution prevention measures.

## **Contact**

For additional information or to order a copy of the *Federal Register* notice, contact the RCRA Hotline, Monday-Friday, 8:30 a.m. to 7:30 p.m. EST. The national, toll-free number is (800) 424-9346; TDD (800) 553-7672 (hearing impaired); in Washington, D.C., the number is (703) 412-9810, TDD (703) 412-3323.

Copies of the *Federal Register* notice or other documents pertaining to hazardous waste minimization may be obtained by writing: RCRA Information Center (RIC), U.S. Environmental Protection Agency, Office of Solid Waste (OS-305), 401 M Street SW, Washington, D.C. 20460.

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**DRAFT STRATEGY  
FOR COMBUSTION OF HAZARDOUS WASTE**

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**U.S. ENVIRONMENTAL PROTECTION AGENCY**

**MAY 1993**

**DRAFT STRATEGY FOR COMBUSTION OF HAZARDOUS WASTE IN INCINERATORS  
AND BOILERS AND FURNACES**

**I. INTRODUCTION**

During the last decade, a dramatic transition in hazardous waste management has occurred. Untreated hazardous waste ceased to be placed on the land, and widespread use of waste treatment technologies, including combustion, ensued. We also began to understand that even vigorously regulated and enforced hazardous waste management requirements cannot totally solve our long-term waste problems. Rather, our long-term national waste management strategy must have reduction of waste as its first and primary goal.

EPA, the States, industry, and the public have learned much about the concept of waste reduction over the last decade. Our challenge for the next decade is to take these lessons and develop a strategy to accomplish our goal of source reduction.

Source reduction is and will continue to be at the top of our waste management hierarchy and must be more aggressively pursued to reduce the long-term demand for waste management facilities. EPA intends to take a fresh look at hazardous waste management issues as part of moving towards the promise of pollution prevention and source reduction. Specifically, in this effort, EPA's goal is to develop an integrated and balanced program for source reduction and waste management. EPA will examine the appropriate roles of source reduction and waste treatment in the nation's hazardous waste management system. EPA also intends to reexamine its existing regulations and policies on waste combustion.

This evaluation will be led by a committee of EPA and State officials. This EPA-State Committee will first be asked to address the relationship between hazardous waste combustion facilities and source reduction of hazardous waste, and to make recommendations on additional source reduction opportunities that should be pursued. The Committee's second charge will be to address how EPA could improve its technical and permitting rules for hazardous waste combustion facilities to ensure that such facilities reflect the state-of-the-art as well as continued technological innovation. The Committee will also be asked to explore the development of alternative waste treatment technologies, as well as the need for better science in evaluating combustion technologies and monitoring emissions from combustion facilities.

As a starting point for this effort, EPA is issuing this Draft Combustion Strategy. This document will serve as a

catalyst for discussion with and input from all interested parties on how best to integrate source reduction and waste combustion and on ways by which we can better assure the public of safe operation of hazardous waste combustion facilities.

This draft combustion strategy consists of a discussion of the goals and objectives for this project and a series of short and longer-term actions that can be taken to achieve our goals. These actions are intended as the starting point for discussions with the public and industry. The list of actions in this document are presented for debate and additional ideas. However, while that discussion is taking place, EPA intends to aggressively pursue several of the interim activities.

## **II. EPA'S STRATEGIC GOALS**

### **A. Background for the Goals**

Combustion is currently a large component of hazardous waste management in the United States. It has become a large component as the nation moved away from land disposal in the 1980's and into treatment to reduce the volume and toxicity of hazardous waste. As this shift occurred in the 1980's, citizens in areas where incinerators or boilers and industrial furnaces (BIFs) are located have increasingly challenged the need for these hazardous waste combustion facilities. Citizens evidence concern that waste combustion is too frequently used where source reduction may be the preferred alternative. Citizens also raise concerns regarding facility siting and potential health risks posed by waste management facilities.

Hazardous wastes being burned today are generated by major segments of American industry, and represent a spectrum of commonly-encountered wastes, including spent solvents, sludges and distillation bottoms, and off-spec organic chemicals and products. About 5 million tons of these highly organic wastes are being combusted each year -- some 40% in incinerators and 60% in BIFs. Based on our most recent data, it appears that substantial excess capacity exists for combustion of hazardous waste, particularly liquid wastes. It should also be recognized that although some additional wastes are untreated today, these wastes will soon be subject to treatment requirements mandated under the Hazardous and Solid Waste Amendments of 1984 (HSWA). These treatment requirements could use up much of today's surplus capacity over the next several years.

