

RCRA Public Participation Manual

1996 Edition

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Statement

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

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

Acknowledgments

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

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What This Manual Can Do For You

A Handbook for All Stakeholders

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

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

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

If you are a citizen...

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

If you are a government regulator...

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

If you are a member of a public interest or environmental group...

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

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

If you own or operate a hazardous waste management facility...

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

Other Sources of Information

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

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

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

- C If you are trying to learn more about public participation in the Superfund program, refer to *Community Relations in Superfund: A Handbook* (USEPA, EPA/540/R-92/009, OSWER Directive 9230.0-3C, January 1992).
- C If you are trying to learn more about the siting of hazardous waste management facilities prior to permitting, you will most likely need to contact your local or state officials. See Appendix B for a list of state agency contacts. EPA is planning to issue guidance on this

topic during 1996. Contact the RCRA Hotline (see Appendix A for the number) for more information.

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

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

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

Chapter 1

Introduction

Overview of this Manual

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

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

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

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

This manual will also be helpful to many private companies that have adopted, or are establishing, public participation programs as part of their commitment to good corporate citizenship. While these activities often take place outside of the official RCRA permitting process, EPA supports

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

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

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

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

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

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

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

Chapter 4, “Public Participation for RCRA Corrective Action Under Permits and §3008(h) Orders,” details EPA’s public participation guidelines for the corrective action program. This chapter reflects the

current agency position on these issues as the corrective action program continues to evolve.

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

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

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

The Big Picture

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

RCRA and its 1984 Amendments

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

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

RCRA GOALS

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

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

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

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

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

RCRA Facility Permitting

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

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

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

The RCRA Corrective Action Program

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

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

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

Public Participation in the RCRA Program

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

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

Chapter 2

Guidelines for a Successful Public Participation Program

What is Public Participation?

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

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

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

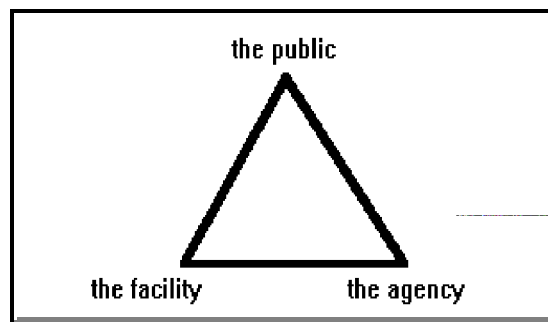


Figure 1 -- The Public Participation Triangle

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

Public participation is a dialogue.

line that represents each group's communication with the other participants in the process.

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

Why Bother With Public Participation?

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

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

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

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

The fourth reason to bother with public participation is that RCRA actions are more likely to be accepted and supported by community members who can see that they have had an active role in shaping the decision. Showing community members that the regulatory agency or the facility is willing to address community concerns will establish the foundation for improved understanding and community involvement in the process, even if members of the community do not always agree with the outcome of that process. By promoting public participation, permitting agencies can reduce the potential for concern over less consequential risks and dedicate more

resources to addressing serious risks and issues. Many companies have also found that promoting early and meaningful public participation can save resources in the long run by avoiding delays and lawsuits based on public opposition.

What Makes A Successful Public Participation Program?

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

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

Dialogue and Feedback

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

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

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

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

Public participation should encourage "feedback loops."

adjust public participation activities, and respond quickly and effectively to changing needs. The feedback loop is a useful tool for all stakeholders in the process.

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

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

Honesty and Openness

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

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

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

14. Enlist the help of organizations that have credibility with communities.
15. Avoid secret meetings.

This list was adapted from the manual *Improving Dialogue With Communities* (New Jersey Department of Environmental Protection, 1988). This manual and a number of other sources produced by states, EPA, trade groups, and public interest groups are available for more information on trust and credibility factors.

A Commitment to the Public

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

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

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

An Informed and Active Citizenry

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

- C Contact the permitting agency early. Identify the designated contact person for the project (the name should be on fact sheets and notices, or available by calling the agency).
- C Do background research by talking to local officials, contacting

research or industrial organizations, reading permitting agency material, and interacting with interested groups in the community.

