

PERMIT WRITER'S GUIDANCE MANUAL

**(FOR TREATMENT AND STORAGE
IN TANKS AND CONTAINERS)**

U.S. ENVIRONMENTAL PROTECTION AGENCY
1983

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U.S. ENVIRONMENTAL PROTECTION AGENCY

1983

DISCLAIMER

This Permit Writer's Guidance Manual has been developed to assist Federal and state hazardous waste permit writers in reviewing RCRA Part B Permit Applications. It is intended that permit writers will use the document as a guide in the technical review process and to relevant technical information which can be used while conducting the reviews. The manual reflects all the regulatory requirements as of the date of its publication. All questions concerning the applicability of requirements or their changes in status should be determined by direct reference to the regulations.

PREFACE

The purpose of this guide is to assist the Federal and state permit writers in evaluating RCRA Part B permit applications for hazardous waste management facilities. This document is designed to complement, not duplicate, the information presented in other guidance documents also developed for permit writers including the document titled "RCRA Part B Permit Strategy, U.S. EPA Region V" and the "Administrative Procedures for RCRA Permits for Hazardous Waste Facilities. SW-934, U.S. Environmental Protection Agency, 1981. These documents should be referred to for further details on the administrative aspects of permit issuance.

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	I-1
Applicability	I-2
Contents	I-2
Organization	I-3
II. OVERVIEW OF THE TECHNICAL REVIEW PROCESS	II-1
Introduction	II-1
Subject Area Flowcharts	II-5
III. COMPLETENESS CHECK	III-1
Introduction	III-1
Permit Application Checklist	III-5
IV. PERMIT WRITER'S DECISION GUIDE	IV-1
Introduction	IV-1
Decision Guide	IV-3
Outline of Decision Guide	IV-4
References for Permit Writer's Decision Guide	IV-36
APPENDIX A Confidential Treatment of Business Information	A-1

LIST OF FIGURES

<u>Number</u>		<u>Page</u>
II-1	Permit Application Review Process Flowchart	II-2
II-2	Subject Area B - Facility Description Flowchart	II-6
II-3	Subject Area C - Waste Characteristics Flowchart	II-7
II-4	Subject Area D - Process Information Flowchart	II-8
II-5	Subject Area F - Procedures to Prevent Hazards Flowchart	II-9
II-6	Subject Area G - Contingency Plan Flowchart	II-10
II-7	Subject Area H - Personnel Training Flowchart	II-11
II-8	Subject Area I - Closure Plan Flowchart	II-12
II-9	Subject Area J - Other Federal Laws Flowchart	II-13

SECTION I

INTRODUCTION

Under Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), the U.S. Environmental Protection Agency (EPA) established regulations to ensure the protection of human health and the environment through the proper management of hazardous wastes. These regulations require certain facilities that treat, store, or dispose of hazardous wastes to submit RCRA permit applications to EPA. The permit applications consist of two parts, Part A and Part B. These applications must contain sufficient information to assure that the hazardous waste management practices of the facility provide adequate levels of protection to human health and the environment.

Hazardous waste storage, treatment, or disposal facilities in existence before November 19, 1980, were required to submit a Part A permit application by that date. A Part B permit application must be submitted by the facilities and approved before a final permit is granted.

This Permit Writer's Guidance Manual is designed to help the Federal and state permit writers evaluate whether Part B permit applications contain adequate information to determine whether or not the facility is in compliance with applicable portions of 40 CFR 260-265.

Applicability

This manual is applicable to existing hazardous waste storage and treatment facilities, which use containers and tanks, to manage hazardous waste. The manual has not been designed to address new facilities*, land disposal facilities, surface impoundments, waste piles, or incinerators. These items are listed in the appropriate sections in the permit application outline followed by the word "reserved."

Contents

The Permit Writer's Guidance Manual is divided into four sections. Section I provides an introduction and general background information concerning the use of the manual. The second section of this manual describes the procedures that should be followed in conducting the technical review of the permit application. Flowcharts are used to illustrate the major subject areas required by the regulations in the Part B permit application and to illustrate the decision points in the permit application review process. The subject flowcharts show the major items and and decisions that must be made before determining whether subsequent items apply. For example, the permit

* A significant portion of the regulatory requirements for new facilities are identical to the requirements for existing facilities. There are numerous significant differences including but not limited to: 1) certain new facilities are required to comply with 40 CFR 264.18(a) while existing facilities are not required to comply with the seismic standards, and 2) permit application completeness checks must be completed within 60 days of receipt for existing facilities, 30 days for new facilities.

reviewer must determine whether or not a facility's containers contain free liquids, and then check for only the appropriate subsequent items. The flowchart shows a branch whenever this type of decision must be made by the permit writer.

Section III contains a completeness checklist of items that must be addressed in the application. The permit writer reviews the application and checks whether each required item is provided, not provided, or not applicable. By using this checklist, the permit writer determines whether the submitted application is complete to the extent that it includes sufficient technical information on which to base a technical determination. If it is not complete, the facility is notified and the additional information is requested. If the application is complete, then the permit writer completes the detailed technical evaluation of the application using the decision guide.

The decision guide presented in Section IV summarizes every requirement in the regulations, provides the regulatory citation, and lists references that the permit reviewer can use to obtain further information or guidance on specific technical areas.

Organization

Each of the sections in this manual is organized similarly by subject area. The information is centered around a suggested permit application format. The format includes all the information required for a permit application. The information is based on RCRA regulations dealing with Part B information

requirements (40 CFR 122.25) and the technical standards in 40 CFR 264. The suggested permit application format is as follows:

- A. Part A Application
- B. Facility Description
- C. Waste Characteristics
- D. Process Information
- E. Ground Water Monitoring Systems (reserved)
- F. Procedures to Prevent Hazards
- G. Contingency Plan
- H. Personnel Training
- I. Closure and Post-closure Plans and Financial Responsibility
(Post-closure Plans - reserved)
- J. Other Federal Laws
- K. Certification

An outline of the subheadings under each subject area can be found on page IV-4. The informational requirements can be broadly categorized into two areas: 1) general requirements which apply to all facilities, and 2) specific requirements which apply to the individual type of facilities (e.g., tanks and containers). Sections A, B, C, F, G, H, I, J and K apply to every facility, whereas Section D is divided into component requirements for tanks and containers. Portions of F, G, and I are also dependent on facility type. The flow charts in Section II will assist the permit writer in evaluating the appropriate regulations which apply to an individual type of facility, on a case-by-case basis.

The checklist in Section III and the decision guide in Section IV are also organized according to the 10 subject areas. This same basic outline has also been followed in "A Guide for Preparing RCRA Storage Permit Applications," U.S. EPA, 1982. The same format has been used for all the documents to clarify and facilitate their use by the permit writer.

SECTION II

OVERVIEW OF THE TECHNICAL REVIEW PROCESS

Introduction

The permit process begins when either the EPA Regional Office (or a state with Phase II authorization), requests submission of a Part B permit application or a facility voluntarily submits an application. Upon receipt of the request, a facility has 6 months to complete and submit the permit application. After the agency receives the completed application, it logs the submittal.

The application is reviewed to determine whether the applicant has claimed any information in the application as business confidential. If an applicant claims confidentiality on any information in the permit application, the permit writer must follow special procedures to prevent disclosure of the information until a final decision is made on the request for confidentiality. A detailed discussion on these procedures is provided in Appendix I.

Figure II-1 is a flow diagram of the permit application technical review process. First the permit application is checked for timely submittal, certification and correct signatures. Next the application is given a completeness check, to insure that the required information has been submitted and that

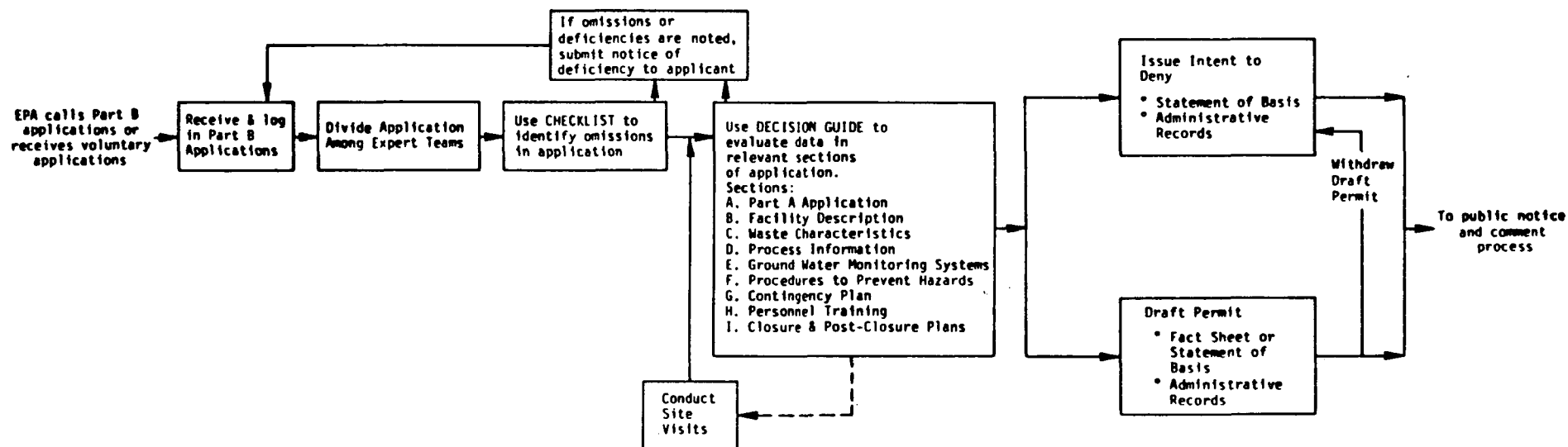


Figure II-1. Permit application review process flowchart.

relevant technical data has been certified by a registered professional engineer. The checklist shown in Section III is used to identify omissions in the application.

The permit writer uses the checklist to determine whether or not each item has been provided or is not applicable. This completed checklist provides a "workbook" from which the permit writer can determine whether or not required items are included. If the Part B permit application is incomplete, EPA issues a "Notice of Deficiency" letter to the applicant that details the missing information needed to complete the application and states a due date for submission of the additional data. Upon receipt of the additional data, the permit application review is repeated with a new checklist. The Agency notifies the applicant in writing when the application is complete.

After an application is considered complete, EPA conducts a technical evaluation of the data in the application. This review determines whether a facility has met the requirements of the standards promulgated under Title 40 of the Code of Federal Regulations (40 CFR) Part 264 and Section 122.25, and whether it should be granted a RCRA permit. The technical evaluation is made by using the decision guide presented in Section IV. Each subject, submitted as Parts A through K in the permit application, is evaluated separately. (These subject areas are used to divide the application among the expert teams for review.) The permit writer may utilize technical design manuals, state information, or other sources of information to conduct the

technical evaluation. The decision guide includes references to manuals and other sources keyed to specific items in each subject area.

If the agency determines that a facility site visit is needed to confirm, complete, or evaluate data in an application, a site visit is conducted at this time. The agency may choose to use an outside contractor to provide technical expertise and assistance in the technical review of a permit application (including the completeness check, the technical evaluation, or the site visits).

The agency must then tentatively decide whether to issue an intent to deny a RCRA permit or write a draft permit. If a decision to deny a permit is reached, the permit writer prepares a notice of intent to deny, which briefly describes the reasons supporting the tentative decision to deny a permit. If the decision is made to issue a draft permit, the permit writer prepares the draft permit and a fact sheet or statement of basis. A fact sheet is prepared for all major facilities and a statement of basis is prepared for all other facilities.

The permit writer also compiles the administrative record, which consists of the application, the draft permit or intent to deny, the statement of basis or fact sheet and documents cited therein, and other documents contained in the supporting file for the draft permit. (For further details see 40 CFR 124.18.)

After these steps are completed in the permit application review process, the Agency gives public notice, and the public review process begins.

Subject Area Flowcharts

Figures II-2 through II-9 are flowcharts that show the major items in each subject area, B through J (E is reserved). The permit writer can use the flow charts as a tool to assist him/her in evaluating the specific informational requirements which apply to any given facility. The flowcharts are designed to show when a decision must be made as to the applicability of individual requirements. For example, when evaluating the facility description information, a permit writer first checks whether the facility is located in a floodplain. If it is not, the floodplain requirements are not applicable. If it is located in a floodplain, the permit writer reviews the application to determine whether the facility can meet the 100-year floodplain standards. The permit writer then checks the application to see if it either shows compliance with the floodplain requirements or contains a compliance plan.

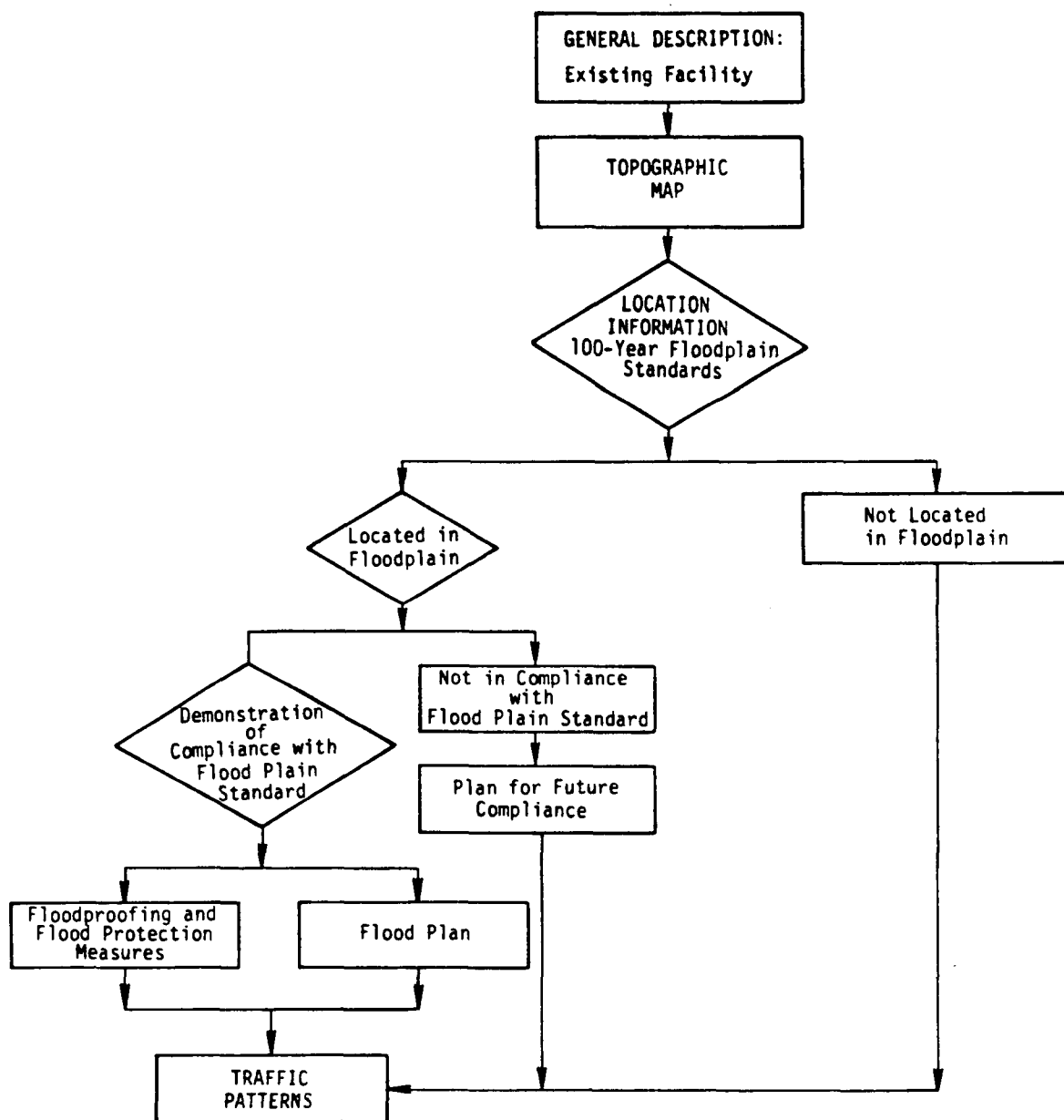


Figure II-2. Subject area B - facility description flowchart.

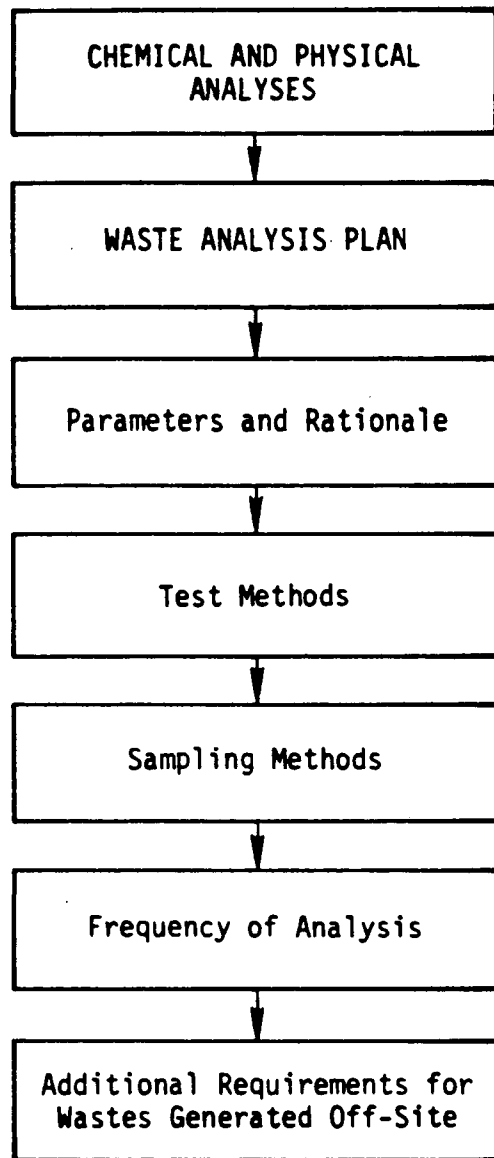


Figure II-3. Subject area C - waste characteristics flowchart.

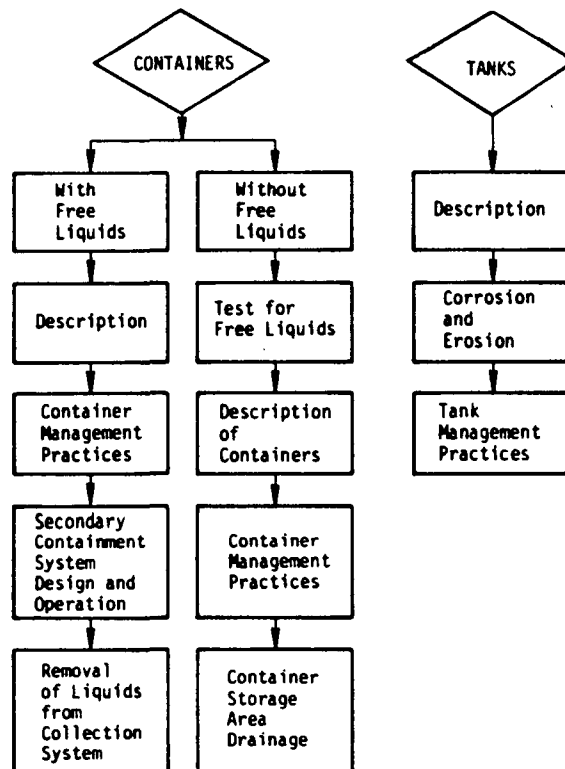


Figure II-4. Subject area D - process information flowchart.