Incinerators and BIFs burning hazardous waste are regulated by EPA and authorized states under the Resource Conservation and Recovery Act (RCRA). EPA's incinerator permit regulations, first promulgated in 1981, control emissions of principal organic hazardous constituents (POHCs), hydrochloric acid (HCl), and

particulate matter at incinerators. For interim status incinerators, only general facility regulations are in place. In 1988, the Office of Solid Waste (OSW) issued guidance to the EPA Regional Offices directing that, on a case-by-case basis under the omnibus provision in RCRA section 3005(c), incinerator permits should be issued with major substantive improvements including controls on metals and products of incomplete combustion (PICs) and improved controls on HCl and acid gases.

BIF facilities burning hazardous waste are all currently in interim status. These facilities -- such as cement and lightweight aggregate kilns -- are subject to EPA regulations adopted in 1991. These regulations, among other things, impose emission controls for metals, PICs, and HCl and acid gases that remain in effect until final permits are issued for these facilities. Currently, there are about 160 interim status BIFs, which are pending final determinations on their permits.

Waste combustion has been viewed as a means to detoxify many hazardous wastes, particularly those containing high levels of organics. EPA's position has been that, if conducted in compliance with regulatory standards and guidance, combustion can be a safe and effective means of disposing of hazardous waste. As new information has come to light, improvements to the regulations governing BIFs and incinerators have been and will continue to be pursued.

EPA believes that our task now is to better integrate source reduction with the regulatory approach to combustion of hazardous waste, and further ensure that national rules reflect the best combustion controls possible. For example, we should broaden our approach to include consideration of how an aggressive source reduction program should factor into national policy on the permitting of hazardous waste combustion facilities. Of course, remediation wastes present a different circumstance than newly-generated wastes and, given the finite set of options for dealing with historic cleanup sites, combustion may be the most appropriate remedy. In addition, waste minimization opportunities at cleanup sites are usually severely limited. The EPA-State Committee will focus on these and other similar issues as part of the national dialogue on integration of source reduction and waste management.

## **B. EPA's Goals**

The foundation of this draft strategy are the following five goals:

- o To establish a strong preference for source reduction over waste management, and thereby reduce the long-term

demand for combustion and other waste management facilities.

- o To better address public participation in setting a national source reduction agenda, in evaluating technical combustion issues, and in reaching site-specific decisions during the waste combustion permitting process.
- o To develop and impose implementable and rigorous state-of-the-art safety controls on hazardous waste combustion facilities by using the best available technologies and the most current science.
- o To ensure that combustion facilities do not pose an unacceptable risk, and use the full extent of legal authorities in permitting and enforcement.
- o To continue to advance scientific understanding with regard to waste combustion issues.

These goals address the major issues surrounding hazardous waste combustion today and provide an appropriate framework for a broad assessment of how source reduction and combustion of hazardous waste can be integrated into a national waste management program. This assessment will be comprised of many different activities, many of which will be led by the EPA-State Committee. The Committee and other interested parties are encouraged to examine these goals critically and to consider whether and how they can be improved.

### III. THE PROCESS FOR PURSUING A NATIONAL STRATEGY

Under RCRA, EPA and the States are partners and co-regulators of the generation, transportation, treatment, storage, and disposal of hazardous waste. EPA therefore is firmly committed to the view that any evaluation of the role of hazardous waste combustion in our hazardous waste management strategy must be undertaken as a joint federal and state effort. To that end, an EPA-State Committee will be formed under the aegis of the EPA-State Operations Committee. As mentioned earlier, the initial charge to this Committee includes components dealing with aggressive source reduction, improvements to technical and permitting standards, alternative treatment technologies, and a better scientific foundation for decision making.

In each of these areas, this draft strategy lays out a series of short and longer-term actions for public discussion. EPA intends to involve all stakeholders in this dialogue. EPA is providing these ideas as a starting point for discussion on

needed source reduction actions and regulatory changes that must be pursued, and encourages all interested parties to comment upon and contribute additional ideas. In addition, however, EPA believes that we must immediately pursue a number of actions to ensure that existing combustion facilities are operated safely and without unacceptable risks to human health and the environment. Accordingly, while we implement the elements of this strategy, EPA is directing its Regions to immediately take actions to pursue aggressive source reduction programs at hazardous waste facilities, and to ensure that waste combustion is closely controlled through permitting and aggressive enforcement.