- C Perform an assessment. Request background information from the permitting agency, local officials, and the facility ownership. Ask about day-to-day activities, the decision-making structure, and current policies and procedures; inquire about how the proposed project fits into larger political issues, local planning, and the facility's business plans. Request special information that may open up additional solutions, including pollution prevention approaches that may reduce or recycle the amount of waste that is managed in the facility.
- C Ask to have your name put on the facility mailing list for notices, fact sheets, and other documents distributed by the agency. Add your name to mailing lists maintained by involved environmental groups, public interest and civic organizations.
- C Tell the permitting agency, the facility owner/operator, and other involved groups what types of public participation activities will be most useful for you and your community. Inform them about the communication pathways in your area (e.g., what newspapers people read most, what radio stations are popular), the best locations for information repositories and meetings, and other information needs in the community (e.g., multilingual publications).
- C Submit written comments that are clear, concise, and well-documented. Remember that, by law, permitting agencies must consider all significant written comments submitted during a formal comment period.
- C Participate in public hearings and other meetings; provide oral testimony that supports your position. Remember that a public hearing is not required unless someone specifically requests one in writing.
- C If any material needs further explanation, if you need to clear up some details about the facility or the permitting process, or you would like to express specific concerns, then request an informational meeting with the permitting agency or the appropriate organization, such as the State's pollution prevention technical assistance office.
- C Follow the process closely. Watch for permitting agency decisions and review its responses to public comments. Be aware that you have an opportunity to appeal agency decisions.
- C Remember that your interest and input are important to the agency

and other concerned stakeholders.

- C To get tips about community organizing, information about how to participate in the regulatory process, or possible referrals to other involved groups in your area, you can contact the local League of Women Voters chapter. If you cannot contact a local chapter, or one does not exist, you can contact the state chapter. Phone numbers and addresses are provided in Appendix C.

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

Starting Early

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

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

Early outreach and straightforward information can establish trust among the other stakeholders while reducing misinformation and rumors. Key contacts in the community should always know about planned activities that will be visible to members of the community, such as construction work or excavation related to facility expansions or corrective action. Interested people or groups in the community can use early participation activities to

make their concerns and suggestions known before major decisions take place. Since early participation activities may be the first word that people hear about a permitting activity, EPA is requiring expanded notice efforts before the facility submits a permit application (see “Notice of the Pre-Application Meeting” in Chapter 3). All stakeholders should use their knowledge of individual communities and local communication channels (e.g., contacts in the community, the media, civic and religious organizations) to foster effective information-sharing.

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

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

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

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

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

Assessing the Situation

Community assessments are an important step to take before preparing or revising a public participation strategy. Assessments are essential tools for facility owners who are applying for a RCRA permit (including interim status facilities), seeking a major permit modification, or undertaking significant corrective action. Permitting agencies should focus their assessments on communities where a major new facility is seeking a permit, or in other cases where permitting activity or corrective action has the potential to evoke public interest. Additionally, assessments may be appropriate at any stage during the life of a facility, especially in situations where the level of public interest seems to be changing.

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

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

Determining the Level of Public Interest

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

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

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

time.

Public interest, environmental, and civic organizations also assess their communities to determine the amount of interest in a permitting activity. These organizations can take steps to encourage public participation in the permitting process. Door-to-door canvassing, public information sessions, flyers, fact sheets, neighborhood bulletins, and mailings are all methods of sharing information with the public and encouraging citizen involvement. Organizations that are attempting to encourage public participation may find the rest of this section useful. In addition, more information for such groups is available by contacting the League of Women Voters (see Appendix C for contacts).

Community Assessment Methods

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

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

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

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

- C Talking to colleagues or anyone who has experience working with members of the particular community.
- C Contacting companies, universities, local governments, civic groups, or public interest organizations that already have experience in the community. These groups may be able to provide useful information about community concerns, demographics, or reactions to other industry in the area. They may be able to point you towards other existing sources of community information.

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

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

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

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

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

Exhibit 2-2 at the end of this Chapter summarizes the steps to take in

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

determining the level of public interest in facilities and gathering background information.

Targeting Public Participation in Communities

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

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

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

The Citizen's Role

Citizens in the community may want to assess the permitting situation, the agency (or agencies) involved, and the facility owner/operator. As we pointed out in the section above, citizens can get background on a permitting issue by talking to local officials, contacting research or industrial organizations, reading permitting agency material, and interacting

with interested groups in the community. Citizens may also want to find out about day-to-day activities at the facility or the agency, the decision-making structures they use, and their current policies and procedures. Citizens may want to get more information on the owner's/operator's involvement with other facilities or other activities. The contact persons for the facility and the agency are also good to know. Citizens can also talk to local officials, the agency, or the facility to find out how the proposed project fits into larger political issues, what local planning issues are involved, and what the facility's business plans are.