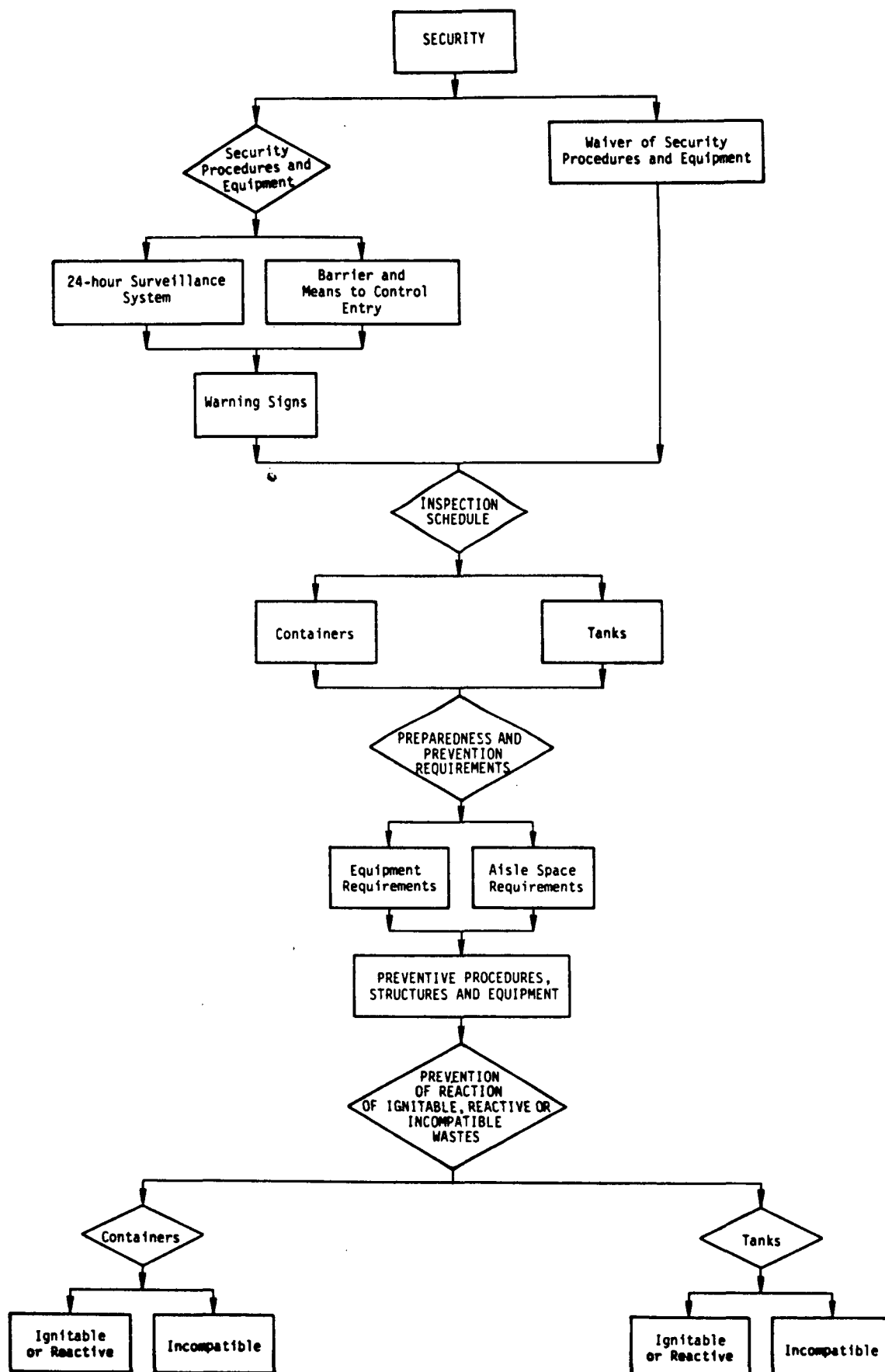


Figure II-5. Subject area F - procedures to prevent hazards flowchart.

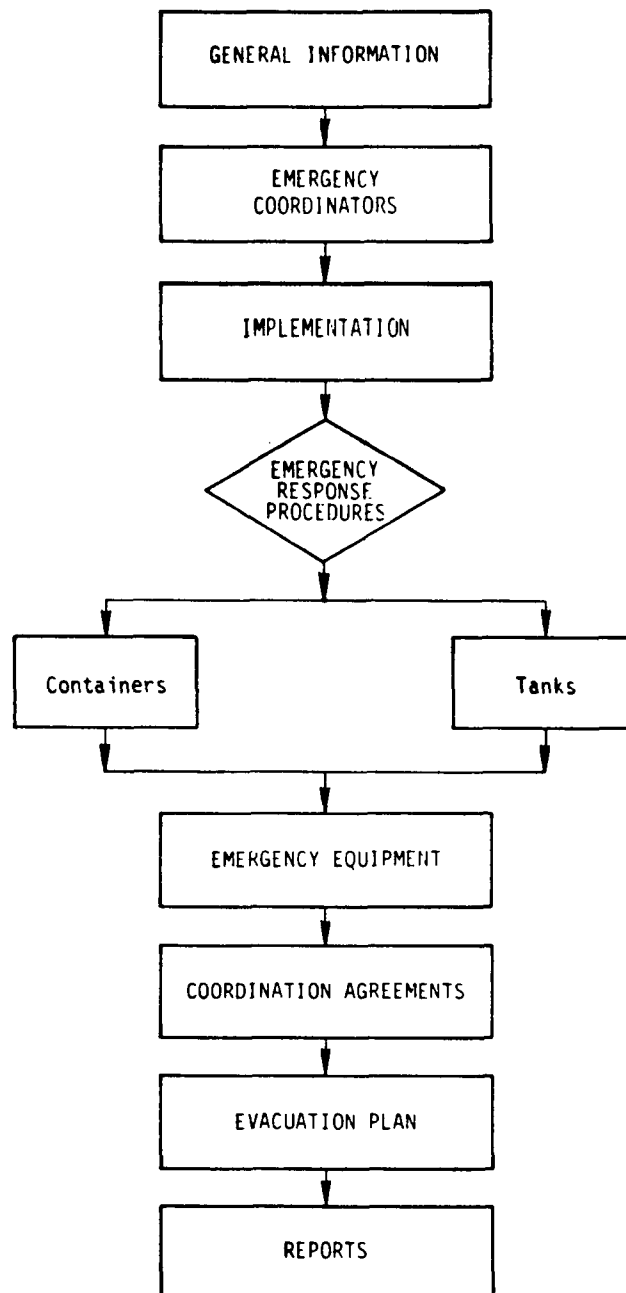


Figure II-6. Subject area G - contingency plan flowchart.

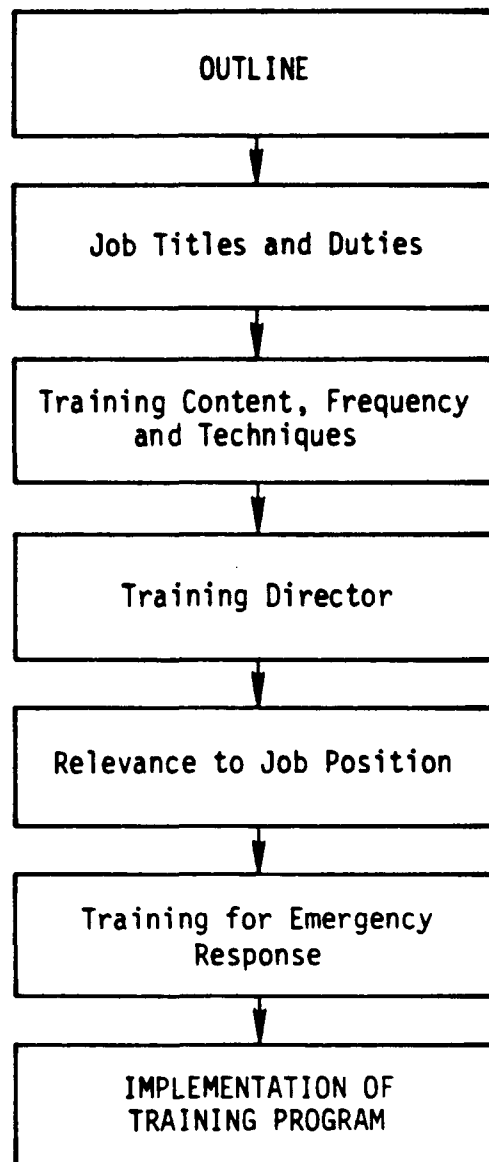


Figure II-7. Subject area H - personnel training flowchart.

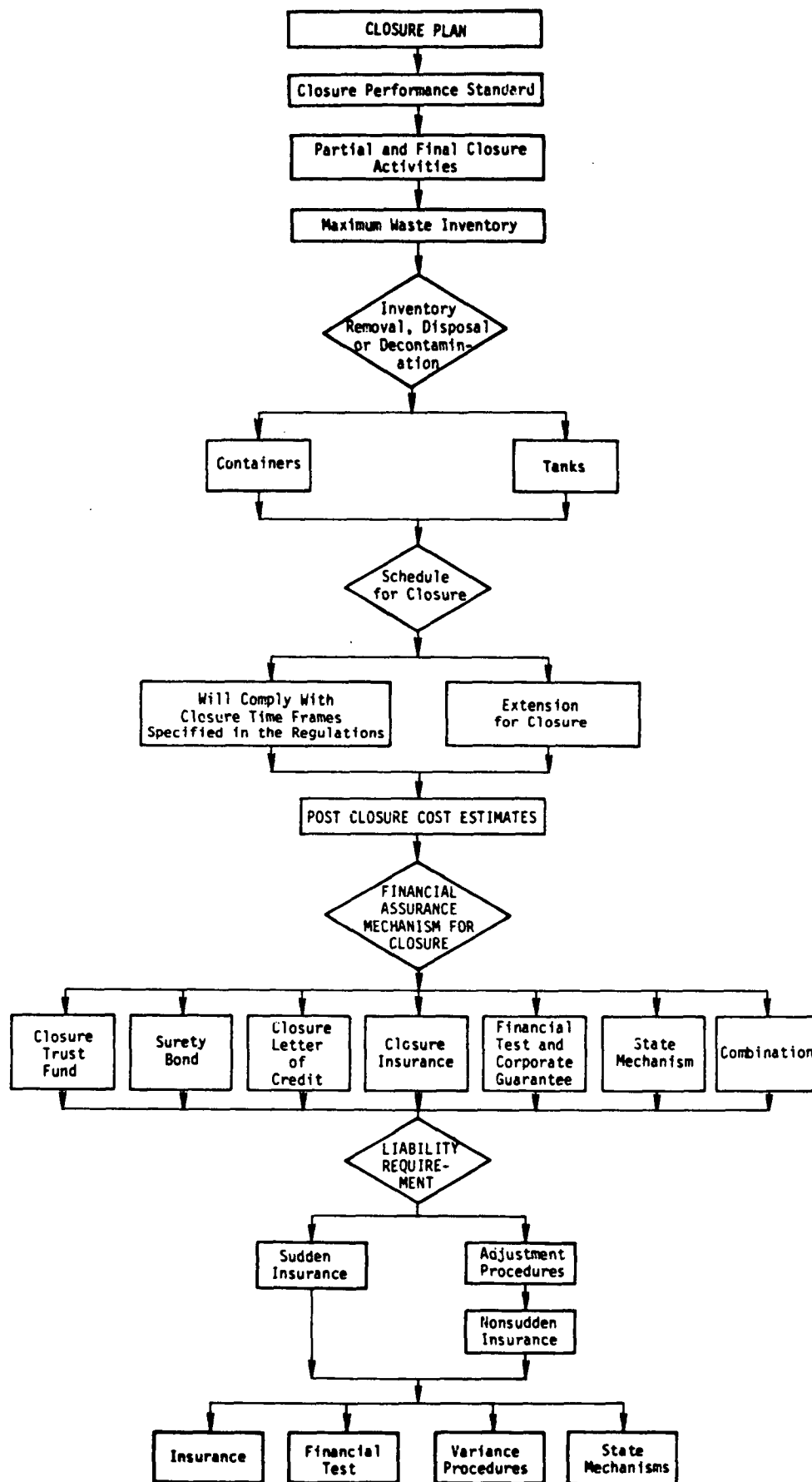


Figure II-8. Subject area I - closure plan flowchart.

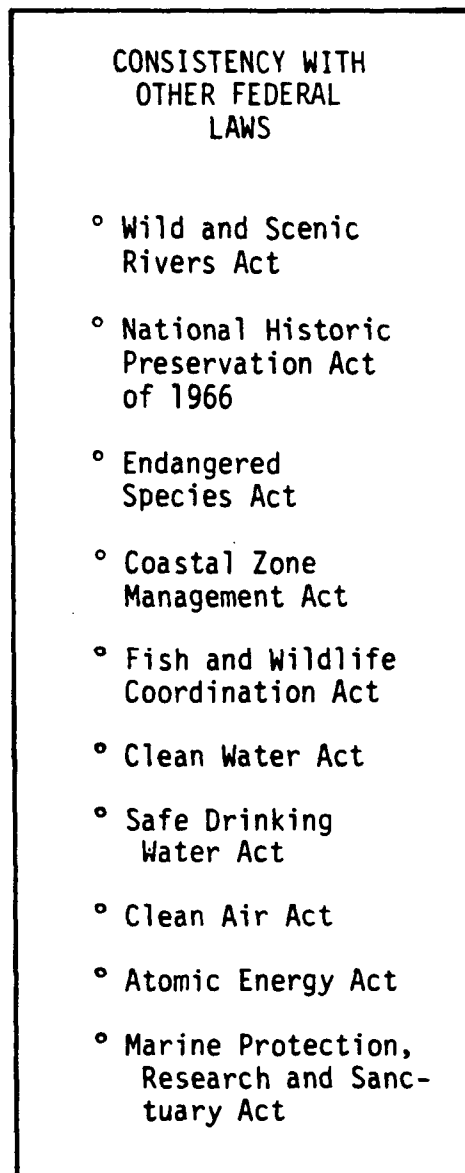


Figure II-9. Subject area J - other Federal laws flowchart.

SECTION III
COMPLETENESS CHECK

Introduction

When a permit application for an existing facility is received, it is divided into sections by subject and distributed to appropriate reviewers, who are required to conduct a completeness check within 60 days. The completeness checklist included in this section is designed to allow the permit writer to examine a permit application and determine whether or not all the required items have been addressed.

The left column of the completeness checklist used by the permit writer contains a description of each of the items required in the regulations for existing hazardous waste storage and treatment facilities. The information is presented in the same format as a permit application and the decision guide to simplify cross-referencing between the checklist and the permit application.* The columns to the right of the first column contain designated spaces in which the permit application evaluator can check the status of the information elements being

* Applications submitted in a format other than the "suggested format" pose a special problem when using the attached checklist. The permit writer should review the application and simultaneously locate the corresponding items in the checklist, and complete the checklist as appropriate.

reviewed (e.g., provided, not provided, not applicable). The column on the far right of each page allows room for comments by the permit writer. This column could be used to identify any omissions or deviations discovered during the permit application completeness check. These omissions and deviations should be subsequently corrected when the applicant responds to the notice of deficiency.

The permit reviewer should review the application to determine if it provides enough information on the general and specific requirements of each section to be able to determine whether or not the facility complies with all applicable regulations. If enough information is provided, the appropriate boxes checked, and the page(s) in the application where the information appears is indicated in the "Comments" section. If some information is supplied, but not enough to satisfy the requirements, the box "Provided" is checked, the page(s) in the application where the information appears is indicated in the "Comments" section, and a separate set of comments should be written which addresses the inadequacies of the submittal. These comments should be attached to the checklist and referenced in the "Comments" section (e.g., see Comments). If no information is provided or the permit requirement is not applicable (e.g., tank requirements are not applicable to facilities without tanks), the appropriate boxes should be checked. It is important to note when conducting the completeness review that for an informational requirement listed in the checklist to be considered

"satisfied", the application must supply data to allow review of all the specific requirements. For example, in reviewing an application for completeness of the requirement "F-2a Inspection Schedule," it is necessary for the application to describe the facility schedule for inspection of monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment. The schedule must also identify the types of problems to look for during the inspection and the frequency of inspection for items on the schedule. If the application specifies the equipment to be inspected, and the frequency of those inspections, but fails to identify the types of problems to be inspected for, the "Provided" column should be marked, and a separate set of comments should be written which address this specific inadequacy.