Both EPA and the EPA-State Committee will seek to engage the widest range of interested parties in our evaluation of source reduction and waste combustion. This will include federal, state, and local officials, waste generators and treaters, the waste combustion industry, environmental and citizen groups, and members of the public at large. Meaningful participation by, and communication among, all affected parties is a cornerstone of EPA's federal hazardous waste program. We intend to take all steps necessary to foster this participation and communication.

EPA is also keenly aware that, ultimately, we serve the public. Our mission under RCRA, and that of the authorized states, is explicit -- we must ensure adequate protection of human health and the environment. EPA fulfills this responsibility in the light of full public scrutiny. We will continue to do so during this reevaluation of the role of combustion in our national waste management strategy.

#### **IV. ACTIONS TO IMPLEMENT STRATEGIC GOALS**

All waste management technologies must assure full protection of human health and the environment. EPA will not tolerate operation of waste management facilities that present unacceptable risks to human health and the environment. Accordingly, EPA will engage in a series of short and longer-term actions designed to pursue aggressive source reduction, to enhance controls on existing combustion facilities, and to promote public participation in permitting and source reduction efforts.

The short term actions include:

- o An aggressive source reduction program that integrates waste combustion with waste management decision making
- o Direction to EPA Regions and states to:

- Perform site-specific risk assessments, including indirect exposure, at incinerator and BIF facilities in the permitting process
- Use omnibus permit authority in new permits at incinerator and BIF facilities as necessary to protect human health to impose upgraded particulate matter standards and if necessary additional metal emission controls, and to impose limits on dioxin/furan emissions
- Establish a priority for reaching final permit decisions for incinerators and BIF facilities
- Enhance public participation in permitting of incinerators and BIFs
- Enhance inspection and enforcement for incinerators and BIFs.

The longer-term actions include:

- o Continued efforts to build an aggressive source reduction program, including exploration of the usefulness and feasibility of setting a national capacity reduction goal for generation of combustible waste
- o Investigation of feasibility and risks associated with alternative waste treatment technologies
- o Upgrades to EPA's rules on emission controls at combustion facilities and on continuous emission monitoring techniques
- o Upgrades to EPA's rules on the permitting and public involvement process for combustion facilities

#### A. Short Term Actions

1. **Integration of Aggressive Source Reduction and Waste Combustion**
  - o Use of permit priorities to stimulate source reduction

Over the next 18 months, as the national dialogue on source reduction is held, EPA will give low priority to permit-related requests for additional combustion capacity except where that capacity offsets the retirement of existing combustion capacity.

The Agency will consider such requests for additional combustion capacity only if the new capacity would provide a substantial reduction in emissions. These administrative measures will allow the Agency to focus as a priority matter on assuring the safety of currently operating facilities. Furthermore, to the extent any new capacity is considered, it will be state-of-the-art combustion units designed to achieve more efficient combustion and lower emissions. These measures will extend to new permit applications, modifications to existing permits to expand combustion capacity, and expansion of interim status combustion operations.

- o Publication of final "Waste Minimization Program in Place" guidelines.

These guidelines identify the elements of a waste minimization program for generators and facilities to make a proper certification to EPA that they have a waste minimization program in place, as required by the RCRA statute. EPA will also pursue compliance with the enhanced certification requirements to the maximum extent permitted under RCRA authority. EPA is also considering publication of lists of non-compliers to alert the public and the waste treatment industry. Where legally appropriate, EPA may also use enforcement orders and permits to incorporate the elements of a good waste minimization program into the set of requirements that a facility must meet.

- o Work with the waste treatment industry as a means to get more aggressive action on source reduction from the generators of combustible waste.

EPA will ask treatment companies to consider accepting wastes only from customers that have conducted source reduction audits and have an enhanced waste minimization program in place (per EPA's "Program in Place" notice). In doing so, we hope that a working partnership can be established among the regulatory agencies, the treaters, and the generators such that we can achieve, as a national priority, the maximum amount of source reduction possible. All interested parties must pursue an aggressive source reduction program. EPA will work closely with the treatment industry to identify additional opportunities for source reduction.

- o Target generating industries that produce combustible wastes both for source reduction inspections and for requiring generators to conduct waste minimization audits.

EPA will give top priority to ensuring compliance with waste minimization requirements/guidance at those facilities that are driving the demand for waste combustion. In addition, at the same facilities, EPA will to the maximum extent possible include audit requirements in enforcement settlement agreements, permits, and as part of corrective action orders. The audits will allow these companies to investigate the maximum possible use of source reduction to the extent that they are not already doing so in partnership with EPA and the states.