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

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

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

Alternatively, citizens may see fit to create new organizations to discuss issues related to the permitting process or to provide input into the process.

Planning for Participation

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

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

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

The goal of the public participation activities in the plan is to meet the specific needs of members of the community by creating a structure for information to flow both to and from the public. Anyone who plans public participation activities should strive for useful and timely exchange of information with the public. Again, EPA strongly encourages anyone conducting public participation activities to solicit public input on the types of communication and outreach activities that will work best in each

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

community. The agency, facility, civic and public interest groups should coordinate their public participation efforts, emphasizing two-way information exchange and avoiding unnecessary duplication in their activities.

To identify activities for the public participation program, the agency should go through the following steps:

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

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

- C **Interacting with the media, especially on high-profile facilities.** If there is a high degree of interest in the facility, it will be important to have a media contact person who can get information out quickly, accurately, and consistently. The assistance of a public affairs office is often necessary (where applicable).
- C **Interacting with elected officials.** For facilities receiving a moderate to high level of interest, it is often beneficial to work with elected officials to provide them with information they need to answer their constituents' questions. Put together a team of people who can fill the information needs of public officials. This team should include senior people who can answer policy questions when necessary.
- C **Answering telephone and written inquiries.** It is important to follow up on all requests for information that you receive from stakeholders. Designate one person to be responsible for putting together the answers to questions in a form that is understandable to the public. This "contact person" should be named in all fact sheets and public notices. Remember the importance of two-way communication and the public participation triangle.
- C **Coordinating public participation with other stakeholders.** It is crucial that all the people who are working on public participation be aware of what activities are being planned for the facility and any other facilities in the area, so that activities can complement each

other whenever possible. At the least, try to avoid conflicts between competing activities. Be sensitive to major events (e.g., celebrations, other meetings, religious revivals, fundraisers, elections) and important dates (e.g., local holidays, graduations) in the community.

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

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

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

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

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

emergency response to releases).

Permitting agencies should take the lead in writing and revising public participation plans, while allowing for input from other stakeholders and coordinating with activities held by the facility, public interest groups, and community organizations. The agency may want to involve other stakeholders in a group process to form a comprehensive plan. Depending on the amount of public interest in a facility, the plan could be an informal one- or two-page document or a formal public involvement plan that will be available to members of the community for comment. At a minimum, the plan should include a list of the specific public participation activities for the facility and a schedule for when they will occur. We encourage agencies to make these plans -- formal and informal -- available to the public.

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

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

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

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

regular updates.

There are numerous ways that the community can contribute during the planning stage. Citizens can decide how interested they are in a particular activity by discussing issues with other stakeholders, accessing relevant documents, or calling hotlines or other experts. Those who would like to participate in the formal process can use this time to raise questions or develop their ideas. Some citizens may want to submit comments to the agency on the public participation plan. Moreover, EPA encourages interested citizens to meet together to discuss the potential impact of RCRA actions on their communities. Citizen groups may want to invite experts from the facility, the permitting agency, engineers, environmental contractors, scientists, health experts, and attorneys to speak at their meetings.

Understanding and Interaction Between Stakeholders

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

- * Strive to respect other stakeholders and their opinions. Avoid personal attacks.
- * Understand that people have different levels of understanding of RCRA. Not everyone is an expert, but everyone should have the chance to know all the facts.
- * Realize that decisions made during the permitting process can have profound economic and social impacts. These decisions are very real and important; people will live and work with them every day.
- * Acknowledge that statutory and regulatory requirements limit what can happen during the permitting process. Remember that everyone - citizens, regulators, facility owners/operators, and public interest workers -- has resource and time constraints
- * Recognize that people have concerns that go beyond the scientific or technical details. These concerns deserve respect.
- * Build your credibility by being fair, open, and respectful.
- * Try to understand the values and interests of other stakeholders before jumping to conclusions.

Promoting Environmental Justice

Environmental justice refers to the fair distribution of environmental risks across socioeconomic and racial groups. Some groups and individuals associated with environmental justice issues have raised the concern that EPA and some State environmental agencies do not provide equal protection under the nation's environmental laws. With regard to the RCRA permitting program, most of the concern surrounds the potential additional risk that hazardous waste facilities may pose when located near low-income or minority communities that already face an environmental burden from multiple sources.