Completeness Checklist

Facility name _____

Facility address _____

EPA identification number _____

Type of facility _____

Facility contact _____

Date application received _____

Date checklist completed _____

Permit review team _____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST

		Provided	Not provided	Not applicable	Comments
A.	PART A APPLICATION (40 CFR Sections 122.4(d), 122.24)	_____	_____	_____	_____
B.	FACILITY DESCRIPTION				
B-1	General description of facility (40 CFR Section 122.25(a)(1))	_____	_____	_____	_____
B-2	Submission of a topographic map (40 CFR Section 122.25(a)(19))	_____	_____	_____	_____
B-3	Location Information (40 CFR Section 122.25(a)(11))				
B-3a	Seismic Standard (reserved) (40 CFR Sections 122.25(a)(11)(i) and (ii), 264.18(a))				
B-3b	Documentation which identifies whether facility is or is not located in a 100-year floodplain (FIA maps or maps developed with equivalent mapping techniques) (40 CFR Sections 122.25(a)(11)(iii), 264.18(b))	_____	_____	_____	_____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
B-3b(1)	For facilities located within a 100-year floodplain, demonstration of compliance with 100-year floodplain requirements by either the following: (40 CFR Sections 122.25(a)(11)(iv), 264.18(b))	_____	_____	_____	_____
B-3b(1)(a)	Structural or engineering studies showing the design of the hazardous waste units and floodproofing and protection devices at the facility and how these will prevent washout from the hydrostatic and hydrodynamic forces resulting from a 100-year flood (40 CFR Section 122.25(a)(11)(iv) (A) and (B))	_____	_____	_____	_____
	OR				
B-3b(1)(b)	Flood Plan detailing procedures for removing hazardous waste to safety before the facility is flooded (40 CFR Section 122.25(a)(11)(iv)(C))	_____	_____	_____	_____
B-3b(2)	For existing facilities not in compliance with 100-year floodplain requirements, submission of a compliance schedule (40 CFR Section 122.25(a)(11)(v))	_____	_____	_____	_____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
B-4	Description of traffic information (40 CFR Section 122.25(a)(10))	_____	_____	_____	_____
C. WASTE CHARACTERISTICS					
C-1	For each hazardous waste stored or treated, a general description of the waste, the hazard characteristics, the basis for hazard designation, and a laboratory report detailing the chemical and physical analyses of representative samples (40 CFR Sections 122.25(a)(2), 264.13(a))	_____	_____	_____	_____
C-2	A copy of the Waste Analysis Plan that describes the following: (40 CFR Sections 122.25(a)(3), 264.13(b) and (c))				
C-2a	List of the parameters chosen for analysis and the rationale for their selection (40 CFR Section 264.13(b)(1))	_____	_____	_____	_____
C-2b	Description of the test methods used (40 CFR Section 264.13(b)(2))	_____	_____	_____	_____
C-2c	Description of the sampling methods used (40 CFR Section 264.13(b)(3), and Part 261, App. I)	_____	_____	_____	_____

III-7

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
C-2d	Description of frequency of analyses (40 CFR Section 264.13(b)(4))	_____	_____	_____	_____
C-2e	Description of inspection of off- site generated wastes (40 CFR Section 264.13(c))	_____	_____	_____	_____
C-2f	Description of the methods used to meet additional waste analysis requirements necessary for storing or treating ignit- able, reactive or incompatible wastes (40 CFR Sections 264.13(b)(6), 264.17)	_____	_____	_____	_____
D.	PROCESS INFORMATION				
D-1	Containers				
D-1a	Containers with free liquids				
D-1a(1)	Primary containment devices: a description of the dimensions, construction materials, liner speci- fications (with container manufac- turer's specifications, if available), condition and number of containers, and demonstration of compatibility of waste with containers (40 CFR Sections 122.25(b)(1)(i)(A), 264.171 and 264.172)	_____	_____	_____	_____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
D-1a(2)	Description of container management practices (opening, handling, and storage procedures) to insure container integrity (40 CFR Section 264.173)	_____	_____	_____	_____
D-1a(3)	Design and operation specifications for secondary containment system including a drawing of all the design aspects of the containment system (40 CFR Sections 122.25(b)(1), 264.175(b))	_____	_____	_____	_____
D-1a(3)(a)	Demonstration of structural integrity of base underlying containers, and ability of bases to contain spills, leaks, and accumulated precipitation (40 CFR Section 264.175(b)(1))	_____	_____	_____	_____
D-1a(3)(b)	Description of how containment system design promotes drainage or how containers are kept from contact with free standing liquids (40 CFR Sections 122.25(b)(1)(i)(B), 264.175(b)(2))	_____	_____	_____	_____
D-1a(3)(c)	Description of containment system capacity relative to the number and volume of containers to be stored (40 CFR Sections 122.25(b)(1)(i)(C), 264.175(b)(3))	_____	_____	_____	_____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
D-1a(3)(d)	Description of containment system provisions for preventing or managing run-on (40 CFR Sections 122.25(b)(1)(i)(D), 264.175(b)(4))	_____	_____	_____	_____
D-1a(4)	Description of procedures for detecting and removing accumulated liquids from the containment system in a timely manner (40 CFR Sections 122.25(b)(1)(i)(E), 264.175(b)(5))	_____	_____	_____	_____
D-1b	Containers without free liquids				
D-1b(1)	Documentation/information showing that the wastes do not contain free liquids (40 CFR Section 122.25(b)(1)(ii)(A))	_____	_____	_____	_____
D-1b(2)	Primary containment devices: a description of the dimensions, construction materials, liner specifications (with container manufacturer's specifications, if available), condition and number of containers, and demonstration of compatibility of waste with containers (40 CFR Sections 264.171 and 264.172)	_____	_____	_____	_____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
D-1b(3)	Description of container management practices (opening, handling, and storage procedures) to insure container integrity (40 CFR Section 264.173)	_____	_____	_____	_____
D-1b(4)	Container storage area drainage system: a description of how design promotes drainage and removal of precipitation or how containers are kept from contact with free standing liquids (40 CFR Sections 122.25(b)(1)(ii)(B), 264.175(c))	_____	_____	_____	_____
D-2	Tanks				
D-2a	References to design standards or other available information used in tank design construction, and information about tank dimensions, capacity, and shell thickness and other parameters needed to assess conformance with standards (40 CFR Sections 122.25(b)(2), 264.191)	_____	_____	_____	_____
D-2b	Description of design specifications including identification of construction and lining materials for assessment of corrosion and erosion potential (40 CFR Sections 122.25(b)(2)(ii), 264.192(a))	_____	_____	_____	_____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
D-2c	Diagrams of piping, instrumentation, and process flow, and a description of feed systems, safety cut-off, bypass systems, and pressure controls (e.g., vents) (40 CFR Sections 122.25(b)(2)(iv) and (v), 264.192(b))	_____	_____	_____	_____
D-3	Waste piles (reserved)				
D-4	Surface impoundments (reserved)				
D-5	Incinerators (reserved)				
E.	GROUND WATER MONITORING PROGRAM (RESERVED)				
F.	PROCEDURES TO PREVENT HAZARDS				
F-1	Security				
F-1a	Description of security procedures and equipment: (40 CFR Sections 264.14, 122.25(a)(4))	_____	_____	_____	_____
F-1a(1)	24-hour surveillance system (40 CFR Section 264.14(b)(1))	_____	_____	_____	_____
	OR				

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
F-1a(2)	Barrier and means to control entry (40 CFR Section 264.14(b)(2)(i) and (ii))	_____	_____	_____	_____
F-1a(3)	Warning signs (40 CFR Section 264.14(c))	_____	_____	_____	_____
F-1b	If included, a request for waivers that demonstrate an intruder would not be injured or cause a RCRA violation (40 CFR Section 264.14(a))	_____	_____	_____	_____
F-2	Inspection schedule (40 CFR Sections 122.25(a)(5), 264.15)	_____	_____	_____	_____
F-2a	A copy of the general inspection schedule for security devices and monitoring, safety, emergency, operating, and structural equipment (40 CFR Sections 264.15(a) and (b), 264.33)	_____	_____	_____	_____
F-2a(1)	Identification of the types of pro- blems to be inspected (40 CFR Section 264.15(b)(3))	_____	_____	_____	_____
F-2a(2)	Identification of the frequency of inspection (40 CFR Section 264.15(b)(4))	_____	_____	_____	_____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
F-2b	A copy of the inspection schedule for specific process requirements	_____	_____	_____	_____
F-2b(1)	Description of procedures and schedule for specific requirements for containers including weekly inspections of containers, container storage areas and containment system(s) (40 CFR Section 264.174)	_____	_____	_____	_____
F-2b(2)	Description of procedures and schedule for specific requirements for tanks including daily inspections of overfilling control equipment, data gathered from monitoring equipment and level of waste in uncovered tanks; weekly inspections of above ground portion of the tank, and area immediately surrounding the tank; and regular inspections as needed to detect cracks, leaks, corrosion, erosion or wall thinning in the tank (40 CFR Section 264.194(a) and (b))	_____	_____	_____	_____
F-3	Preparedness and prevention requirements (40 CFR Sections 122.25(a)(6), 264.32 and 264.35)	_____	_____	_____	_____
F-3a	Equipment requirements (40 CFR Section 264.32)	_____	_____	_____	_____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
F-3b	Aisle space requirement (40 CFR Section 264.35)	_____	_____	_____	_____
F-4	A description of procedures structures and equipment used at the facility to accomplish the following: (40 CFR Section 122.25(a)(8))				
F-4a	Prevent hazards in unloading operations (40 CFR Section 122.25(a)(8)(i))	_____	_____	_____	_____
F-4b	Prevent runoff from hazardous waste handling areas (40 CFR Section 122.25(a)(8)(ii))	_____	_____	_____	_____
F-4c	Prevent contamination of water supplies (40 CFR Section 122.25(a)(8)(iii))	_____	_____	_____	_____
F-4d	Mitigate the effects of equipment failure and power outages (40 CFR Section 122.25(a)(8)(iv))	_____	_____	_____	_____
F-4e	Prevent undue exposure of personnel to hazardous waste (40 CFR Section 122.25(a)(8)(v))	_____	_____	_____	_____
F-5	Prevention of reaction of ignitable, reactive, or incompatible wastes				

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
F-5a	Demonstration of the specific precautions used to prevent ignition or reaction of ignitable or reactive wastes (40 CFR Sections 122.25(a)(9), 264.17(a) and (c))	_____	_____	_____	_____
F-5b	Demonstration of the general precautions for handling ignitable or reactive wastes or mixing incompatible wastes (40 CFR Sections 122.25(a)(9), 264.17(b) and (c))	_____	_____	_____	_____
F-5c	For containers, a detailed description of the facility operating procedures which demonstrate compliance with ignitable or reactive waste requirements and compliance with buffer zone/location/container separation requirements for ignitable or reactive waste (40 CFR Sections 122.25(b)(1)(iii), 264.176)	_____	_____	_____	_____
F-5d	If incompatible wastes are stored, a description of the procedures used to insure compliance with the regulations for incompatible waste/material storage in the same container(s) (40 CFR Sections 122.25(b)(1)(iii), 264.177)	_____	_____	_____	_____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
F-5e	For tanks, a description of operational procedures for handling and storage of ignitable or reactive wastes, including the use of buffer zones (40 CFR Sections 122.25(b)(2)(vi), 264.198)	_____	_____	_____	_____
F-5f	If incompatible wastes are stored, a description of the procedures used to insure compliance with the regulations for incompatible waste/material storage in the same tank(s) (40 CFR Sections 122.25(b)(2)(vi), 264.199(b))	_____	_____	_____	_____
G.	CONTINGENCY PLAN (40 CFR Sections 122.25(a)(7), 264.50 thru 264.56)				
	A copy of the contingency plan or amended SPCC plan	_____	_____	_____	_____
G-1	A general description of the facility	_____	_____	_____	_____
G-2	A list of emergency coordinator's names and phone numbers (40 CFR Sections 264.52(d), 264.55)	_____	_____	_____	_____
G-3	A list of criteria for implementation of the plan (40 CFR Sections 264.52(a), 264.56(d))	_____	_____	_____	_____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
G-4	A description of emergency response procedures for spills fires, and explosions (40 CFR Sections 264.52, 264.56, 264.171, 264.194(c), 264.255 and 264.258)	_____	_____	_____	_____
G-5	A description of emergency equipment including location and capabilities (40 CFR Section 264.52(e))	_____	_____	_____	_____
G-6	A description of coordination agreements with police and fire departments, hospitals, contractors and state and local emergency response teams (40 CFR Sections 264.52(c), 264.37)	_____	_____	_____	_____
G-7	A copy of the evacuation plan (40 CFR Section 264.52(f))	_____	_____	_____	_____
G-8	A description of provisions for submittal of required reports (40 CFR Section 264.56(j))	_____	_____	_____	_____
H.	PERSONNEL TRAINING				
	Description of the introductory and continuing training programs (40 CFR Sections 122.25(a)(12), 264.16)	_____	_____	_____	_____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
H-1	An outline of the training program which should briefly describe: (40 CFR Section 264.16 (a)(1))				
H-1a	Job titles, duties, and name of each employee receiving training (40 CFR Section 264.16(d)(1) and (d)(2))	_____	_____	_____	_____
H-1b	Content, frequency, and technique used in both introductory and con- tinuing training for each employee (40 CFR Section 264.16 (c) and (d)(3))	_____	_____	_____	_____
H-1c	Training director's qualifications (40 CFR Section 264.16(a)(2))	_____	_____	_____	_____
H-1d	Relevance of training to job position (40 CFR Section 264.16(a)(2))	_____	_____	_____	_____
H-1e	Training for emergency response (40 CFR Section 264.16(a)(3))	_____	_____	_____	_____
H-2	Provisions for implementing the training program (40 CFR Section 264.16(b) and (d)(4))	_____	_____	_____	_____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
I.	CLOSURE PLANS, POST-CLOSURE PLANS AND FINANCIAL REQUIREMENTS (40 CFR Sections 122.25(a)(13), 264.110 thru 264.120)				
I-1	A written closure plan submitted with a description of final closure activities and how these will be conducted according to the regulations. (40 CFR Sections 122.25(a)(13), 264.112)	_____	_____	_____	_____
I-1a	Closure Performance Standard: A description of how closure minimizes the need for further maintenance and controls and minimizes the release of wastes to the environment. (40 CFR Section 264.111)	_____	_____	_____	_____
I-1b	A description of partial closure and final closure activities (40 CFR Section 264.112(a)(1))	_____	_____	_____	_____
I-1c	A description of the maximum waste inventory (quantities) in storage and treatment at any time during the life of the facility (40 CFR Section 264.112(a)(2))	_____	_____	_____	_____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
I-1d	A description of procedures for inventory removal and decontamination or disposal of facility equipment during final closure, and the criteria to be used for determining contamination. (40 CFR Section 264.112(a)(3) and 264.114)	_____	_____	_____	_____
I-1d(1)	For storage containers, a detailed description of how at closure all hazardous waste and hazardous waste residues will be removed from the containment system, and how remaining contaminated containers, liners, and bases will be decontaminated or removed (40 CFR Section 264.178)	_____	_____	_____	_____
I-1d(2)	For storage tanks, a detailed description of how at closure all hazardous waste and hazardous waste residues will be removed from tanks and how the area will be decontaminated (40 CFR Section 264.197)	_____	_____	_____	_____
I-1e	An estimate of the schedule of final closure, including the expected year of closure and a milestone chart depicting the total time required to close the facility and the time required for intervening closure activities (40 CFR Section 264.112(a)(4))	_____	_____	_____	_____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
I-1f	In the event a longer period of closure time is needed, provide a request which justifies an extension of closure time (40 CFR Section 264.113(a) and (b))	_____	_____	_____	_____
I-2	Post-closure (Applicable only for surface impoundments, landfills or land treatment disposal facilities)	_____	_____	_____	_____
I-3	Notice in deed and notice to land authority (Applicable only for surface impoundments, landfills or land treatment disposal facilities)	_____	_____	_____	_____
I-4	A dated copy of the closure cost estimate (40 CFR Sections 122.25(a)(15), 264.142)	_____	_____	_____	_____
I-5	A completed but unexecuted copy of the financial assurance mechanism or mechanisms for closure (if the facility is in a state which does not have Phase I or Phase II authorization, an unexecuted copy should have been submitted by July 6, 1982) (40 CFR Sections 122.25(a)(15), 264.143)	_____	_____	_____	_____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
I-6	A copy of the post-closure cost estimate (Applicable only for surface impoundments, landfills or land treatment disposal facilities)	_____	_____	_____	_____
I-7	Financial assurance mechanisms for postclosure (Applicable only for surface impoundments, landfills, or land treatment disposal facilities)	_____	_____	_____	_____
I-8	Proof of liability coverage for sudden accidental occurrences; either a certificate of insurance, passing a financial test or by combination of the two (if the facility is in a state which does not have Phase I or II authorization, a signed duplicate original of the policy's hazardous waste facility liability endorsement or certificate of liability insurance should have been submitted by July 15, 1982) (40 CFR Sections 122.25(a)(17), 264.147)	_____	_____	_____	_____
I-9	State Mechanism (40 CFR Sections 122.25(a)(18), 264.149, 264.150)	_____	_____	_____	_____

Facility Name _____
 EPA ID Number _____

COMPLETENESS CHECKLIST (continued)

		Provided	Not provided	Not applicable	Comments
I-9a	If a state-required financial mechanism is utilized, submit a copy of the state required financial mechanism, and a letter requesting that the state mechanism be acceptable (40 CFR Sections 122.25(a)(18), 264.149)	_____	_____	_____	_____
I-9b	If a state assumes legal responsibility for compliance, or the state assures that state funds are available to cover those requirements, submit a copy of a letter from the state describing the state assumption of responsibility, together with a letter requesting that the state's assumption of responsibility be considered acceptable. (40 CFR Section 264.150(a))	_____	_____	_____	_____
J.	OTHER FEDERAL LAWS				
	Information related to the facility's compliance with other federal laws (40 CFR Section 122.12)	_____	_____	_____	_____
K.	CERTIFICATION				
	Application accompanied by a certification letter with required signature (40 CFR Section 122.6(a) and (d))	_____	_____	_____	_____

SECTION IV
PERMIT WRITER'S DECISION GUIDE

Introduction

The decision guide was developed specifically to assist the permit writer in evaluation of the technical aspects of a RCRA Part B application for storage facilities (tanks and containers). The guide can be used after the completeness checklist evaluation (Section III) has shown that the permit application is complete. An outline of the Decision Guide is provided on pages IV-4 through IV-8 as a quick reference to the individual sections of the Guide.

The EPA 93-point checklist* served as a starting point for the development of the decision guide. Recent regulatory changes in 40 CFR Section 122.25 and Part 264 and simplification of the language of the regulations were also employed to develop the decision guide. The Permit Writer's Decision Guide serves as an adjunct to the 93-point checklist, which was contained in the Administrative Procedures Manual.

The left side of each page in the decision guide contains a list of subject requirements and associated key words and phrases.

* Guidance Manual. Administrative Procedures for RCRA Permits for Hazardous Waste Facilities. SW-934, U.S. Environmental Protection Agency, 1981.

Each subject requirement is a summary of the Part B information requirements specified in 40 CFR Section 122.25. Also included in the subject requirement is the information needed to show compliance with certain technical standards specified in 40 CFR Part 264. The regulatory citation on which each subject requirement is based is listed in the adjacent column.

Immediately below each subject requirement are key words or phrases. The key words or phrases are descriptive of the information found in specific technical references identified in the third column. References were assembled from the following sources: (1) EPA guidance manuals and EPA technical documents for permit writers; (2) review of technical journals, (3) a limited computerized data base literature search of NTIS, DOE, Energyline, Compendex, and SSIE data bases.

The key words or phrases and the associated references are designed to direct the permit writer to the technical information which could be used to support the evaluation of a facility's compliance with the technical standards. The more than 80 reference sources listed at the end of this manual will also provide additional information and guidance regarding all aspects of the technical standards. For containers and tanks, the EPA permit guidance manuals provide comprehensive information on the design characteristics, management practices, secondary containment system design, hazardous waste compatibility, corrosion data, inspection methods, contingency plans, and closure requirements. Other references in the list provide specific information

on facility security; emergency equipment; personnel protection equipment; ignitable, reactive, and incompatible wastes; leachate collection; and leachate analysis. A complete set of these references will be maintained at the regional EPA offices.

In addition to the specified technical references, permit writers can refer to the preambles of the Federal Registers in which the regulations were issued. The preambles provide a general description of the regulations, describe comments received during the public comment period and EPA's response to the comments, discuss changes to the regulations, and often provide interpretations of the regulations and examples of how the regulations should be applied. This information may be helpful to permit writers in reviewing the technical sufficiency of a permit application.

Decision Guide

This decision guide is used to conduct a technical evaluation of the permit application. It is arranged by subject matter and includes the appropriate Federal regulation citation as well as references that the permit writer may find useful in evaluating a particular section of the application.