- o Maximum public involvement and information regarding source reduction and its integration with waste combustion

EPA will also establish a program to more effectively provide information to the public on the types of wastes going to combustion units and the sources of those wastes. First, EPA will compile information from the Biennial Report and will collect information from commercial combustion facilities. This information -- such as the specific types and volumes of wastes being sent for combustion as well as the generators of these wastes -- will be compiled in a report and be provided to the public. This information will apprise citizens of those industries that rely on combustion of their wastes and will allow the public to better focus their attention on the appropriate generating facilities.

## 2. Immediate Actions in Combustion Facility Permitting

The Agency's goal is to continuously improve the regulation of hazardous waste combustion to reflect advances in scientific understanding so that adequate protection of human health and the environment is assured. During the time it takes to propose and finalize updates to national regulations, EPA will use its omnibus authority on a case-by-case basis as necessary to protect human health and the environment to include the appropriate conditions in permits being issued.

At this time, EPA believes that regions and states should use the RCRA omnibus provision and RCRA permit modification regulations to add permit conditions as necessary to protect human health and the environment whenever a combustion facility owner/operator is seeking issuance of a new permit or reissuance of an expiring permit, or, in appropriate circumstances, when

existing permits are reopened for modification. The following will be addressed during the permitting process.

o **Risk Assessments**

EPA is directing that site-specific risk assessments be conducted at incinerators and BIFs during the permitting process. These should be done in accordance with EPA's draft indirect risk assessment guidance. EPA is currently developing updated, final guidance on conducting risk assessments at combustion facilities, including consideration of the risks from indirect exposures. Until this national risk assessment guidance is completed, all risk assessments at combustion facilities will be done on a site-by-site basis. EPA and State technical experts will be available to serve on risk assessment teams to assist regions and states in conducting these risk assessments (particularly with regard to indirect risks).

o **Upgraded Particulate Matter Standard and Supplemental Controls on Metal Emissions**

Hazardous waste combustion units should be required, through appropriate use of the omnibus permit authority, to meet the more stringent particulate matter standard that is now applicable to municipal waste combustors -- 0.015 mg/dscm. This technology-based standard operates to provide a major control on metals emissions from combustion unit. In addition, each combustion facility should be required to consider, as part of its facility-specific risk assessment, whether the upgraded PM standard affords adequate protection against the risks posed by metals. If additional metal controls are found to be necessary, the regions and states should impose these controls through use of the omnibus permit authority.

The upgraded PM standard will be used for BIFs unless another protective standard is applicable under state or federal law. These upgraded PM standards will continue to be used until an alternative PM standard has been promulgated for incinerators and BIFs. It may be that the upgraded PM standard is sufficient for many combustion facilities. However, some combustion units may be emitting metals above de minimis quantities, in which case additional controls may be warranted.

o **Dioxins and Furans**

Site specific risk assessments at hazardous waste combustion facilities may reveal the need for additional controls on dioxin and furan emissions. Through appropriate use of the omnibus permit authority, the regions and states should impose as an

interim measure emission limits of 30 ng/dscm (based on the sum of all tetra through octa dioxin and furan congeners). This standard is the same as the New Source Performance Standard for new municipal waste combusters. Regions and states should supplement this with more stringent emission limits if the site-specific risk assessment warrants.

o **Permit Controls on Incinerators and BIFs**

EPA regions and states should bring incinerators and BIFs under permit controls as soon as possible. This will be implemented through establishment of a schedule for calling in all BIF permits for final determinations. Each region will develop a plan that provides for commercial BIF permits to be called in within the next 12 months and for all other BIF permits to be called in within the succeeding 24 months. Permits represent one of the most effective means by which EPA and the authorized states can develop and enforce conditions on the operation of incinerators and BIFs. At this point, no BIFs have had final permit decisions. Thus, permit determinations should be made as expeditiously as feasible to effectively control those operations that can be operated safely as well as deny permits at those facilities that can not be operated safely.

o **Enhanced Public Participation**

Public participation is one of the major cornerstones of EPA's environmental programs. EPA is committed to meaningful public involvement in its permitting programs. Local citizens must be given the opportunity to assure themselves that facilities in their neighborhoods will be operated safely.