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

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

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

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

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

- C **Providing interpreters, if needed, for public meetings.** Communicating with the community in its language is essential for the two-way information flow required to ensure the public an equitable voice in RCRA public participation activities.
- C **Providing multilingual fact sheets and other information.** Making sure that the materials presented to the public are written clearly in

the community's primary language.

- C **Tailoring your public participation program to the specific needs of the community.** Developing a program that specifically addresses the community's needs will demonstrate to community members your interest in achieving environmental equity and fostering a sense of cooperation.
- C **Identifying internal channels of communication that the community relies upon for its information, especially those channels that reach the community in its own language.** Examples of these "channels" are a particular radio show or station, a local television station, a non-English newspaper, or even influential religious leaders. By identifying and making use of these valuable communication channels, you can be sure that the information you want to publicize reaches its target audience.
- C **Encouraging the formation of a citizens advisory group to serve as the voice of the community.** Such groups can provide meaningful participation and empowerment for the affected community (see Chapter 5 for more detail).

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

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

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

Permitting agencies should be forthright in explaining the scope and limitations of permitting regulations to the community. Agencies should

also make sure that citizens understand their rights within the permitting process (e.g., submitting comments, requesting a public hearing, appealing permit decisions). Facility owners should strive to establish good relations with the community and routinely interact with community members and organizations, seeking input and feedback when making significant decisions. Communities should gather information about other rights, outside of the permitting process, such as those afforded under Title VI of the Civil Rights Act.

Supporting Community-Based Environmental Protection

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

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

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

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

Permitting agencies can take a lead role in promoting a CBEP approach by discussing RCRA issues in coordination with other environmental concerns in a given area. Program distinctions between water, air, waste, and toxics are less important to stakeholders outside of the agency. Agency staff should be prepared to address RCRA concerns in the context of air and water issues that may reach beyond a particular facility. Many companies are particularly interested in finding opportunities to reduce process wastes

through pollution prevention and recycling that affect air, water, and waste permit requirements. Several states are embarking on “whole facility” approaches to permitting to take advantage of this approach. Permitting agencies should consider using **fact sheets** and **availability sessions** to explain RCRA’s relationship to other programs. Combining public meetings across program lines could also make the entire environmental picture more clear to stakeholders.

Re-evaluating and Adjusting the Public Participation Program

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

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

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

- stakeholders are not asking the same questions over and over again;
- stakeholders are not raising concerns about a lack of information;
- the appropriate contact person is handling inquiries in a timely manner;
- most of the public participation time is not devoted to correcting breakdowns in the information-sharing triangle (see above) between the community, the agency, and the facility;
- the channels of communication are well-defined and open;
- interested parties are providing informed comments on the project; and

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

- members of the public are bringing their concerns to stakeholders that are actively involved in the process, rather than taking them directly to the press or elected officials.
- Creative, more flexible, technical solutions, including pollution prevention solutions, are being explored.

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

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

Chapter Summary

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

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

Public participation is based on a dialogue.