Outline of Decision Guide

	<u>Page No.</u>
A. PART A APPLICATION	IV-9
B. FACILITY DESCRIPTION	IV-9
B-1 General description	IV-9
B-2 Topographic map	IV-9
B-3 Location information	IV-9
B-3a Seismic standard (reserved)	IV-9
B-3b Floodplain standard	IV-9
B-3b(1) Demonstration of compliance	IV-10
B-3b(1)(a) Flood proofing and flood protection measures	IV-10
B-3b(1)(b) Flood plan	IV-10
B-3b(2) Plan for future compliance with floodplain standard	IV-10
B-4 Traffic patterns	IV-11
C. WASTE CHARACTERISTICS	IV-11
C-1 Chemical and physical analyses	IV-11
C-2 Waste analysis plan	IV-11
C-2a Parameters and rationale	IV-11
C-2b Test methods	IV-11
C-2c Sampling methods	IV-11
C-2d Frequency of analyses	IV-12
C-2e Additional requirements for wastes generated offsite	IV-12
C-2f Additional requirements for facilities hand- ling ignitable, reactive or incompatible wastes	IV-12
D. PROCESS INFORMATION	IV-12
D-1 Containers	IV-12
D-1a Containers with free liquids	IV-12
D-1a(1) Description of containers	IV-12
D-1a(2) Container management practices	IV-13
D-1a(3) Secondary containment system design and operation	IV-13
D-1a(3)(a) Requirement for the base to contain liquids	IV-13
D-1a(3)(b) Containment system drainage	IV-14
D-1a(3)(c) Containment system capacity	IV-14
D-1a(3)(d) Control of run-on	IV-14
D-1a(4) Removal of liquids from containment system	IV-14

	<u>Page No.</u>
D-1b Containers without free liquids	IV-15
D-1b(1) Test for free liquids	IV-15
D-1b(2) Description of containers	IV-15
D-1b(3) Container management practices	IV-15
D-1b(4) Container storage area drainage	IV-16
D-2 Tanks	IV-16
D-2a Description of tanks	IV-16
D-2b Tank corrosion and erosion	IV-16
D-2c Tank management practices	IV-17
D-3 Wastes piles (reserved)	IV-17
D-4 Surface impoundments (reserved)	IV-17
D-5 Incinerators (reserved)	IV-17
E. GROUND WATER MONITORING (RESERVED)	IV-17
F. PROCEDURES TO PREVENT HAZARDS	IV-17
F-1 Security	IV-17
F-1a Security procedures and equipment	IV-17
F-1a(1) 24-hour surveillance system	IV-17
F-1a(2) Barrier and means to control entry	IV-17
F-1a(2)(a) Barrier	IV-18
F-1a(2)(b) Means to control entry	IV-18
F-1a(3) Warning signs	IV-18
F-1b Waiver	IV-18
F-1b(1) Injury to intruder	IV-18
F-1b(2) Violation caused by intruder	IV-18
F-2 Inspection schedule	IV-18
F-2a General inspection requirements	IV-19
F-2a(1) Types of problems	IV-19
F-2a(2) Frequency of inspection	IV-19
F-2b Specific process inspection requirements	IV-19
F-2b(1) Container inspection	IV-19
F-2b(2) Tank inspection	IV-20
F-2b(2)(a) Tank construction materials	IV-20
F-2b(2)(b) Tank surrounding area	IV-20
F-2b(2)(c) Tank overfilling control equipment	IV-20
F-2b(2)(d) Tank monitoring data	IV-20
F-2b(2)(e) Tank level of waste	IV-20
F-2b(2)(f) Tank condition assessment	IV-21
F-2b(2)(g) Tank interior inspection	IV-21
F-2c Remedial action	IV-21
F-2d Inspection log	IV-21
F-3 Preparedness and prevention requirements	IV-21
F-3a Equipment requirements	IV-21
F-3a(1) Internal communications	IV-21
F-3a(2) External communications	IV-21
F-3a(3) Emergency equipment	IV-21
F-3a(4) Water for fire control	IV-22

	<u>Page No.</u>
F-3b Aisle space requirement	IV-22
F-4 Preventive procedures, structures, and equipment	IV-22
F-4a Unloading operations	IV-22
F-4b Runoff	IV-22
F-4c Water supplies	IV-22
F-4d Equipment and power failure	IV-22
F-4e Personnel protection equipment	IV-22
F-5 Prevention of reaction of ignitable, reactive, or incompatible wastes	IV-23
F-5a Precautions to prevent ignition or reaction of ignitable or reactive waste	IV-23
F-5b General precautions for handling ignitable or reactive waste and mixing of incompatible wastes	IV-23
F-5c Management of ignitable or reactive wastes in containers	IV-23
F-5d Management of incompatible wastes in containers	IV-24
F-5e Management of ignitable or reactive wastes in tanks	IV-24
F-5f Management of incompatible wastes in tanks	IV-24
G. CONTINGENCY PLAN	IV-24
G-1 General information	IV-25
G-2 Emergency coordinators	IV-25
G-3 Implementation	IV-25
G-4 Emergency response procedures	IV-25
G-4a Notification	IV-25
G-4b Identification of hazardous materials	IV-25
G-4c Assessment	IV-25
G-4d Control procedures	IV-25
G-4e Prevention of recurrence or spread of fires, explosions, or releases	IV-26
G-4f Storage and treatment of released material	IV-26
G-4g Incompatible waste	IV-26
G-4h Post-emergency equipment maintenance	IV-26
G-4i Container spills and leakage	IV-26
G-4j Tank spills and leakage	IV-27
G-5 Emergency equipment	IV-27
G-6 Coordination agreements	IV-27
G-7 Evacuation plan	IV-27
G-8 Required reports	IV-27
H. PERSONNEL TRAINING	IV-28
H-1 Outline of training program	IV-28
H-1a Job titles and duties	IV-28
H-1b Training content, frequency, and techniques	IV-28

H-1c	Training director	IV-28
H-1d	Relevance of training to job position	IV-28
H-1e	Training for emergency response	IV-28
H-1e(1)	Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment	IV-29
H-1e(2)	Key parameters for automatic waste feed cutoff systems	IV-29
H-1e(3)	Communications or alarm systems	IV-29
H-1e(4)	Response to fires	IV-29
H-1e(5)	Response to groundwater contamination incidents	IV-29
H-1e(6)	Shutdown of operations	IV-29
H-2	Implementation of training program	IV-29
I.	CLOSURE PLANS, POST-CLOSURE PLANS AND FINANCIAL REQUIREMENTS	IV-29
I-1	Closure plans	IV-29
I-1a	Closure performance standard	IV-29
I-1b	Partial and final closure activities	IV-29
I-1c	Maximum waste inventory	IV-30
I-1d	Inventory removal, disposal or decontamination of equipment	IV-30
I-1d(1)	Closure of containers	IV-30
I-1d(2)	Closure of tanks	IV-30
I-1e	Schedule for closure	IV-30
I-1f	Extensions for closure time	IV-30
I-2	Post-closure plans*	IV-31
I-3	Notice in deed and notice to local land authority*	IV-31
I-4	Closure cost estimate	IV-31
I-5	Financial assurance mechanism for closure	IV-31
I-5a	Closure trust fund	IV-31
I-5b	Surety bond	IV-31
I-5b(1)	Surety bond guaranteeing payment into a closure fund	IV-31
I-5b(2)	Surety bond guaranteeing performance of closure	IV-31
I-5c	Closure letter of credit	IV-32
I-5d	Closure insurance	IV-32
I-5e	Financial test and corporate guarantee	IV-32
I-5f	Combinations	IV-32
I-5f(1)	Use of multiple financial mechanisms	IV-32
I-5f(2)	Use of financial mechanism for multiple facilities	IV-32
I-6	Post-closure cost estimate*	IV-33
I-7	Financial assurance mechanism for post-closure*	IV-33
I-8	Liability requirements	IV-33
I-8a	Sudden insurance	IV-33
I-8b	Non-sudden insurance**	IV-33

* These items apply only to disposal facilities.

** Required for surface impoundments, landfills, or land treatment facilities.

	<u>Page No.</u>
I-8c Financial test	IV-33
I-8d Variance procedures	IV-34
I-8e Adjustment procedures	IV-34
I-9 State mechanisms	IV-34
I-9a Use of state-required mechanisms	IV-34
I-9b State assumption of responsibility	IV-34
J. OTHER FEDERAL LAWS	IV-35
K. CERTIFICATION	IV-35

DECISION GUIDE
(Facility Description)

IV-9

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
A. PART A APPLICATION	122.6(a) and (b) 122.4(d) 122.24	
B. FACILITY DESCRIPTION		
B-1 <u>General Description</u>	122.25(a)(1)	
A general description of the facility, including the nature of the business. Offsite facilities should identify the types of industry served; onsite facilities should briefly describe the process(es) involved in the generation of hazardous waste.		
<u>Key words or phrases:</u> Nature of business Standard industrial classification (SIC code)		Refs. 55, 64 Ref. 64
B-2 <u>Topographic Map</u>	122.25(a)(19)	
A topographic map showing the facility and a distance of 1000 feet around it, at a scale of 1 inch equal to not more than 200 feet. Map must include: contours sufficient to show surface water flow around facility unit operations, map date, 100-year floodplain area, surface waters, surrounding land uses, a wind rose, map orientation, and legal boundaries of facility site. The map should also indicate location of access control, injection and withdrawal wells, buildings, structures, sewers, loading and unloading areas, fire control facilities, flood control or drainage barriers, runoff control systems, and location of hazardous waste operation units.		
<u>Key words or phrases:</u> 100-year floodplain area		Ref. 17; Ref. 58, Part 1, Ch. 1, Sec. 5.4, Soil Conservation Service State Conservationists, U.S. Geological Survey District offices; Ref. 78; Ref. 79; Ref. 78; Ref. 17
Land uses Wind rose		Ref. 18, Ch. 15.1.10; Ref. 83; Ref. 84; Ref. 68; Ref. 80, Ch. 12, Sec. 11.B.2
B-3 <u>Location Information</u>	122.25(a)(11)	
B-3a <u>Seismic Standard (Reserved)</u>	122.25(a)(11)(i) and (ii) 264.18(a)	
Not applicable to existing facilities nor new facilities located east of the front range of the Rocky Mountains		
B-3b <u>Floodplain Standard</u>	122.25(a)(11)(iii) 264.18(b)	
Documentation of whether or not the facility is located within a 100-year floodplain, that includes the source of data (Federal Insurance Administration Map or other maps and calculations).		
<u>Key words or phrases:</u> Identifying 100-year flood or floodplain Federal Insurance Administration flood map Other maps or information		Ref. 9; Ref. 14; Ref. 58, Part 1 Ref. 58, Part 1, Sec. 2.1; Ref. 85 Ref. 7; Ref. 58, Part 1, Sec. 2.2; Ref. 78; Ref. 79; Ref. 85

(continued)

DECISION GUIDE (continued)
(Facility Description)

IV-10

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>U.S. Army Corp of Engineers Soil Conservation Service U.S. Geological Survey</p> <p>Mapping techniques (Independent analysis)</p> <p>B-3b(1) <u>Demonstration of Compliance</u> For facilities located within the 100-year floodplain, a description of how the facility is designed, constructed, operated, and maintained to prevent washout of any hazardous waste during a flood. Either of the following may be used:</p> <p>B-3b(1)(a) <u>Flood Proofing and Flood Protection Measures</u> A structural or other engineering study showing how design of the tanks or containers and the flood proofing and protection devices at the facility can withstand the hydrostatic and hydrodynamic forces resulting from a 100 year-flood.</p> <p><u>Key words or phrases:</u> Flooding factors (e.g., wave action) Washout Washout prevention Hydrodynamic and hydrostatic forces Flood protection (e.g., floodwalls, dikes, etc.)</p> <p>Operational units (e.g., tanks, incinerators, etc.)</p> <p>B-3b(1)(b) <u>Flood Plan</u> Description of the procedures to be followed to remove hazardous waste to safety before the facility is flooded, including timing related to flood levels, estimated time to move the waste, the location to which the waste will be moved, demonstration that those facilities will be eligible to receive hazardous waste, the planned procedures, equipment, and personnel to be used, and the potential for accidental discharge of the waste during movement.</p> <p><u>Key words or phrases</u> Types of floods Rates of rise and fall Advance warning</p> <p>B-3b(2) <u>Plan for Future Compliance With Floodplain Standard</u> For facilities located within the 100-year floodplain that do not comply with the floodplain standard, a plan showing how and when the facility will be brought into compliance.</p>	<p>122.25(a)(11)(iv) 264.18(b)</p> <p>122.25(a)(11)(iv) (A) and (B)</p> <p>122.25(a)(11)(iv) (C)</p> <p>122.25(a)(11)(v)</p>	<p>Ref. 58, Part 1, Sec. 2.2 Ref. 58, Part 1, Sec. 2.2 Ref. 58, Part 1, Sec. 2.2; Ref. 83; Ref. 84 Ref. 58, Part 1, Sec. 2.3</p> <p>Ref. 22; Ref. 23; Ref. 63; Ref. 72; Ref. 74</p> <p>Ref. 58, Part 1, Sec. 3.3 Ref. 7; Ref. 58, Part 1 Ref. 7; Ref. 58, Part 1, Sec. 4.0 Ref. 58, Part 1, Sec. 4.2; Ref. 69 Ref. 7, Ref. 58, Part 1, Sec. 4.3; Ref. 62; Ref. 75; Ref. 76; Ref. 77 Ref. 29; Ref. 30; Ref. 32; Ref. 33; Ref. 34; Ref. 35; Ref. 58, Part 1, Sec. 3.4</p> <p>Ref. 58, Part 1, Sec. 3.1 Ref. 58, Part 1, Sec. 3.3.4 Ref. 58, Part 1, Sec. 3.3.5</p>

(continued)

DECISION GUIDE (continued)
(Facility Description; Waste Characteristics)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>B-4 Traffic Information</p> <p>A description of the traffic pattern, including estimated volume, traffic control, access road surfacing, load-bearing capacity and, traffic control signals.</p> <p><u>Key words or phrases:</u> Load-bearing capacity</p>	122.25(a)(10)	Ref. 36, ACI 347-78, Ch. 2.2
<p>C. WASTE CHARACTERISTICS</p> <p>C-1 Chemical and Physical Analyses</p> <p>For each hazardous waste stored or treated at the facility, a general description of the waste, the hazardous characteristics, the basis for hazardous designation, and a laboratory report detailing the chemical and physical analyses of representative samples.</p> <p><u>Key words or phrases:</u> Hazardous properties of waste Basis for hazard characterization</p>	122.25(a)(2) 264.13(a)	Ref. 28; Ref. 65; Ref. 66 §261, App. VII and Subpart C
<p>C-2 Waste Analysis Plan</p> <p>A copy of the Waste Analysis Plan that describes the methodologies for conducting the analyses required to properly treat, store, or dispose of hazardous wastes.</p>	122.25(a)(3) 264.13(b) and (c)	
<p>C-2a Parameters and Rationale</p> <p>A list of parameters chosen for analysis and an explanation of the rationale for their selection.</p>	264.13(b)(1)	Ref. 10, Sec. 7.4.2
<p>C-2b Test Methods</p> <p>A description of the test methods used to test for parameters chosen.</p> <p><u>Key words or phrases:</u> Extraction procedure toxicity Ignitability Corrosivity Reactivity</p>	264.13(b)(2)	40 CFR 261, App. II; Ref. 24, Ch. 1 Sec. 3.8 Ref. 6; Ref. 24, Ch. 1, Sec. 3.6 Ref. 6; Ref. 24, Ch. 1, Sec. 3.4 Ref. 6; Ref. 24, Ch. 1, Sec. 3.3
<p>C-2c Sampling Methods</p> <p>A list of the sampling methods used to obtain a representative sample of each waste to be analyzed.</p> <p><u>Key words or phrases:</u> Sampling equipment (trier, auger, Collwasa, weighted bottle, dipper, thief, scoop, and shovel) Sampling procedures Containers</p>	264.13(b)(3) 261, App. I	Ref. 6, Sec. 3; 40 CFR 261, App. I; Ref. 10, Sec. 7.2.3; Ref. 18, Ch. 9.5; Ref. 21, Ch. V; Ref. 24, Ch. 1, Sec. 4.0; Ref. 42; Ref. 60, Part III; Ref. 10, Sec. 7.2.3 Ref. 6, Sec. 3, pp. 3.2.1 to 3.2.19, Ref. 81, Sec. 6.4.1 Ref. 81, Sec. 6.4.1 Ref. 6, p. 3.2.20

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DECISION GUIDE (continued)
(Waste Characteristics)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
Sampling a drum Sampling a barrel, fiber drum, can, bags, or sacs, containing powder or granular waste		Ref. 42, p. 36 Ref. 42, p. 37
C-2d <u>Frequency of Analyses</u> A description of the frequency at which the analyses will be repeated. <u>Key words or phrases:</u> Representative sample	264.13(b)(4)	
C-2e <u>Additional Requirements for Wastes Generated Offsite</u> A description of the procedures used to inspect and/or analyze wastes generated offsite that includes procedures to determine their identity and sampling methods used. In addition, the waste analyses that hazardous waste generators have agreed to supply should be specified. <u>Key words or phrases:</u> Analyses supplied by offsite generators Sampling method for wastes generated offsite	264.13(b)(5) 264.13(c)	Ref. 6, Sec. 1, pp. 3 thru 11
C-2f <u>Additional Requirements for Facilities Handling Ignitable Reactive or Incompatible Wastes</u> If the facility stores or treats ignitable, reactive or incompatible wastes, a description of methods which will be used to meet the additional waste analysis requirements necessary for complying with the regulatory requirements specified in F-5(a) through (h).	264.13(b)(6) 264.17	40 CFR 261, App. I; Ref. 10, Sec. 4.2.3; Ref. 18, Ch. 9.5; Ref. 21, Ch. V; Ref. 24, Ch. 1, Sec. 4.0; Ref. 42; Ref. 52, Sec. 3.3; Ref. 60, Part III Ref. 24, Ch. 1, Secs. 2.2.1, 2.2.3
D. PROCESS INFORMATION		
D-1 <u>Containers</u>		
D-1a <u>Containers With Free Liquids</u>		
D-1a(1) <u>Description of Containers</u> A description of the facility's primary containment devices that includes the dimensions, construction materials, liner specifications, condition and number of containers, and demonstration of compatibility of waste with containers. <u>Key words or phrases:</u> Types of containers Coating and linings Container specifications Advantages and disadvantages of different types of containers	122.25(b)(1)(i)(A) 264.171 264.172	Ref. 2, Ch. 3; Ref. 26, Sec. 11 Ref. 2, Ch. 3, Sec. 2 Ref. 2, Ch. 3, Sec. 4; Ref. 26, Sec. III Ref. 2, Ch. 3, Sec. 5

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DECISION GUIDE (continued)
(Process Information - Containers)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
Containers for storing flammable and combustible liquids Determining compatibility of wastes Specific examples of how to determine compatibility Binary comparison of chemical constituents Trial mixing of waste Determining of compatibility of the waste with the contain- ment structure Corrosion of metals Protection against corrosion Properties of materials Corrosion data survey Corrosion properties tables Corrosion inspection (containers)		Ref. 2, Ch. 3, Sec. G Ref. 1, Ch. 2 Ref. 27, Sec. 4 Ref. 1, Ch. 2, Sec. II Ref. 1, Ch. 2, Sec. III Ref. 1, Ch. 3; Ref. 2, Ch. 3 Ref. 1, Ch. 3, Sec. II Ref. 1, Ch. 3, Sec. III; Ref. 2, Ch. 3, Ref. 1, Ch. 3, Sec. IV Ref. 1, App. 1 Ref. 1, App. 2 Ref. 2, Ch. 5, Sec. A
D-1a(2) <u>Container Management Practices</u> A description of container management practices used to ensure that hazardous waste containers are always kept closed during storage, except when adding or removing waste, and that hazardous waste containers are not opened, handled, or stored in a manner that may cause them to rupture or to leak. <u>Key words or phrases:</u> Management of containers Storage practices Condition of containers Recovery and reuse of containers Climatic effects Container markings Container dating	264.173	 Ref. 2, Ch. 4 Ref. 2, Ch. 4, Sec. 8 Ref. 2, Ch. 4, Sec. C.1 Ref. 2, Ch. 4, Sec. C.5; Ref. 40, pp. 9, 15-16 Ref. 2, Ch. 4, Sec. C.1 Ref. 2, Ch. 4, Sec. C.2 Ref. 2, Ch. 4, Sec. C.3
D-1a(3) <u>Secondary Containment System Design and Operation</u> A description of the design and operation of the container storage area containment system showing capability of system to hold spills, leaks, and precipitation. This secondary containment system must have the following documented charac- teristics:	122.25(b)(1) 264.175(b)	
D-1a(3)(a) <u>Requirement for the Base to Contain Liquids</u> The base under the containers must be free of cracks or gaps and sufficiently impervious to contain leaks, spills, and accumulated precipita- tion until the collected material is detected and removed. <u>Key words or phrases:</u> Adequacy of the containment system Construction and characteristics of base materials Potential for waste migration through the base Potential hydraulic impact on the base from loads of waste Foundation base and liners	264.175(b)(1)	 Ref. 2, Ch. 4, Sec. G Ref. 11, App. IX Sec. 2, Ch. 4, Sec. G; Ref. 11, Sec. 4.4 Ref. 11, Ch. 1, Ch. 3-6, 8 Ref. 15, Ch. 3.2.1; Ref. 88, pp. 29-61