EPA will immediately provide for greater public participation in the permitting of BIFs and incinerators, and will initiate amendments to its rules to reflect new avenues for public participation. Prior to these amendments being finally adopted, EPA will direct all regions and states to provide immediately for additional public participation opportunities during permitting of combustion units - particularly at earlier stages than now provided for under EPA's current permitting regulations. These should include, but are not limited to, public comment on the trial burn plan. EPA will also direct that local citizens be given the opportunity to participate during the risk assessment process at combustion facilities.

o **Enhanced Inspection and Enforcement**

EPA will continue and enhance its current enforcement efforts regarding combustion units through aggressive inspection

and enforcement at both BIFs and incinerators and through use of specialized combustion inspectors. Based on our experience and the level of public concern about the compliance record of commercial combustion units, the use of aggressive enforcement and special inspectors will ensure the maximum timeliness and extent of compliance. In particular, if an event occurs that results in non-compliance, EPA or the state will be in a position to take the appropriate enforcement or permitting action, including abatement of the problem or, if necessary, shutdown of combustion operations. Whenever appropriate, Regions and States are encouraged to use permanent on-site inspectors at commercial incinerators and BIFs.

#### **B. Longer Term Actions**

EPA will also immediately pursue a number of longer term actions to continue the progress towards our goals of source reduction, balancing the amount of combustion capacity with the actual needs, ensuring combustion safety, and providing for greater public participation.

- o **Continue to build an aggressive source reduction program**

EPA will conduct a national round table on source reduction opportunities for hazardous wastes. The national round table on source reduction will seek to highlight avenues for reducing the amount of waste being combusted, and will explore the appropriate balance between source reduction and use of combustion as a waste management tool. The round table will explore both regulatory and non-regulatory options to encourage and/or require source reduction. Generating and treatment industries will be asked to participate actively in this effort. Results will also be used by the EPA-State Committee to establish a national dialogue among the interested parties on the proper integration of source reduction and waste combustion.

- o **Establishment of a Percent/Target Year Program for reduction of combustible hazardous wastes**

EPA will work with the states towards establishing a program in which industry is challenged to reduce by a selected percentage and by a target year the amount of process wastes going to combustion units. EPA will discuss with all interested parties the appropriate percentage reduction to be used as a goal and the appropriate time frame for this reduction.

- o **Upgrade EPA's rules to reflect state-of-the-art advancements**

EPA will initiate a rulemaking to upgrade our combustion rules. In doing so, EPA will explore the feasibility of a technology-based approach, particularly with respect to setting emission controls on metals, dioxins and furans, acid gases, particulate matter, and products of incomplete combustion. In addition, EPA will continue to refine its risk assessment guidelines to ensure that all risks are effectively addressed by national regulations or site-specific permit conditions.

- o **Upgrade EPA's rules on permit process for combustion units**

While EPA is directing regions and states to immediately afford greater public participation on a permit-by-permit basis, we will seek to modify our rules to reflect expanded public participation. EPA will initiate a rulemaking to codify our goal of increased public participation at earlier stages in the permitting process for incinerators and BIFs. In particular, EPA will address the trial burn process and the public's role in that process.

EPA also believes there is a need to explore a rulemaking to reform the permit appeal process for combustion units whose permit applications have been denied by the Regional Administrator or State Director. In particular, where the unit has been burning waste under interim status, EPA will seek to establish rules that prevent the continued burning of waste during administrative appeals of a permit denial decision. EPA will also explore additional guidance or a rulemaking to clarify the number of permissible trial burns allowed before permit denial.

- o **Use and Feasibility of a Long-Term National Capacity Reduction Goal**

EPA will explore the usefulness of developing a long-term reduction goal (e.g., a 25% reduction in combustion capacity over the next 10 years) to reduce combustion capacity beyond that which can be achieved through source reduction efforts. The purpose of such a goal would be to give more concrete national guidance on how best to mesh combustion demand with capacity.

- o Conduct research on continuous monitoring for organics, including dioxins and metals.

EPA will use its research resources to continue and enhance scientific inquiry on ways to better determine what constituents are in emissions from combustion units and to develop the technology needed to monitor these emissions on a continuous basis. EPA will work cooperatively with the waste combustion industry to address these research areas.

- o Investigate innovative waste treatment technologies that provide protection to human health and the environment.

EPA will continue and enhance its efforts to foster the development of innovative technologies for the safe and effective treatment of hazardous waste. Such actions are essential to our national waste management system and to our global competitiveness.

## V. CONCLUSION

EPA is committed to evaluating the role that source reduction and combustion of hazardous waste should play in our national waste management program. EPA will work in full partnership with the States in this effort. EPA and the States will embark upon a full and open discussion with all stakeholders, including affected citizens and industries, on the issues and actions detailed in this Draft Combustion Strategy.