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

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

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

Exhibit 2-1

Determining the Likely Level of Public Interest in a RCRA Facility

Level of Interest	Type of RCRA Action	Community Members' Relationships With Facility/Regulatory Agency	Larger Context
Low Level of Public Interest in a Facility	<ul style="list-style-type: none"> C The RCRA activity is unlikely to be controversial (e.g., a routine modification) C There is no contamination at the facility that could come into direct contact with the public 	<ul style="list-style-type: none"> C People do not live near the facility C There is a history of good relations between the facility and members of the community C Members of the community have expressed confidence in the regulatory agency and/or the facility 	<ul style="list-style-type: none"> C The facility receives very little media attention and is not a political issue C Community members have not shown any past interest in hazardous waste issues
Moderate Level of Public Interest in a Facility	<ul style="list-style-type: none"> C The RCRA action may involve activities, such as §3008(h) corrective action activities, that contribute to a public perception that the facility is not operating safely C Examples may include permits for storage and on-site activities and routine corrective actions. C Highly toxic and/or carcinogenic wastes may be involved (e.g., dioxins) 	<ul style="list-style-type: none"> C A relatively large number of people live near the facility C There is a history of mediocre relations between the facility and members of the community C The facility is important to the community economically, and the action may affect facility operations C Members of the community have had little or poor contact with the regulatory agency C Local elected officials have expressed concern about the facility 	<ul style="list-style-type: none"> C Community members have shown concern about hazardous waste issues in the past C The facility receives some media attention and there are organized environmental groups interested in the action C There are other RCRA facilities or CERCLA sites in the area that have raised interest or concern
High Level of Public Interest in a Facility	<ul style="list-style-type: none"> C The RCRA action includes a controversial technology or is high-profile for other reasons (e.g., media attention) C Highly toxic and/or highly carcinogenic wastes are involved (e.g., dioxins) C There is potential for release of hazardous substances or constituents that poses potential harm to the community and the environment C There is direct or potential community contact with contamination from the facility (e.g., contaminated drinking water wells or recreation lake) 	<ul style="list-style-type: none"> C The nearest residential population is within a one-mile radius C A relatively large number of people live near the facility C There is a history of poor relations between the facility and the community C The facility has violated regulations and community members have little confidence in the regulatory agency to prevent future violations C There is organized community opposition to the facility's hazardous waste management practices or to the action C Outside groups, such as national environmental organizations, or state or federal elected officials have expressed concern about the facility or action C The economy of the area is tied to the facility's operations 	<ul style="list-style-type: none"> C Community members have shown concern about hazardous waste issues in the past C Facility activities are an issue covered widely in the media C There is interest in the facility as a political issue, at the local, state, or federal level (e.g., statewide and/or national environmental groups are interested in the regulatory action) C There are other issues of importance to members of the community that could affect the RCRA action (e.g., concern over a cancer cluster near an area where a facility is applying for a permit to operate an incinerator) C There are other RCRA facilities or CERCLA sites nearby that have been controversial

Exhibit 2-2
Steps in Evaluating Facilities and Gathering Information

Step 1: Review the RCRA Action

Is it:

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

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

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

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

Are there:

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

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

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

People to interview:

1. _____
2. _____
3. _____

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

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

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

Chapter 3

Public Participation During the RCRA Permitting Process

Introduction

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

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

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

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

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

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

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

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

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

encourages their adoption by all participants in the RCRA permitting process. See the section entitled “Promoting Environmental Justice” in Chapter 2 for more information.

Public Participation During the Permit Decision Process

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

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

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

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

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

Step One: The Pre- Application Stage

Required Activities

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

RCRA permitting process.

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

The Pre-Application Meeting

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

Conducting the Meeting

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The facility must conduct the pre-application meeting.

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

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

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

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

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

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

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

Date, Time, and Location of the Meeting

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

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

The permit applicant should encourage full and equitable public participation by holding the pre-application meeting at a time and place that is convenient to the public. The applicant should schedule the meeting at a time when the community is most likely to be available. Many communities, for instance, may prefer a meeting held after normal business hours. Meeting schedulers should avoid holding the meeting at a time that will conflict with important community activities (e.g., social, religious, or political events, other meetings, school activities, or local occasions). The applicant should also make sure that the meeting place has adequate space and is conducive to the type of meeting that the applicant will conduct.

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

Finally, the meeting location should have suitable access for all persons; if such a location cannot be procured, then the applicant should make all reasonable efforts to provide for equitable participation in the meeting (e.g., by responding to written comments).

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

Notice of the Pre-Application Meeting

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

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

- *A newspaper display advertisement.* The applicant must print a display advertisement in a newspaper of general circulation in the community. The display ad should be located at a spot in the paper calculated to give effective notice to the general public (see the example in Appendix H). The ad should be large enough to be seen easily by the reader. In addition to the display ad, we also encourage facilities to place advertisements in free newspapers, community bulletins, newsletters, and other low-cost or free publications. In some cases, potential interest in the facility may extend beyond the host community. Under these circumstances, we encourage the applicant either to publish the display ad so that it reaches neighboring communities or to place additional ads in the newspapers of those communities.
- *A visible and accessible sign.* The applicant must provide notice on a clearly-marked sign at or near the facility (or the proposed facility site). If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass -- on foot or by vehicle -- by the site. EPA anticipates that the signs will be similar in size to zoning notice signs required by local zoning boards (of course, this size will vary according to the prerogative of the

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

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

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

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

EPA encourages facilities to pick a mixture of public notice tools that meets the regulations and will allow the affected community to receive equitable, timely, and effective notice of the pre-application meeting. Such a mixture may include a number of different and specialized notices that target specific groups within each community. One example of such a targeted notice would be the use of a translated advertisement on Chinese-speaking local access television station to reach a Chinese-American enclave in an area where the community members are affected by the permitting activity. Specific segments of the affected community can be targeted by strategic placement of the newspaper display ad, the timing and station of a radio spot, the geographic location of signs, use of free newspapers, and multi-lingual notices. EPA does not require that the applicant try to reach the largest audience with each method of public notice (e.g., the radio spot need not be placed on the most popular station). Instead, the applicant should use a combination of methods (including

translations) to spread the word over all segments of the affected community, taking into account the channels of information that are most useful in reaching diverse groups.