IV-13

(continued)

DECISION GUIDE (continued)
(Process Information - Containers)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>D-1a(3)(b) <u>Containment System Drainage</u> The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids.</p> <p><u>Key words or phrases:</u> Drainage system Grading of base Container storage practice Stacking in pallets Stacking on plywood sheets Racks</p>	<p>122.25(b)(1)(i)(B) 264.175(b)(2)</p>	<p>Ref. 13, Sec. 3, Steps 20-22 Ref. 10, Sec. 8.6 Ref. 2, Ch. 4, Sec. 8 Ref. 2, Ch. 4, Sec. 8-1 Ref. 2, Ch. 4, Sec. 8-1 Ref. 2, Ch. 4, Sec. 8-2</p>
<p>D-1a(3)(c) <u>Containment System Capacity</u> The containment system must have sufficient capacity to contain 10% of the volume of containers or the volume of the largest container, whichever is greater.</p> <p><u>Key words or phrases:</u> Containment structure capacity Capacity of accumulated liquid removal system Capacity of run-off collection system Geographic storm intensity/frequency data</p>	<p>122.25(b)(1)(i)(C) 264.175(b)(3)</p>	<p>Ref. 2, Ch. 4, Sec. G Ref. 10, Ch. 4 Ref. 4, Ch. 3, Sec. E; Ref. 10, Ch. 4 Ref. 13, Sec. 2, Step 7</p>
<p>D-1a(3)(d) <u>Control of Run-on</u> Run-on into the containment system must be prevented, unless the collection system has sufficient excess capacity in addition to that required in the above paragraph to contain any run-on that might enter the system.</p> <p><u>Key words or phrases:</u> Containment system auxiliary structures Construction of curbs Construction of dikes Construction of ditches Construction of trenches Construction of berms</p>	<p>122.25(b)(1)(i)(D) 264.175(b)(4)</p>	<p>Ref. 2, Ch. 4, Sec. G.5 Ref. 4, Ch. 3, Sec. D Ref. 15, Ch. 4.6 Ref. 4, Ch. 3, Sec. D Ref. 4, Ch. 3, Sec. D Ref. 81, Sec. 8.3.1</p>
<p>D-1a(4) <u>Removal of Liquids from Containment System</u> Spilled or leaked waste and accumulated precipitation must be removed from the sump or collection area in a timely manner to prevent overflow of the containment system.</p> <p><u>Key words or phrases:</u> Removal of accumulated liquids from the containment system</p> <p>Physical and chemical characteristics of accumulated liquids Sampling methodology Analytical methods Management of accumulated liquid</p>	<p>122.25(b)(1)(i)(E) 264.175(b)(5)</p>	<p>Ref. 2, Ch. 4, Sec. G.6; Ref. 10, Ch. 4; Ref. 12, Ch. 4 Ref. 10, Ch. 3 Ref. 6, Sec. 3 Ref. 6, Sec. 8 Ref. 10, Ch. 4</p>

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DECISION GUIDE (continued)
(Process Information - Containers)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
D-1b Containers Without Free Liquids		
<p>D-1b(1) <u>Test for Free Liquids</u> For areas that store containers of wastes that do not contain free liquids, the test procedures and results or other documentation or information must show that the wastes do not contain free liquids.</p> <p><u>Key words or phrases:</u> Test procedures for free liquids</p>	122.25(b)(1)(ii)(A)	47 Fed. Reg. 8311, (February 25, 1982)
<p>D-1b(2) <u>Description of Containers</u> A description of the facility primary containment devices that includes dimensions, construction materials, liner specifications, condition and number of containers, and demonstration of compatibility of waste with containers.</p> <p><u>Key words or phrases:</u> Types of containers Coatings and linings Container specifications Advantages and disadvantages of different types of containers Containers for storing flammable and combustible liquids Determining compatibility of wastes Specific examples of how to determine compatibility Binary comparison of chemical constituents Trial mixing of waste Determining the compatibility of the waste with the containment structure Corrosion of metals Protection against corrosion Properties of materials Corrosion data survey Corrosion properties tables Corrosion inspection (containers)</p>	264.171 264.172	<p>Ref. 2, Ch. 3; Ref. 26, Sec. II Ref. 2, Ch. 3 Ref. 2, Ch. 3; Ref. 26, Sec. III Ref. 2, Ch. 3 Ref. 2, Ch. 3 Ref. 1, Ch. 2 Ref. 27, Sec. 4 Ref. 1, Ch. 2, Sec. II Ref. 1, Ch. 2, Sec. III Ref. 1, Ch. 3; Ref. 2, Ch. 3 Ref. 1, Ch. 3, Sec. II Ref. 1, Ch. 3, Sec. III; Ref. 2, Ch. 3 Ref. 1, Ch. 3, Sec. IV Ref. 1, App. 1 Ref. 1, App. 2 Ref. 2, Ch. 5, Sec. A</p>
<p>D-1b(3) <u>Container Management Practices</u> A description of container management practices used to ensure that hazardous waste containers are always kept closed during storage except when adding or removing waste, and that hazardous waste containers are not opened, handled, or stored in a manner that may cause the container to rupture or to leak.</p> <p><u>Key words or phrases:</u> Management of containers Storage practices Condition of containers Recovery and reuse of containers Climatic effects Container markings Container dating</p>	264.173	<p>Ref. 2, Ch. 4 Ref. 2, Ch. 4, Sec. B Ref. 2, Ch. 4, Sec. C.1 Ref. 2, Ch. 4, Sec. C.5 Ref. 2, Ch. 4, Sec. C.1 Ref. 2, Ch. 4, Sec. C.2 Ref. 2, Ch. 4, Sec. C.3</p>

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DECISION GUIDE (continued)
(Process Information - Tanks)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>D-1b(4) <u>Container Storage Area Drainage</u> A description of how the storage area is designed or operated to drain and remove liquids unless containers are otherwise kept from contact with standing liquids.</p> <p><u>Key words or phrases:</u> Drainage system Grading of base Container storage practice Stacking in pallets Stacking on plywood sheets Racks</p>	<p>122.25(b)(1)(ii)(B) 264.175(c)</p>	<p>Ref. 13, Sec. 3, Steps 20-22 Ref. 10, Sec. 8.6 Ref. 2, Ch. 4, Sec. B Ref. 2, Ch. 4, Sec. B.1 Ref. 2, Ch. 4, Sec. B.1 Ref. 2, Ch. 4, Sec. B.2</p>
<p>D-2 <u>Tanks</u></p> <p>The regulations specified in 40 CFR Part 264.191 do not apply to facilities that treat or store hazardous waste in covered underground tanks that cannot be entered for inspection.</p>		
<p>D-2a <u>Description of Tanks</u></p> <p>A review of tank design specifications to assure that the tanks will not collapse or rupture. The specifications to be reviewed include tank dimensions, shell strength and thickness, capacity, pressure controls, foundation, structural support, and seams. References should be made to design standards or other available information used in the construction of the tank.</p> <p><u>Key words or phrases:</u> Tank design considerations Types of tanks Tank construction material Tank wall thickness, lining material Tank internal pressure and pressure controls Subsurface and foundation construction Tank design specifications for steel tanks</p> <p>Tank design specifications for concrete tanks</p>	<p>122.25(b)(2) 264.191</p>	<p>Ref. 3, Ch. 3 Ref. 3, App. A Ref. 3, Ch. 3 Ref. 3, Ch. 3 Ref. 3, Ch. 3; Ref. 31 Ref. 3, Ch. 4, Sec. B and App. C Ref. 29; Ref. 30; Ref. 32; Ref. 33; Ref. 34 Ref. 35 Ref. 36</p>
<p>D-2b <u>Tank Corrosion and Erosion</u></p> <p>A review of the pertinent characteristics of the tank construction material and lining materials to determine corrosion or erosion effects with wastes and other materials (i.e., treatment reagents).</p> <p><u>Key words or phrases:</u> Tank lining and coating material or other means of protection Corrosion allowances and corrosion and erosion rates Tank construction compatibility with waste</p>	<p>122.25(b)(2)(ii) 264.192(a)</p>	<p>Ref. 3, Ch. 3 Ref. 3, Ch. 3 Ref. 1; Ref. 3, Ch. 3</p>

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DECISION GUIDE (continued)
(Procedures to Prevent Hazards)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>D-2c <u>Tank Management Practices</u></p> <p>A description of the tank owner's or operator's operating practices and controls to prevent overfilling (such as a waste feed cut-off system or by-pass system to a standby tank), and maintenance of sufficient freeboard to prevent over-topping by wave or wind action or precipitation for uncovered tanks. A diagram of piping, instrumentation, and process flow.</p> <p><u>Key words or phrases:</u> Tank ancillary design features Tank vapor recovery system Tank process flow, instrumentation, and piping Tank operating problems associated with in-tank process Sufficient freeboard</p>	<p>122.25(b)(2)(iv) and (v) 264.192(b)</p>	<p>Ref. 3, Ch. 3, Sec. C; App. D, App. E Ref. 3, App. B Ref. 3, Ch. 3, Sec. D Ref. 3, Ch. 5 Ref. 3, Ch. 3</p>
D-3 <u>Waste Piles (Reserved)</u>		
D-4 <u>Surface Impoundments (Reserved)</u>		
D-5 <u>Incinerators (Reserved)</u>		
E. GROUND WATER MONITORING (RESERVED)		
F. PROCEDURES TO PREVENT HAZARDS		
F-1 <u>Security</u>		
F-1a <u>Security Procedures and Equipment</u>	<p>264.14 122.25(a)(4)</p>	
<p>Unless a waiver is granted, the facility must demonstrate the following:</p> <p>F-1a(1) <u>24-hour Surveillance System</u> A 24-hour surveillance system (e.g., television monitoring or surveillance by guards or facility personnel) that continuously monitors and controls entry onto the active portion of the facility; <u>or</u></p> <p><u>Key words or phrases:</u> Security systems and procedures</p>	<p>264.14(b)(1)</p>	
<p>F-1a(2) <u>Barrier and Means to Control Entry</u> F-1a(2)(a) <u>Barrier</u> An artificial or natural barrier (e.g., a fence in good repair or a fence combined with a cliff), that completely surrounds the active portion of the facility; <u>and</u></p> <p><u>Key words or phrases:</u> Security systems and procedures</p>	<p>264.14(b)(2)(i)</p>	<p>Ref. 49</p>
		<p>Ref. 49; Ref. 81, Sec. 8.9</p>

(continued)

DECISION GUIDE (continued)
(Procedures to Prevent Hazards)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>F-1a(2)(b) <u>Means to Control Entry</u> A means to control entry, at all times, through the gates or other entrances to the active portion of the facility (e.g., an attendant, television monitors, locked entrance, or controlled roadway access to the facility).</p>	264.14(b)(2)(ii)	
<p>F-1a(3) <u>Warning Signs</u> The facility must have a sign with the legend, "Danger - Unauthorized Personnel Keep Out," which must be posted at each entrance to the active portion of the facility and at other locations, in sufficient numbers to be seen from any approach to this active portion. The legend must be written in English and in any other language predominant in the area surrounding the facility and must be legible from a distance of at least 25 feet. Existing signs with a legend other than "Danger - Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion, and that entry onto the active portion can be dangerous.</p>	264.14(c)	Ref. 81, Sec. 8.9
<p>F-1b <u>Waiver</u> <u>If a waiver of these requirements is requested, the owner or operator must demonstrate the following:</u></p>	264.14(a)	
<p>F-1b(1) <u>Injury to Intruder</u> Physical contact with the waste, structure, or equipment within the active portion of the facility will not injure unknowing or unauthorized persons or livestock that may enter the active portion of a facility; and</p>	264.14(a)(1)	Ref. 24, Ch. 5, Secs. 2 and 4
<p>F-1b(2) <u>Violation Caused By Intruder</u> Disturbance of the waste or equipment by the unknowing or unauthorized entry of persons or livestock onto the active portion of a facility will not cause a violation of the requirements of this part.</p>	264.14(a)(2)	Ref. 24, Ch. 5, Secs. 3 and 4
<p><u>Key words or phrases for both F-1b(1) and (2):</u> Nature and extent of hazard potential from wastes Duration of hazard potential Equipment and structures to minimize the potential for an intruder to cause a spill; mix incompatible wastes, ignitable or reactive wastes; damage containment systems; damage monitoring systems Features that prevent contact with waste</p>		Ref. 28, pp. 331-1106; Ref. 44; Ref. 46
<p>F-2 <u>Inspection Schedule</u></p>	122.25(a)(5) 264.15	

(continued)

DECISION GUIDE (continued)
(Procedures to Prevent Hazards)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>F-2a General Inspection Requirements</p> <p>A description of the facility schedule for inspection of monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment that are vital to prevent, detect, or respond to environmental or human health hazards. (Schedule must be kept at the facility.)</p> <p><u>Key words or phrases:</u> <u>Monitoring Equipment Examples:</u> Flow and liquid level monitors Leachate monitors Hazardous gas detectors <u>Safety and Emergency Equipment Examples:</u> Respirators Communication systems Alarm systems Emergency lighting Smoke detectors Fire protection equipment First aid equipment Decontamination equipment <u>Security Devices Examples:</u> Surveillance systems Barriers surrounding facility Locking devices <u>Operating and Structural Equipment Examples:</u> Spill detection devices Spill control and collection equipment Fire and explosion barriers Ventilation equipment</p>	264.15(a) and (b) 264.33	Ref. 6, Sec. 8; Ref. 59
<p>F-2a(1) Types of Problems The schedule must identify the types of problems to look for during the inspection.</p>	264.15(b)(3)	
<p>F-2a(2) Frequency of Inspection A description of the frequency of inspection for items on the schedule. The frequency of inspection should be based on the rate of possible deterioration of equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or operator error goes undetected between inspections. (Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use.)</p>	264.15(b)(4)	
<p>F-2b Specific Process Inspection Requirements</p>		
<p>F-2b(1) Container Inspection Documentation of weekly inspections of containers, container storage area and the containment system for deterioration caused by corrosion or other factors.</p>	264.174	Ref. 2, Ch. 5

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DECISION GUIDE (continued)
(Procedures to Prevent Hazards)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>Key words or phrases: Evaluation of an inspection plan including remedial procedures External inspection visual maintenance check for corrosion of containers Visual inspection check of the storage area and containment system Testing of auxiliary features Inspection procedures</p>		<p>Ref. 2, Ch. 5, Sec. C Ref. 2, Ch. 5, Sec. A Ref. 2, Ch. 5, Sec. B.1 Ref. 2, Ch. 5, Sec. B.2 Ref. 21, App. G</p>
<p>F-2b(2) <u>Tank Inspection</u> Documentation of inspection procedures by the facility owner or operator of the following:</p>	264.194(a) and (b)	
<p>F-2b(2)(a) <u>Tank Construction Materials</u> The construction materials of the above-ground portions of the tank to detect corrosion or erosion and leaking of fixtures and seams (weekly).</p> <p>Key words or phrases: Tank exterior inspection General inspection procedures Inspection of prestressed concrete tanks</p>	264.194(a)(4)	<p>Ref. 82</p> <p>Ref. 3, Ch. 4, Sec. B; Ref. 82 Ref. 21, App. G; Ref. 82 Ref. 37</p>
<p>F-2b(2)(b) <u>Tank Surrounding Area</u> The area immediately surrounding the tank to detect obvious signs of leakage (weekly).</p>	264.194(a)(5)	Ref. 82
<p>F-2b(2)(c) <u>Tank Overfilling Control Equipment</u> Overfilling control equipment (e.g., waste-feed cutoff systems and bypass systems) to ensure good working order (daily).</p>	264.194(a)(1)	Ref. 82
<p>F-2b(2)(d) <u>Tank Monitoring Data</u> Data gathered from monitoring equipment (e.g., pressure and temperature gauges) where present to ensure that the tank is operated according to design specifications (daily).</p>	264.194(a)(2)	
<p>Key words or phrases: Example of corrosion monitoring system</p>		Ref. 38
<p>F-2b(2)(e) <u>Tank Level of Waste</u> The level of waste in uncovered tanks to ensure maintenance of sufficient freeboard to prevent overtopping by wave or wind action, or by precipitation (daily).</p> <p>Key words or phrases: Inspection of ancillary equipment Sampling a storage tank</p>	264.194(a)(3)	<p>Ref. 3, Ch. 4, Sec. D; Ref. 82 Ref. 42, pp. 38-39</p>

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DECISION GUIDE (continued)
(Procedures to Prevent Hazards)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>F-2b(2)(f) <u>Tank Condition Assessment</u> The schedule and procedure for assessing the condition of the tank. Procedure must be adequate to detect cracks, leaks, or wall thinning to less than sufficient shell strength.</p> <p><u>Key words or phrases:</u> Frequency of inspection Tank internal inspection</p>	264.194(b)	Ref. 3, Ch. 4, Sec. E; Ref. 82 Ref. 3, Ch. 4, Sec. C; Ref. 82
<p>F-2b(2)(g) <u>Tank Interior Inspection</u> Documentation of established procedures for emptying a tank to allow entry and inspection of the interior to detect corrosion or erosion of the tank sides and bottom.</p> <p><u>Key words or phrases:</u> Entry of tanks for inspection Tank internal inspection</p>	264.194(b)	Ref. 51, Sec. 1910.94(d)(11); Ref. 82 Ref. 3, Ch. 4, Sec. C; Ref. 82
F-3 <u>Preparedness and Prevention Requirements</u>	122.25(a)(6) 264.32 264.35	
F-3a <u>Equipment Requirements</u>	264.32	
<p>Facilities must be equipped with the equipment listed below. The location, description, and capabilities of this equipment must be provided in the Contingency plan, section G-5. Requests for a waiver of part or all of 40 CFR 264.32 must be accompanied by a demonstration that none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below:</p>		
<p>F-3a(1) <u>Internal Communications</u> An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel.</p>	264.32(a)	
<p>F-3a(2) <u>External Communications</u> A device, such as a telephone (immediately available at the scene of operations) or a handheld two-way radio, for summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams.</p>	264.32(b)	
<p>F-3a(3) <u>Emergency Equipment</u> Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals) spill control equipment, and decontamination equipment.</p> <p><u>Key words or phrases:</u> Fire control equipment</p>	264.32(c)	Ref. 19; Ref. 25, Secs. 4-7, 5-5, 6-8, 8-6, 9-4; Ref. 28, Sec. 7; Ref. 48; Ref. 50

(continued)

DECISION GUIDE (continued)
(Procedures to Prevent Hazards)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>F-3a(4) <u>Water for Fire Control</u> Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.</p>	264.32(d)	
<p>F-3b <u>Aisle Space Requirement</u> Facilities must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, or spill control equipment to any area of facility operation in an emergency. Requests for a waiver of 40 CFR 264.35 must be accompanied by a demonstration that aisle space is not needed for any of these purposes.</p>	264.35	
<p>F-4 <u>Preventive Procedures, Structures, and Equipment</u> A description of <u>procedures, structures, or equipment</u> used at the facility for the following:</p>	122.25(a)(8)	
<p>F-4a <u>Unloading Operations</u> Prevention of hazards in unloading operations (e.g., use of ramps or special forklifts). <u>Key words or phrases:</u> Handling of hazardous materials</p>	122.25(a)(8)(i)	Ref. 28, Sec. 7
<p>F-4b <u>Runoff</u> Prevention of runoff from hazardous waste handling areas to other areas of the facility or environment, or prevention of flooding (e.g., berms, dikes, trenches).</p>	122.25(a)(8)(ii)	Ref. 61; Ref. 73; Ref. 81
<p>F-4c <u>Water Supplies</u> Prevention of contamination of water supplies.</p>	122.25(a)(8)(iii)	
<p>F-4d <u>Equipment and Power Failure</u> Mitigation of effects of equipment failure and power outages.</p>	122.25(a)(8)(iv)	
<p>F-4e <u>Personnel Protection Equipment</u> Prevention of undue exposure of personnel to hazardous waste (e.g., protective clothing). <u>Key words or phrases:</u> Respirators Protective clothing General OSHA requirements OSHA requirements for eye protection OSHA requirements for face protection OSHA requirements for foot protection OSHA requirements for head protection</p>	122.25(a)(8)(v)	Ref. 45, Ch. 4-7; Ref. 51, Sec. 1910.134 Ref. 39, Ch. 2, Part 4 Ref. 51, Sec. 1910.132 Ref. 51, Sec. 1910.133 Ref. 51, Sec. 1910.133 Ref. 51, Sec. 1910.132 Ref. 51, Sec. 1910.135

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IV-23

(continued)

DECISION GUIDE (continued)
(Procedures to Prevent Hazards)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>F-5d Management of Incompatible Wastes in Containers</p> <p>Description of: (1) the procedures used to ensure that incompatible wastes and materials are not placed in the same container (unless 264.17(b) is complied with) or in an unwashed container that previously held incompatible waste, and (2) dikes, berms, walls, or other devices used to separate wastes in containers, piles, open tanks, or surface impoundments.</p> <p><u>Key words or phrases:</u> Storage requirements for incompatible waste</p>	<p>122.25(b)(1)(iii) 264.177</p>	<p>Ref. 1</p>
<p>F-5e Management of Ignitable or Reactive Wastes in Tanks</p> <p>A description of the operational procedures used for storing such wastes in tanks that includes specific information on: (1) how the waste is treated, rendered, or mixed before or immediately after placement in the tank so that it is no longer considered ignitable and complies with §264.17(b); or the waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to react or ignite; or the tank is used solely for emergencies, (2) how facilities that treat or store ignitable or reactive waste in covered tanks comply with the National Fire Protection Association's buffer zone requirements for tanks.</p> <p><u>Key words or phrases:</u> Special requirements for ignitable or reactive wastes NFPA buffer zone requirements</p>	<p>122.25(b)(2)(vi) 264.198</p>	<p>Ref. 1, Ch. 2; Ref. 5; Ref. 8, Sec. 2.2.1 Ref. 25, Tables 2-1 thru 2-6</p>
<p>F-5f Management of Incompatible Wastes in Tanks</p> <p>A statement that incompatible wastes and materials are not stored in the same tank or in an unwashed tank that previously held an incompatible waste or material (unless 264.17(b) is complied with).</p> <p><u>Key words or phrases:</u> Special requirements for incompatible wastes NFPA buffer zone requirements</p>	<p>122.25(b)(2)(vi) 264.199(b)</p>	<p>Ref. 1, Ch. 2; Ref. 5 Ref. 25, Tables 2-1 thru 2-6</p>
<p>G. CONTINGENCY PLAN</p> <p>A copy of the Contingency Plan or Spill Prevention Control and Countermeasures (SPCC) Plan amended for hazardous waste management to describe the actions facility personnel will take in response to fires, explosions, or any unplanned sudden or nonsudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.</p> <p><u>Key words or phrases:</u> Spill Prevention Control and Countermeasure Plan Amendment</p>	<p>122.25(a)(7) 264.50 thru 264.56</p> <p>264.52(b)</p>	<p>Ref. 24, Ch. 2, pp. 2-31, 2-52, and 2-53</p>

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DECISION GUIDE (continued)
(Contingency Plan)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>G-1 General Information</p> <p>Facility name and location, operator, site plan, and description of facility operations.</p>		Ref. 24, Ch. 2, pp. 2-15 thru 2-18, pp. 2-45 thru 2-46; 38 Fed. Reg. 34165, (December 11, 1973)
<p>G-2 Emergency Coordinators</p> <p>Names, addresses, office and home phone numbers, and duties of primary and alternate coordinators and statement of authorization of coordinator to commit necessary resources to plan.</p>	264.52(d) 264.55	Ref. 24, Ch. 2, pp. 2-18, pp. 2-46
<p>G-3 Implementation</p> <p>A description of how and when the contingency plan will be implemented.</p> <p><u>Key words or phrases:</u> Criteria for implementation for spills, fire, and explosions</p>	264.52(a)	Ref. 24, Ch. 2, pp. 2-18, 2-19, and 2-46 thru 2-49
<p>G-4 Emergency Response Procedures</p>		
<p>G-4a Notification</p> <p>Methodology for immediate notification of facility personnel and necessary state or local agencies.</p>	264.56(a)	Ref. 47, pp. 23-26
<p>G-4b Identification of Hazardous Materials</p> <p>Procedures for identification of hazardous materials involved in the emergency.</p>	264.56(b)	Ref. 24, Ch. 2, pp. 2-23, 2-48, and 2-49
<p>G-4c Assessment</p> <p>Policy for assessment of possible hazards to the environment and human health and need for evacuation and notification of authorities. The authorities to be notified should include the on-scene coordinator for that area or the National Response Center.</p> <p><u>Key words or phrases:</u> Incident characterization Physical and chemical properties of chemicals involved in the emergency Potential hazards of chemicals involved (e.g., generation of hazardous gases) Sources of information and response assistance</p>	264.56(c) 264.56(d)	Ref. 24, Ch. 2, pp. 2-23, 2-24, 2-48, and 2-49
<p>G-4d Control Procedures</p> <p>Specific control procedures to be taken in the event of a fire, explosion, or release.</p>	264.52(a)	Ref. 39, Ch. 1, Part 2 Ref. 28, pp. 331-1106; Ref. 44; Ref. 46 Ref. 39, Ch. 1, Part 3; Ref. 44; Ref. 46 Ref. 39, Ch. 1, Part 7, Ref. 47, pp. 26-57 Ref. 10; Ref. 24, Ch. 2, pp. 2-25, 2-26, 2-48 to 2-50

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DECISION GUIDE (continued)
(Contingency Plan)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p><u>Key words or phrases:</u> Types of on-site emergency equipment to be used</p> <p>Spill control and collection</p>		<p>Ref. 39, Ch. 4, Part 1, pp. 1-8 thru 1-12 Ref. 39, Ch. 4, Parts 2 and 3; Ref. 47, pp. 87-402</p>
<p>G-4e <u>Prevention of Recurrence or Spread of Fires, Explosions, or Releases</u></p> <p>Necessary steps to be taken to ensure that fires, explosions, or releases do not occur, recur or spread to other hazardous waste at the facility.</p> <p><u>Key words or phrases:</u> Stopping processes and operations Collecting and containing released waste Removing or isolating containers</p>	264.56(e)	<p>Ref. 24, Ch. 2, 2-24 to 2-25, pp. 2-49</p>
<p>G-4f <u>Storage and Treatment of Released Material</u></p> <p>Provisions for treatment, storage, or disposal of any material that results from a release, fire, or explosion at the facility.</p> <p><u>Key words or phrases:</u> Treatment methodology Decontamination</p>	264.56(g)	<p>Ref. 24, Ch. 2, pp. 2-25 thru 2-26, 2-49 thru 2-50</p>
<p>G-4g <u>Incompatible Waste</u></p> <p>Provisions for prevention of incompatible waste from being treated, stored, or located in the affected areas until cleanup procedures are completed.</p>	264.56(h)(1)	<p>Ref. 39, Ch. 4 Ref. 39, Ch. 3</p> <p>Ref. 24, Ch. 2, pp. 2-25 thru 2-26, 2-49 thru 2-50</p>
<p>G-4h <u>Post-emergency Equipment Maintenance</u></p> <p>Procedures for ensuring that all emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.</p>	264.56(h)(2)	<p>Ref. 24, Ch. 2, pp. 2-25 thru 2-26, 2-49 thru 2-50</p>
<p>G-4i <u>Container Spills and Leakage</u></p> <p>Specification of procedures to be used when responding to container spills or leakage that includes procedures and timing for expeditious removal of spilled waste and repair or replacement of the container(s).</p> <p><u>Key words or phrases:</u> Steps to take if a container is not in good condition Cleanup resource and techniques Incident mitigation</p>	264.171	<p>Ref. 2, Ch. 4, Sec. C.4 Ref. 39, Ch. 4, Part 2 Ref. 39, Ch. 4, Part 3</p>

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DECISION GUIDE (continued)
(Contingency Plan)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>G-4j <u>Tank Spills and Leakage</u></p> <p>Documentation of the procedures to be used by the facility owner or operator to respond to tank spills or leakage that includes procedures and timing for expeditious removal of leaked or spilled waste and repair of the tank.</p> <p><u>Key words or phrases:</u> Response to leaks and spills Cleanup resources and techniques Incident mitigation Dikes</p>	264.194(c)	<p>Ref. 3, Ch. 4, Sec. F Ref. 39, Ch. 4, Part 2 Ref. 39, Ch. 4, Part 3 Ref. 25, Sec. 2.0 thru 2.33</p>
<p>G-5 <u>Emergency Equipment</u></p> <p>Location, description, and capabilities of emergency equipment.</p> <p><u>Key words or phrases:</u> Spill control and collection equipment General emergency equipment</p> <p>Fire control equipment Respirators Protective clothing</p>	264.52(e)	<p>Ref. 47 Ref. 24, Ch. 2, pp. 2-27 to 2-30, pp. 2-50 to 2-51; Ref. 39, Ch. 4, Part 1, pp. 1-8 to 1-12 Ref. 28, Sec. 7; Ref. 48; Ref. 50 Ref. 39, Ch. 2, Part 3; Ref. 45, Ch. 5 Ref. 39, Ch. 2, Part 4</p>
<p>G-6 <u>Coordination Agreements</u></p> <p>A description of coordination agreement with local police and fire departments, hospitals, contractors, and state and local emergency response teams to familiarize them with the facility and actions needed in case of emergency. Documentation of refusal to enter into a coordination agreement.</p>	264.52(c) 264.37	<p>Ref. 24, Ch. 2, pp. 2-30 to 2-31, 2-52 to 2-52</p>
<p>G-7 <u>Evacuation Plan</u></p> <p>A description of signal(s) to be used to begin evacuation, and planned and alternate evacuation routes.</p> <p><u>Key words or phrases:</u> Criteria and signals to begin evacuation Planned and alternate evacuation routes</p>	264.52(f)	<p>Ref. 24, Ch. 2, pp. 2-32, 2-52 Ref. 24, Ch. 2, pp. 2-23, 2-52</p>
<p>G-8 <u>Required Reports</u></p> <p>Provisions for submission of reports of emergency incidents within 15 days of occurrence, and maintenance of records identifying the time, date, and details of an emergency incident.</p>	264.56(j)	<p>Ref. 24, Ch. 2, pp. 2-31, pp. 2-52 to 2-53</p>

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IV-28

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DECISION GUIDE (continued)
(Closure Plans)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>H-1e(1) <u>Procedures for Using, Inspecting, Repairing, and Replacing Facility Emergency and Monitoring Equipment</u></p> <p>Key words or phrases: Respirators</p> <p>H-1e(2) <u>Key Parameters for Automatic Waste Feed Cutoff Systems</u></p> <p>H-1e(3) <u>Communications or Alarm Systems</u></p> <p>H-1e(4) <u>Response to Fires</u></p> <p>H-1e(5) <u>Response to Groundwater Contamination Incidents</u></p> <p>H-1e(6) <u>Shutdown of Operations</u></p> <p>H-2 <u>Implementation of Training Program</u></p> <p>Indication that training has been successfully completed by facility personnel within 6 months of their employment or assignment to a facility, or transfer to a new position at a facility, whichever is later. Employees hired after the effective date of these regulations must not work in unsupervised positions until they have completed the training requirements. Records documenting that the required training has been given to and completed by facility personnel must be maintained.</p>	<p>nothing to do with storage</p> <p>264.16(d)(4) 264.16(b)</p>	<p>Ref. 16, Sec. 5.3 to 5.5</p> <p>Ref. 45, Ch. 8-9</p> <p>Ref. 16, Secs. 5.5.1 to 5.5.4</p> <p>Ref. 16, Sec. 5.3</p> <p>Ref. 16, Secs. 5.3, 5.5.6.3; Ref. 28, Sec. 7</p> <p>Ref. 16, Sec. 5.3</p> <p>Ref. 16, Secs. 5.3, 5.5.4</p> <p>Ref. 16, Secs. 3.1.5 and 4.1.6</p>
<p>I. <u>Closure Plans, Post-closure Plans and Financial Requirements</u></p> <p>I-1 <u>Closure Plans</u></p> <p>A copy of the written closure plan consistent with I-1a through I-1f including an estimate of the maximum inventory of wastes in storage and treatment at any time. If changes in operating plans or facility design affect the closure plan or the expected year of closure changes, a modification of the closure plan is needed.</p> <p>Key words or phrases: Closure plan amendments</p> <p>I-1a <u>Closure Performance Standard</u></p> <p>A description of how closure minimizes the need for post-closure maintenance and minimizes releases of wastes.</p>	<p>122.25(a)(13) 264.110 thru 264.120</p> <p>122.25(a)(13) 264.112</p> <p>264.111</p>	<p>Ref. 15; Ref. 43; Ref. 53; Ref. 57</p> <p>Ref. 43, Secs. 2.5, 11.1, 13.2.2; Ref. 57, Secs. 2.5, 11.1, 13.2.2</p> <p>Ref. 43, Secs. 2.2.8, 12.2.6; Ref. 57, Secs. 2.2.8, 12.2.6</p>

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DECISION GUIDE (continued)
(Closure Plans)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>I-1b Partial and Final Closure Activities</p> <p>If partial closure is anticipated, a description of how and when the facility will be partially closed, including an identification of the maximum extent of operation after partial closure. A description of how and when the facility will finally be closed.</p> <p><u>Key words or phrases:</u> Partial closure</p> <p>Final closure</p>	264.112(a)(1)	<p>Ref. 43, Secs. 2.2.3, 2.2.4, 12.2.2; Ref. 57, Secs. 2.2.3, 2.2.4, 12.2.2</p>
<p>I-1c Maximum Waste Inventory</p> <p>A description of the maximum inventory of wastes in storage and treatment.</p>	264.112(a)(2)	<p>Ref. 15; Ref. 43; Ref. 53; Ref. 57</p>
<p>I-1d Inventory Removal, Disposal or Decontamination of Equipment</p> <p>A description of how all hazardous waste inventory will be removed and how all facility equipment and structures will be decontaminated or disposed of when closure is completed.</p>	264.112(a)(3) 264.114	<p>Ref. 43, Secs. 2.2.5, 12.2.3; Ref. 57, Secs. 2.2.5, 12.2.3</p>
<p>I-1d(1) Closure of Containers</p> <p>Show that at closure, all hazardous waste and hazardous waste residue will be removed from the containment system, and how remaining containers, liners, bases, and soil containing or contaminated with hazardous waste or hazardous waste residues will be decontaminated or removed.</p> <p><u>Key words and phrases:</u> Container removal, recycling Site decontamination Disposal of contaminated soils Facility decontamination Drum cleaning Drum reconditioning (pesticides)</p>	264.178	<p>Ref. 2, Ch. 4, Sec. C-5</p> <p>Ref. 15, Sec. 4.24 Ref. 3, Ch. 6, Sec. B.2 Ref. 40, pp. 9, 15 and 16; Ref. 86 Ref. 41</p>
<p>I-1d(2) Closure of Tanks</p> <p>Show that at closure, all hazardous waste and hazardous waste residues will be removed from tanks, discharge control equipment, and discharge confinement structure, and the facility will be decontaminated.</p> <p><u>Key words or phrases:</u> Tank cleaning Tank closure plan guidance Maximum amount of inventory Waste removal from tanks Facility decontamination procedures</p>	264.197	<p>Ref. 86 Ref. 43, Ch. 3 Ref. 43, Sec. 3.3.1 Ref. 3, Ch. 6, Sec. B.1 Ref. 3, Ch. 6, Sec. B.2</p>

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DECISION GUIDE (continued)
(Closure Plans)

IV-3]

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>I-1e <u>Schedule for Closure</u></p> <p>An estimate of the expected year of closure and schedule for final closure including total time to close the facility and time for closure activities. A schedule for closure which shows that all hazardous wastes will be treated, removed off-site or disposed of on-site within 90 days from receipt of final volume of waste, and that all closure activities will be completed within 180 days from receipt of final volume of waste.</p>	264.112(a)(4)	Ref. 43, Secs. 2.2.6, 13.2.1; Ref. 57, Secs. 2.2.6, 13.2.1
<p>I-1f <u>Extensions for Closure Time</u></p> <p>A petition for a schedule for closure which exceeds the 90 days for treatment, removal or disposal of wastes and/or the 180 days for completion of closure activities made to the Regional Administrator.</p>	264.113(a) 264.113(b)	
<p>I-2 <u>Post-closure Plans (Reserved)</u></p> <p>Applicable only for surface impoundments, landfills, land treatment facilities, and waste piles.</p>		
<p>I-3 <u>Notice in Deed and Notice to Local Land Authority (Reserved)</u></p>		
<p>I-4 <u>Closure Cost Estimate</u></p> <p>A copy of the most recent closure cost estimate, calculated to cover the cost of closure when the cost would be greatest (not including partial closure). The cost must be updated annually using an inflation factor.</p> <p>Key words or phrases: Annual adjustment for inflation</p>	122.25(a)(15) 264.142	
<p>I-5 <u>Financial Assurance Mechanism for Closure</u></p> <p>A copy of the established financial assurance mechanism for facility closure. For facilities in Phase I authorized states, originally signed duplicates of executed instruments are not required until the time of permit issuance, except as required by local state law. The mechanism must be one of the following: I-5(a) through I-5(f).</p>	122.25(a)(15) 264.143	Ref. 54, Sec. 8.0; Ref. 56; Ref. 67; Ref. 71; Sec. HH
<p>I-5a <u>Closure Trust Fund</u></p> <p>A copy of the closure trust fund agreement with the wording required in 264.151(a)(1) and a formal certification of acknowledgment.</p> <p>Keywords or phrases: Trust fund, grantor, trustee, beneficiary, trust agreement, pay-in period, acknowledgment, common trust, prudent man standard, securities</p>	264.143(a) 264.151(a)(1)	Ref. 67, Sec. II
		Ref. 67, Sec. III and Glossary

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DECISION GUIDE (continued)
(Closure Plans)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
I-5b Surety Bond		
I-5b(1) Surety Bond Guaranteeing Payment Into a Closure Fund A copy of the surety bond with the wording required in 264.151(b), a copy of the standby trust fund, and a written guarantee that the owner or operator will fund the standby fund at least 60 days before final closure begins and will provide alternate financial assurance if the bond is cancelled.	264.143(b) 264.151(b)	Ref. 67, Sec. IV
I-5b(2) Surety Bond Guaranteeing Performance of Closure A copy of the surety bond with the wording required in Part 264.151(c), guaranteeing that the owner or operator will perform closure according to the closure plan and the requirements of Subpart G, or that the owner or operator will fund the standby trust fund as in I-5b(1).	264.143(c) 264.151(c)	Ref. 67, Sec. IV
Keywords or phrases: Surety bonds, principal, surety, obligee, penal sum, rider, circular 570, underwriting limitation, power of attorney, collateral, reinsurance, cosurety		Ref. 67, Sec. IV and Glossary
I-5c Closure Letter of Credit	264.143(d) 264.151(d)	
A copy of the irrevocable letter of credit with the wording required in 264.151(d) and a copy of the standby trust fund. The letter of credit must be issued for a period of at least one year and be for the amount of estimated closure.		
Key words or phrases: Letter of credit, account party, beneficiary, issuer, irrevocable, automatic extensions, standby trust fund, collateral		Ref. 67, Sec. V and Glossary
I-5d Closure Insurance	264.143(e) 264.151(e)	
A noncancellable assignable insurance policy for the amount of estimated closure costs. The policy must provide that the insurance company will pay the cost of closure up to the full amount of the policy whenever closure occurs.		
Key words or phrases: Certificate of insurance, face amount, premium payments, licensed insurer, surplus or excess lines insurance		Ref. 67, Sec. VI and Glossary
I-5e Financial Test and Corporate Guarantee	264.143(f) 264.151(f) 264.151(h)	
Test based on guarantor firm's most recent annual audited financial statements and taking into account current adjusted cost of closure and post-closure care in all facilities not covered by an alternative financial mechanism. Submit letter from Chief Financial Officer, accompanied by independent auditor's opinion and special report verifying the letter.		

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DECISION GUIDE (continued)
(Closure Plans)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p><u>Key words or phrases:</u> Corporate guarantee, parent corporation, independent auditor, certified public accountant, adverse opinion, disclaimer of opinion, qualified opinion, investment grade bond rating</p> <p><u>I-5f Combinations</u></p> <p><u>I-5f(1) Use of Multiple Financial Mechanisms</u> A copy of a combination of trust fund agreements, surety bond guaranteeing payment into a closure trust fund, letters of credit, closure insurance, or state guarantees which provide financial assurance for the amount of closure.</p> <p><u>I-5f(2) Use of Financial Mechanism for Multiple Facilities</u> A copy of a financial assurance mechanism for more than one facility showing, for each facility, the EPA ID number, name, address, and amount of funds for closure assured by the mechanism.</p> <p><u>I-6 Post-closure Cost Estimate (Reserved)</u></p> <p>Applicable only for surface impoundments, landfills, land treatment facilities, and waste piles.</p> <p><u>I-7 Financial Assurance Mechanism for Post-closure (Reserved)</u></p> <p>Applicable only for surface impoundments, landfills, land treatment facilities, and waste piles.</p> <p><u>I-8 Liability Requirements</u></p> <p>A copy of the Certificate of Insurance or other documentation which comprises compliance with the liability requirements of 264.147. Coverage is for all facilities owned and operated and applies until certification for closure is completed. For facilities in Phase I authorized states, originally signed duplicates of executed instruments or certificates of insurance are not required until the time of permit issuance, except as required by local state law.</p> <p><u>I-8a Sudden Insurance</u></p> <p>Coverage is required in the amount of \$1 million per sudden accidental occurrence with an annual aggregate of \$2 million. Supply a Certificate of Insurance or the Hazardous Waste Facility Liability Endorsement.</p> <p><u>Key words or phrases:</u> Sudden accidental occurrence, accidental occurrence, coverage, licensed insurer, surplus or excess lines insurance, bodily injury, property damage, legal defense costs</p>	<p>264.143(g)</p> <p>264.143(h)</p> <p>122.25(a)(17) 264.147</p> <p>264.147(a) 264.151(i) 264.151(j)</p>	<p>Ref. 67, Sec. VII and Glossary</p> <p>Ref. 67, Sec. II</p> <p>Ref. 67, Sec. II</p> <p>Ref. 70</p> <p>Ref. 70</p>

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DECISION GUIDE (continued)
(Closure Plan)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>I-8b Nonsudden Insurance (Reserved)</p> <p>Applicable only for surface impoundments, landfills or land treatment facilities.</p>		
<p>I-8c Financial Test</p> <p>Test based on firm's most recent annual audited financial statements and taking into account the amount of coverage not provided by other insurance or guarantees. Submit letter from Chief Financial Officer, accompanied by independent auditor's opinion and special report verifying the letter.</p> <p><u>Key words or phrases:</u> Corporate guarantee, parent corporation, independent auditor, certified public accountant, adverse opinion, disclaimer of opinion, qualified opinion, investment grade bond rating</p>	<p>264.147(f) 264.151(g)</p>	
<p>I-8d Variance Procedures</p> <p>Regional Administrator may approve reduction in liability coverage required, based on an evaluation of the degree and duration of risks and on other technical and engineering information.</p>	264.147(c)	Ref. 70
<p>I-8e Adjustment Procedures</p> <p>Regional Administrator may increase amounts of liability coverage required for any facility or group of facilities, or he may elect to impose nonsudden liability coverage requirements on treatment or storage facilities, based on an evaluation of the degree and duration of risks as deemed necessary to protect human health and the environment.</p>	264.147(d)	Ref. 70
<p>I-9 State Mechanisms</p>	122.25(a)(18) 264.149	
<p>I-9a Use of State-required Mechanisms</p> <p>Where a state has hazardous waste regulations with equivalent or greater requirements for financial assurance for closure and post-closure care and/or liability, a copy of the state-required financial mechanisms, including the facility EPA ID number, name, address, and amounts of coverage. Also submit a letter requesting that the state-required mechanism be considered acceptable. If a state-required mechanism is acceptable except for the amount of funds made available (264.143, 145, and 147), then the owner or operator must provide demonstration of additional financial assurance mechanisms to equal federal requirements. The EPA Regional Administrator must approve equivalency of any submitted state mechanism.</p> <p><u>Key words or phrases:</u> Equivalency, availability of funds, coverage</p>		Ref. 67, Sec. VIII

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DECISION GUIDE (continued)
(Other Federal Laws, Certification)

SUBJECT REQUIREMENT	40 CFR SECTION NOS.	REFERENCES
<p>I-9b State Assumption of Responsibility</p> <p>If a state assumes legal responsibility for compliance with closure, post-closure, or liability requirements or the state assures that state funds are available to cover those requirements, then facility is in compliance and may include a copy of a letter from the state describing the state assumption of responsibility and including the facility EPA ID number, name, address, and amounts of liability coverage or funds for closure or post-closure care that are assured by the state.</p> <p><u>Key words or phrases:</u> Equivalency, availability of funds, coverage</p>	264.150	
<p>J. OTHER FEDERAL LAWS</p> <p>Demonstration of compliance with the requirements of applicable Federal laws such as the Wild and Scenic Rivers Act National Historic Preservation Act of 1966, Endangered Species Act, Coastal Zone Management Act, Fish and Wildlife Coordination Act, Clean Water Act, Safe Drinking Water Act, Clean Air Act, Atomic Energy Act, and Marine Protection, Research and Sanctuary Act.</p> <p><u>Key words or phrases:</u> Wild and Scenic Rivers Act Background Applicability/procedures Assistance in compliance National Historic Preservation Act of 1966 Background Applicability Procedures Assistance in compliance Endangered Species Act Background Applicability Assistance in compliance Coastal Zone Management Act</p>	122.25(a)(20) 122.12	Ref. 67, Sec. VIII
<p>K. CERTIFICATION</p> <p>Applications must be accompanied by a certification letter as specified in 122.6(d). The required signatures are as follows: (1) for a corporation, a principal executive officer (at least at the level of vice-president); (2) for a partnership or sole proprietorship, a general partner or the proprietor, respectively; (3) for a municipal, state, Federal, or other public agency, either a principal executive officer or ranking elected official.</p>	122.6(a) and (d)	Ref. 58, Part 2, p. 3-5 Ref. 58, Part 2, p. 3-7 Ref. 58, Part 2, p. 3-9 Ref. 58, Part 2, p. 4-5 Ref. 58, Part 2, p. 4-9 Ref. 58, Part 2, p. 4-11 Ref. 58, Part 2, p. 4-17 Ref. 58, Part 2, p. 5-3 Ref. 58, Part 2, p. 5-9 Ref. 58, Part 2, p. 5-13 Ref. 58, Part 1, p. 1-82

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2. Fred C. Hart Associates. Permit writer's guidance manual: containers (Draft). U.S. Environmental Protection Agency. July 1981.
3. Fred C. Hart Associates. Permit guidance manual: tanks (Draft). U.S. Environmental Protection Agency. July 1981. *essentially a nonexistent reference*
4. Fred C. Hart Associates. Permit writer's guidance manual: hazardous waste piles (Draft). U.S. Environmental Protection Agency. July 1981.
5. Vincent, J. R. A step-by-step approach to development of NPDES and RCRA permits. An Environmental Protection Agency Publication EPA-330/1-81-004. July 1981.
6. Office of Solid Waste Management Programs. Test methods for evaluating solid waste. Physical/chemical methods. Environmental Protection Publication SW-846. Washington, U.S. Government Printing Office, 1980.
7. Office of Coastal Zone Management. National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C.
8. Permit writer's guidance document for hazardous waste incineration (Draft). U.S. Environmental Protection Agency. July 1981.
9. General Facility Standards for Location of Facilities. Background document; standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities under RCRA, Subtitle C, Section 3004. 40 CFR 264, Subpart B, Section 264.18. December 30, 1980.
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APPENDIX A
CONFIDENTIAL TREATMENT OF BUSINESS INFORMATION

CONFIDENTIAL TREATMENT OF BUSINESS INFORMATION

This section contains a basic overview of EPA's confidential business information requirements, which are found in 40 CFR Part 2. EPA has previously developed a primer on confidential business information under RCRA; this primer is included on the following pages.

There are, however, several requirements not discussed in the primer of which permit writers should be aware. These are discussed in the following paragraphs.

(a) Disclosing Confidential Information to State and Local Governments

Once a state has obtained interim authorization for any component of Phase II, EPA will transfer to the relevant state agency all permit applications from facilities located there. Before transferring the information, EPA must determine that it will be adequately protected by the state agency, 40 CFR 2.301(h)(3). EPA's regulations provide the following two means for making this determination:

- ° The state agency provides EPA with a written opinion from the agency's chief legal officer or counsel stating that the agency has the authority to compel a business to disclose confidential information to it.
- ° EPA informs the affected business that it intends to disclose the information to the state agency, and the agency shows to the satisfaction of an EPA legal office that its use and disclosure of the confidential information will be governed by applicable law and procedures which will provide adequate protection to the interests of the affected business.

(b) Special Handling

The regulations require the EPA employee who has possession of the confidential business information to "take appropriate measures" to prevent disclosure 40 CFR 2.211(b). Appropriate measures include the following:

- ° keeping the information in locked desks, file cabinets or safes
- ° refraining from discussing the information with office mates, friends, and family
- ° removing the information from work areas when not using it

(c) Criteria for Confidentiality Determinations

The primer alludes to criteria to be used when making a confidentiality determination but does not list them. They are found in 40 CFR 2.208 and require a finding that

- ° the business has asserted a claim and has not waived or withdrawn it
- ° the business has taken reasonable measures to protect the information
- ° the information cannot be otherwise obtained without the consent of the business
- ° no specific statute requires disclosure
- ° disclosure is likely to cause substantial harm to the business's competitive position

(d) Disclosure of Information Relevant in a Proceeding

Information that otherwise might be entitled to confidential treatment may be disclosed by EPA because of its relevance in a proceeding (i.e., permitting, rulemaking, or adjudicating). This exception to the confidentiality provisions applies to information obtained by EPA pursuant to Section 3007 of RCRA and to information, such as information submitted in a permit application, which could have been requested by EPA pursuant to Section 3007.

The procedures for disclosing information relevant in a proceeding are set forth in 40 CFR §2.301(g)(2). The procedures are as follows:

- ° EPA determines that the information is confidential.
- ° EPA informs the applicant that it intends to make the information available to the public and provides the applicant with an opportunity to comment.
- ° EPA's Office of Legal and Enforcement Counsel determines that the information is relevant to the proceeding. The EPA office conducting the proceeding determines that the public interest would be served by making the information available.
- ° EPA makes the information available to the public.

MEMORANDUM

SUBJECT: A Primer on Confidential Business Information Under RCRA

FROM: Deborah Wolin
Attorney
Water and Solid Waste Division (A-131)

TO: Al Peters
Director
Resource Recovery Division (WH-563)

Jack Lehman
Director
Hazardous Waste Management Division (WH-565)

Introduction

A working group has been formed to assess the Agency's current use of confidential business information and explore long range options for assuring its protection. This Memorandum represents the Office of General Counsel's contribution to the working group. It discusses the legal procedures and constraints for handling confidential business information.

All business information provided to you must be properly safeguarded. There are detailed regulations describing how you must handle business information, mainly in 40 CFR Part 2. Violation of these regulations "constitutes grounds for dismissal, suspension, fine or other adverse personnel action." 40 CFR 2.211. Even an unintentional violation of the regulations is included. In addition, if someone willfully violates any of these regulations he may be subject to "criminal prosecution under 18 USC 1905." Id. This statute provides for fines up to \$1000 or imprisonment for up to one year or both if you publish, divulge, disclose, or "make known in any manner or to any extent not authorized by law any information . . . [obtained] in the course of [your] employment" (emphasis added).

Obviously it is essential that everyone know what procedures for handling business information ARE "authorized by law." The initial portion of this memorandum will outline EPA's present provisions for the treatment of business information. In addition, the procedures for handling business information which is claimed by a company to be confidential will also be scrutinized.

A. Basic Definitions

1. What is business information?

There is no precise definition. 40 CFR 2.201(c) states that "business information . . . means any information which pertains to the interests of any business, which was developed or acquired by that business".

2. What is confidential business information?

Confidential business information is any information in any form received by EPA from any person, firm, partnership, corporation, association, or local, state, or Federal agency, or foreign government, which contains trade secrets or commercial or financial information, and which has been claimed as confidential by the person submitting it and which has not been determined to be non-confidential under the procedures in 40 CFR Part 2.

You must treat any business information that a company claims to be confidential as if it were confidential until a formal administrative determination to the contrary is made. The formal procedure for doing so is described in detail in a later section. It must be emphasized that until this formal administrative procedure determines that a company's business information is non-confidential, any business information that is claimed to be confidential must be handled as if it was confidential.

B. How can a business assert a claim that its business information is confidential?

You are required to notify a business of its right to assert a claim of confidential treatment as to business information. Accordingly, whenever you request data or other information from a company pursuant to Section 3007 of the Resource Conservation and Recovery Act ("RCRA") 40 CFR 2.203(a) requires that specific points appear in your letter. Your request must include a notice which

(1) states that the business may assert a business confidentiality claim covering part or all of the information as described in 40 CFR 2.203(b) and that provisions covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures of Subpart B of 40 CFR Part 2;

(2) states that if no claim of confidentiality accompanies the information which is received by EPA it may be made available to the public without further notice to the business; and

(3) cites Subpart B of 40 CFR Part 2, and 41 FR 36902 (published September 1, 1976), as amended by 43 FR 39997 (September 8, 1978) and 44 FR 17673 (March 23, 1979).

A business which is submitting information to EPA may assert a business confidentiality claim covering the information by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business, and may be submitted separately to facilitate identification and handling by EPA. If the business desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state. You have an attachment to your 3007 letters that is presently in use. It is very important that such an attachment accompany all written requests for data or other information. A copy of this attachment is appended to this document as Attachment 1.

C. What if a business asserts a claim of confidentiality as to information you believe to be non-confidential?

The situation may arise in which a company claims its business information to be confidential and you wish to treat this information as non-confidential. There are two types of claims:

- (1) information you believe may not be confidential, and
- (2) information you believe is clearly not confidential.

First, if you believe that this business information may not be entitled to confidential treatment, you may in conjunction with OGC request the company to substantiate its claim of confidentiality and refer the matter to the Office of General Counsel to make a final administrative determination of the validity of the business' claim of confidentiality. However, until this final determination is made you must continue to treat all business information that is claimed by a company to be confidential as if it were confidential.

In order to have business information which is claimed confidential to be declared non-confidential, EPA must follow the procedures outlined in 40 CFR 2.204. The affected business must be notified in writing that EPA is making a determination under 40 CFR Part 2, Subpart B whether the business' information is entitled to confidential treatment, and that the business has a certain period of time (no less than fifteen working days) to comment. The business must also be notified that it may request an extension of time to comment pursuant to §2.205(b) and that EPA will construe a business's failure to furnish timely comments as a waiver of the business' claim. The address of the office to which the business' comments are to be sent must also be furnished; this office will customarily be OGC. A sample letter is attached to this Memorandum (Attachment 2). This notice must be sent by certified mail (return receipt requested) or by personal delivery or by other means which allows verification of the fact of receipt and the date of receipt.

If the notice is sent by certified mail and the response card is not returned and you have the personnel available, you may send another notice to the company by certified mail (return receipt requested). If you do not have sufficient personnel or are pressed for time, you may phone the company owner or operator to ask if he received your written notice. There are three possible responses to your phone inquiry. First, where the company official has received your notice and has no problems with it, you should write a memo to your file detailing the date, with whom you spoke and the substance of your conversation. Second, where the company official states that your notice was never received, you should send him a duplicate of the original notice and wait until you get his response. The third case is where the company official states that he received your notice and objected to your proposed treatment of his business information. Here you should ask the official to send you a copy of his objection. You should not take any further action until you receive the copy.

The situation may arise in which a company claims business information as confidential and you believe that the information is clearly not confidential. Adequate reasons for finding that business information is not entitled to confidential treatment include: 1) the business has not taken reasonable measures to protect its confidentiality, 2) the information is reasonably obtainable without the business' consent by the use of legitimate means, 3) disclosure of the information is mandated by a statute (cite the statute), or 4) disclosure of the information is not likely to cause substantial harm to the business' competitive position and, if the the information is not likely to impair the government's ability to obtain

necessary information in the future. If you believe that information claimed confidential is clearly not confidential, the administrative procedures for determining information to be non-confidential may be shortened considerably. An OGC attorney must be consulted in such a case.

In both situations discussed above, if the business' information is administratively determined to be confidential, you must continue to accord the information full confidential treatment. If the business' information is determined to be non-confidential, the procedures outlined in §2.205(f) must be followed. The business must be notified of the denial of its claim and of the reasons for the denial. In addition, the notice must state that EPA will make the information available to the public on the tenth working day after the date of the business' receipt of the written notice unless OGC has been notified of the business' commencement of an action in a Federal court to obtain judicial review of the determination and to obtain preliminary injunctive relief against disclosure. The notice must further state that if such an action is timely commenced EPA may nonetheless make the information available to the public (in the absence of an order by the court to the contrary), once the court has denied a motion for a preliminary injunction in the action or has otherwise upheld the EPA determination, or whenever it appears to OGC after reasonable notice to the business, that the business is not taking appropriate measures to obtain a speedy resolution of the action. If the information has been found to be temporarily entitled to confidential, the notice must further state that the information will not be disclosed prior to the end of the period of the temporary entitlement to confidential treatment.

The notice must be sent by certified mail (return receipt requested) by personal delivery, or by other means which allows the verification of the fact of receipt and the date of receipt. If the notice is sent by certified mail and the receipt card is not returned you should follow the procedures outlined in Section C of this Memorandum.

D. Using confidential business information

1. What if another office of EPA wishes to use confidential business information in your possession?

Under 40 CFR 2.209(e) you "may disclose any business information to another EPA office, officer or employee with an official need for the information." (emphasis added). Thus, if another office of EPA

orally requests business information in your possession you should not automatically transfer the information. You should require the other EPA office to put their request in writing, outlining 1) the purpose for which the information is sought, and 2) who will view the information. By requiring this written documentation you can assess whether the requestor has an "official need for the information."

If you find that the other office does have an official need for the confidential business information in your possession, you may not send over the information alone. It must be accompanied by a cover letter which states that the information has been claimed confidential and must be treated in accordance with the procedures outlined in 40 CFR Part 2. A sample cover letter is appended to this document as Attachment 3.

2. What if you wish to transfer confidential business information to a contractor or a subcontractor?

Under 40 CFR Part 2, as amended September 8, 1978, 43 FR 39997, and March 23, 1979, 44 FR 17573, information which has been claimed confidential may be disclosed by an EPA employee to a contractor or subcontractor if the following procedures are complied with. First, the EPA program office managing the contract or subcontract must determine in writing "that such disclosure is necessary in order that the contractor or subcontractor may carry out the work required by the contract or subcontract." 40 CFR 2.305(h). Second, the contract between EPA and the contractor or subcontractor must include several specific provisions:

- (1) That the contractor or subcontractor and the contractor's or subcontractor's employees shall use the information only for the purpose of carrying out the work required by the contract or subcontract, shall refrain from disclosing the information to anyone other than EPA without the prior written approval of each affected business or of an EPA legal office, and shall return to EPA all copies of the information (and any abstracts or extracts therefrom) upon request by the EPA program office, whenever the information is no longer required by the contractor or subcontractor for the performance of the work required under the contract or subcontract, or upon completion of the contract or subcontract;

(2) That the contractor or subcontractor shall obtain a written agreement to honor such terms of the contract or subcontract from each of the contractor's or subcontractor's employees who will have access to the information, before such employee is allowed such access; and

(3) That the contractor or subcontractor acknowledges and agrees that the contract or subcontract provisions concerning the use and disclosure of business information are included for the benefit of, and shall be enforceable by, both EPA and any affected business having an interest in information concerning it supplied to the contractor or subcontractor by EPA under the contract or subcontract.

A third requirement before confidential information may be released from an EPA employee to a contractor or subcontractor is that each affected business must be furnished notice of the contemplated disclosure and be afforded a period of at least five working days to submit comments. (Notice may be by publication in the Federal Register or by actual notice to the company by certified mail, return receipt requested.) The notice must include a description of the information to be disclosed, the identity of the contractor or subcontractor, the contract or subcontract number, if any, and the purpose to be served by the disclosure. A sample Notice is attached to this document. If you send the notice by certified mail and the response card is not returned you should follow the procedures detailed in Section C of this Memorandum.

After disclosure the EPA program office must maintain a record of the disclosure, showing the contractor or subcontractor, the contract or subcontract number, the information disclosed, the dates of disclosure and each affected business. This record of disclosure as well as initial written determination of necessity of disclosure by a program office must be maintained for at least 36 months. 40 CFR §2.305(h)(2-3).

E. Confidential business information and EPA contractors

1. Provisions required in Fixed Price Research and Development Contracts.

You should be certain that the following provisions are present in any Fixed Price Research and Development Contract that is executed between EPA and a contractor. The provisions are detailed in 15 CFR 15-7.350.

Whenever you determine that it may be necessary for EPA to furnish confidential business information to a contractor, the following clauses must be inserted into your Fixed Price Research and Development Contract:

TREATMENT OF CONFIDENTIAL BUSINESS INFORMATION

(a) The Contracting Officer, after a written determination by the appropriate program office, may disclose confidential business information to the contractor necessary to carry out the work required under this contract. The contractor agrees to use the confidential information only under the following conditions:

(1) The contractor and contractor's employees shall: i) use the confidential information only for the purposes of carrying out the work required by the contract; ii) not disclose the information to anyone other than EPA employees without the prior written approval of the Deputy Associate General Counsel for Contracts and General Administration, and iii) return to the contracting officer all copies of the information, and any abstracts or excerpts therefrom, upon request by the contracting officer, whenever the information is no longer required by the contractor for the performance of the work required by the contract, or upon completion of the contract.

(2) The contractor shall obtain a written agreement to honor the above limitations from each of the contractor's employees who will have access to the information, before the employee is allowed access.

(3) The contractor agrees that these contract conditions concerning the use and disclosure of confidential information are included for the benefit of, and shall be enforceable by, both EPA and any affected business having a proprietary interest in the information.

(4) The contractor shall not use any confidential information supplied by EPA or obtained during performance hereunder to compete with any business to which the confidential information relates.

(b) The contractor agrees to obtain the written consent of the contracting officer, after a written determination by the appropriate program office, prior

to entering into any subcontract that will involve the disclosure of confidential business information by the contractor to the subcontractor.

The contractor agrees to include this clause, including this paragraph (b), in all subcontracts awarded pursuant to this contract that require the furnishing of confidential business information to the subcontractor.

Whenever you determine that a contractor may be required to collect information that may be considered confidential or proprietary by a company, the following clauses must be inserted into the contract between EPA and the contractor. 15 CFR 15-7.350-2.

SCREENING BUSINESS INFORMATION FOR CLAIMS OF CONFIDENTIALITY

(a) Whenever collecting information under this contract, the contractor agrees to comply with the following requirements:

(1) If the contractor collects information from public sources, such as books, reports, journals, periodicals, public records, or other sources that are available to the public without restriction, the contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The contractor shall identify the information according to source.

(2) If the contractor collects information from a state or local government or from a Federal agency, the contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The contractor shall identify the information according to source.

(3) If the contractor collects information directly from a business or from a source that represents a business or businesses such as a trade association:

(i) Before asking for the information, the contractor shall identify itself, explain that it is performing contractual work for the U.S. Environmental Protection Agency, identify the information that it is seeking to collect, explain what will be done with the information, and give the following notice:

(A) You may, if you desire, assert a business confidentiality claim covering part or all of the information. If you do assert a claim, the information will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. Subpart B, 41 FR 36906, September 1, 1976.

(B) If no such claim is made at this time this information is received by the contractor, it may be made available to the public by the Environmental Protection Agency without further notice to you.

(ii) Upon receiving the information, the contractor shall make a written notation that the notice set out above was given to the source, by whom, in what form, and on what date.

(iii) At the time the contractor initially submits the information to the appropriate program office, the contractor shall submit a list of these sources, identify the information according to sources, and indicate whether the source made any confidentiality claim and the nature and extent of the claim.

(b) The contractor shall keep all information collected from nonpublic sources confidential in accordance with the clause in this contract entitled "Treatment of Confidential Business Information" as if it had been furnished to the contractor by EPA.

(c) The contractor agrees to obtain the written consent of the contracting officer, after a written determination by the appropriate program office, prior to entering into any subcontract that will require the subcontractor to collect information. The contractor agrees to include this clause, including this paragraph (c) and the clause entitled "Treatment of Confidential Business Information" in all subcontracts awarded pursuant to this contract that require the subcontractor to collect information.

2. What type of confidentiality agreements may contractors sign with target companies?

Some companies have requested signed secrecy agreements between the company and contractor as prerequisites to entry or the furnishing of information.

Under 40 CFR §2.215 no EPA officer, employee, contractor, or subcontractor can enter into any confidentiality agreement until the agreement is consistent with the agency's confidentiality rules. However, in the past our contractors have signed a vast amount of instruments, sometimes without EPA approval in order to gain entry. In order to avoid these situations and satisfy concerns of some companies, the Office of Enforcement and OGC have developed the attached "Memorandum on Confidential Treatment of Certain Information" to be employed with those sources that would otherwise oppose EPA's use of contract personnel. This form is consistent with the agency's regulations for gathering and handling confidential information. It may be used where it will facilitate a contractor's entry or procurement of information. Before your office authorizes any other agreement, an OGC attorney should be consulted. If a company asks you to sign any type of agreement as a condition to obtaining entry or information, you must consult an OGC attorney.

Attachments

Attachment 1

Addendum

AUTHORITY AND CONFIDENTIALITY

The authority to obtain samples and information is provided by Section 3007 of the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6927 (RCRA). "For the purpose of developing or assisting in the development of any regulation," . . . and upon request by a duly designated EPA officer, Section 3007 authorizes an EPA employee (1) to enter any establishment where hazardous wastes are generated, stored, treated, transported, disposed of, or handled; (2) to inspect and obtain samples of such wastes; (3) to inspect or copy records relating to such waste. If requested prior to leaving the premises with the samples, the EPA employee shall give a descriptive receipt and a portion of the samples to the establishment's agent. A copy of the results of all analyses subsequently performed on the samples shall also be furnished to the establishment's agent.

Information may not be withheld from the Administrator or his authorized representative because it is confidential. However, when requested to do so, the Administrator is required to consider information to be confidential and to treat it accordingly, if disclosure would divulge methods or processes

Attachment 1 (continued)

entitled to protection as trade secrets. EPA regulations concerning confidentiality of business information are contained in 40 CFR Part 2, Subpart B (42 Federal Register 36902-36924 (September 1, 1976)), as amended by 43 FR 39997 (September 8, 1978), and 44 FR 17673 (March 23, 1979). These regulations provide that a business may, if it desires, assert a business confidentiality claim covering part or all of the information furnished to EPA. The manner of asserting such claims is specified in 40 CFR 2.203(b). Information covered by such a claim will be treated by the agency in accordance with the procedures set forth in the Subpart B regulations. In the event that a request is made for release of information covered by a claim of confidentiality, or the agency otherwise decides to make a determination whether or not such information is entitled to confidential treatment, notice will be provided to the business which furnished the information. No information will be disclosed by EPA as to when a claim of confidentiality has been made except to the extent and in accordance with 40 CFR Part 2, Subpart B. However, if no claim of confidentiality is made when information is furnished to EPA, the information may be made available to the public without notice to the business.

Attachment 2

LETTER B ·

(For use in requesting comments from affected business in connection with a final confidentiality determination when there is a need to make information public other than under a Freedom of Information Request.)

Certified Mail
Return Receipt Requested

[Addressee]

Re: [Reference the information that is the subject of the final determination]

Dear _____:

The Environmental Protection Agency (EPA) possesses [description of the information in question that is the subject of the final confidentiality determination]. You asserted a business confidentiality claim covering [part or all] of this information on [describe the circumstances of the communication that led to the claim, such as a notice attached to the information at the time it was received by EPA or in response to a telephone call, cite the date and the person to whom they spoke]. EPA is proposing to release this information to the public [describe the circumstances of the proposed release, such as: the title of the EPA report, identification of a meeting at which it will be discussed, etc.]. In accordance with EPA's regulation concerning confidentiality of business information (40 CFR Part 2, Subpart B, 41 Federal Register 36906, September 1, 1976), this office has asked [the appropriate EPA legal office] to make a final confidentiality determination concerning the entitlement of this information to confidential treatment.

This letter is to notify you that [the appropriate EPA legal office] will be making a final confidentiality determination concerning this information. You have the opportunity to submit your comments concerning your confidentiality claim. If you feel that some or all of the above information is entitled to confidential treatment, please specify which portions of the

Attachment 2 (continued)

information you consider confidential. Please be specific by page, paragraph, and sentence when identifying the information subject to your claim. For each item or class of information that you identify as being subject to the claim, the following questions must be answered in detail: [Use the following questions only if you do not already know the answers; i.e., in most cases EPA will know the purpose for which the information was submitted to EPA and when, whether a claim accompanied the information, and whether it was voluntarily submitted information.]

1. For how long should the information be treated as confidential?
2. For what purpose was the information submitted to EPA, and what was the approximate date of submission?
3. Did a business confidentiality claim accompany the information at the time it was submitted?
4. What measures have you taken to guard against undesired disclosure of the information to others?
5. To what extent has the information been disclosed to others, and what precautions were taken with respect to those disclosures?
6. Have there been any pertinent confidentiality determinations by EPA, other Federal agencies or courts? If so, attach a copy.
7. Would disclosure of the information be likely to result in substantial competitive harm to your competitive position? If so, discuss in detail what the harmful effects would be, why the effects would be substantial, and the nature of the casual relationship between the disclosure and the harmful effects.

Please supply complete answers to the questions above. [The appropriate EPA legal office] will make a final confidentiality determination as to whether this information is entitled to confidential treatment. That determination will depend in part on your answers to these questions. EPA can withhold business information from disclosure only if it finds that disclosure would be likely 1) to cause substantial harm to your competitive position, or 2) to impair EPA's ability to obtain necessary information in the future.

You must submit your comments within _____ working days after your receipt of this letter. [The time given should be at least

Attachment 2 (continued)

15 days but it may be longer as you find appropriate.] You may request an extension of time to submit your comments, but the request must be made before the end of the _____-day period. An extension will be granted only in extraordinary circumstances since EPA is operating under a time deadline for release of this information. [It may be appropriate to eliminate this sentence if time is not of the essence in the particular case.] Please send your comments and any request for an extension to:

[The appropriate EPA legal office]

Failure to submit your comments within the _____-day period will be construed as a waiver of your confidentiality claim, and EPA will be free to release the information without further notice to you.

You may claim information you submit in support of your confidentiality claim as confidential in its own right. If the information pertains to the confidentiality claim, is not otherwise possessed by EPA, and is marked when received by EPA as "trade secret," "proprietary," or "company confidential" on the information or on a cover sheet, it will not be disclosed by EPA without your consent unless disclosure is ordered by a Federal court. If no claim accompanies this information when it is received by EPA, it may be made available to the public without further notice to you.

Sincerely yours,

Attachment 3

DRAFT COVER LETTER

(To be attached to confidential business information that is transferred from one EPA office to another EPA office.)

[Addressee]

Dear _____:

The attached _____-page document was requested by you on _____ [date] _____ for the purpose of _____. This document contains information collected from _____ company, which was claimed to be confidential. You have stated that the following employees of your office will view the information: _____, _____, and _____.

As your need for this information has been determined to be an official one, I am transferring the attached document to your office. You must accord the document continued confidential treatment, as set forth in 40 CFR Part 2. If you have any questions, please contact an attorney of the Office of General Counsel.

Sincerely,

Attachment 4

DRAFT SAMPLE LETTER

[Addressee]

Dear _____:

Subject: Disclosure of Confidential Information

This letter constitutes notice that the Environmental Protection Agency, Office of _____ intends to release data collected from you on _____ [Date] concerning _____ [Subject] under the authority of Section 3007 of the Resource Conservation and Recovery Act, and claimed to be confidential, to an EPA contractor for the purpose of _____. The contractor involved is _____.

The Environmental Protection Agency, Office of _____ has determined that it is necessary to release this information to _____ [Contractor] in order that _____ [Contractor] may carry out the work required by its contract [Contract No. _____]. This contract contains all confidentiality provisions required by EPA confidentiality regulations (40 CFR 2.305(h)(2)(ii)).

If you have any comments regarding this disclosure, please advise me within [at least five] working days. If you have any questions please call me at _____.

Sincerely yours,

Attachment 5

MEMORANDUM ON CONFIDENTIAL TREATMENT OF CERTAIN INFORMATION

1. Pursuant to the provisions of (applicable statutory provision), (source), (hereinafter "the source") will provide, or give access to, information requested by the Environmental Protection Agency (EPA) through its authorized representative (contractor) (hereinafter "the contractor") for the contractor's use, and that of its employees, on behalf of EPA in the course of carrying out its responsibilities pursuant to Contract No. _____ with EPA. The information requested may be either documentary (e.g., records or charts) or non-documentary (e.g., oral communications, taking of photographs, or visual observations). EPA recognizes that the source may consider the information so provided, or some part of it, to be confidential within the meaning of (applicable statutory provision). The source may assert a claim of confidentiality under the procedures established in Part 2 of Title 40 of the Code of Federal Regulations (40 CFR Part 2) by noting such claim on documentary material provided to the contractor. The contractor will not such claim when submitting the information to EPA. Moreover, the source may notify the contractor that it considers the non-documentary information provided to the contractor to be confidential, and the contractor

Attachment 5 (continued)

will note said claim of confidentiality in any reports or documents submitted to EPA which utilize such non-documentary information. Any material or information claimed as confidential will be treated by the contractor as confidential in accordance with its contract and will be treated by EPA in accordance with the provisions of 40 CFR Part 2. Any material or information for which a claim of confidentiality is not made may be made available to the public by EPA without notice to the source.

2. The provisions in the contractor's contract with EPA concerning the use and disclosure of confidential information are included therein for the benefit of, and shall be enforceable by, both EPA and the source.

The provision of Contract No. _____ between EPA and the source provide:

- a. The contractor and its employees will: i) use the information claimed to be confidential only for the purposes of carrying out the work required by the contract; (ii) not disclose the information to anyone other than EPA employees without the prior written approval of the Deputy Associate General Counsel for Contracts and General Administration; and (iii) return to the EPA Contracting Officer all copies of the information, and any abstracts or excerpts therefrom, upon request by the Contracting Officer, whenever the information is no longer required by the contractor for the performance of the work required by the contract, or upon completion of the contract.
- b. The contractor will obtain a written areement to honor the provisions of paragraph 2(a) from each of its employees who will have access to the information before the employee is allowed access.

Attachment 5 (continued)

- c. The contractor will not use any information claimed to be confidential to compete with the source.
- d. Before entering into any subcontract that will involve either the disclosure to a subcontractor by the contractor of information claimed to be confidential, or the collection of information by a subcontractor, the contractor will obtain the written consent of the EPA Contracting Officer, after a written determination by the appropriate EPA program office.

Any subcontractor who will have access to the information is subject to the restrictions set forth in this Memorandum.

It is intended that this Memorandum be consistent with and not exceed the provisions of 40 CFR Part 2 and the provisions of Contract No. _____. Nothing in this Memorandum relieves the contractor of any liability it may independently have to the source as a matter of statutory or common law for injury to the source arising from the contractor's release of information in a manner which exceeds its authority under 40 CFR Part 2 and its contract with EPA.

(contractor or subcontractor)