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

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

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

Getting the word out at this early stage is essential to assuring adequate community participation during the entire permitting process. For this

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

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

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

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

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

to become acquainted with the permitting process and the facility plans.

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

The Facility Mailing List

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

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

The permitting agency should develop the mailing list early.

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

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

Additional Activities

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

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

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

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

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

The “RCRA Expanded Public Participation” rule gives the permitting agency the authority to require the facility owner or operator to establish an **information repository** at any point in the permitting process or during the life of a facility. The agency should assess the need for the repository by considering a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. The information repository

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

can improve the permitting process by making important information accessible to the public in a convenient location. (See Chapter 5 for more detail on information repositories). Of course, EPA encourages facilities or interested community groups to establish their own repositories for public access to information. Chapter 5 provides more guidance on how to establish a repository.

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

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

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

Step Two: Application Submittal and Review

Required Activities

After the permit applicant has met with the public and considered recommendations and input from the community, he or she may choose to pursue a RCRA permit and then submit a RCRA part B permit application

to the permitting agency. Upon receiving the permit application, the permitting agency must, under § 124.32, issue a **public notice** to the facility mailing list and appropriate units of state and local government. The notice will inform recipients that the facility has submitted a permit application for agency review. In addition, the notice will inform the recipients of the location where the application is available for public review.

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

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

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

Permitting agencies must place the application and any supporting materials somewhere in the vicinity of the facility or at the permitting agency's offices. The permitting agency should be sensitive to the burden on members of the affected community when determining where to place the application. Many communities do not have the resources or the time to travel several hours just to access permitting information. To make information available in these situations, the permitting agency should place the application in a place with public access in the general vicinity of the facility (e.g., a public library or community center). If such placement of the document is impractical, the agency should make sure that the public has other access to permitting information. For instance, the agency could require the facility to establish an information repository under § 124.31. If the community's information needs are on a lower level, the agency may want to make a short summary of the permit application available to the affected community. In some cases, making information available in electronic form (e.g., via diskette or Internet) may be useful.

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

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

Additional Activities

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

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

In situations where a community wants more information about potential operations at a facility and the health and environmental risks of those operations, citizens or the agency can work with the facility to set up **facility tours** and **observation decks** during the public comment period. These activities will give the community a first-hand look at a facility and the operations and activities happening on-site. (Note that safety and liability issues need to be considered before a decision is made to include these activities.) These activities may be particularly useful for a new facility or when a facility proposes a new or different technology. Facility tours also may be particularly effective for explaining pollution prevention accomplishments and opportunities. Similarly, facility owners or operators may wish to coordinate with community leaders to tour the community. This may be useful for understanding potential community concerns.

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

Required Activities

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

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

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

- a brief description of the type of facility or activity which is the subject of the draft permit;
- the type and quantity of wastes that are proposed to be handled at the facility;
- a brief summary of the basis for the draft permit conditions;
- reasons why any requested variances or alternatives to required standards do or do not appear justified;
- a description of the procedures for reaching a final decision on the draft permit, including (1) the beginning and ending dates of the comment period and an address to which comments can be sent, (2) procedures for requesting a hearing and the nature of

- the hearing, and (3) any other public participation procedures before the final permit decision; and
- the name and telephone number of a person to contact for additional information.

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

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

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

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

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

Additional Activities

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

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

but, by the same token, it should point out when an omission is of a less serious nature.

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

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

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

Step Four: Response to Comments and Final Permit Decision

Remember that State procedures may be different.

Required Activities

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

Additional Activities

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

Public Participation During the Life of a Facility

Interim Status Public Participation

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

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

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

Owners and operators of interim status facilities should involve the public even before they formally start to pursue a RCRA permit. One thing the facility owners could do to improve access to information is to make a draft part B application available to the public before submitting it to the

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

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

Permit Modifications

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

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

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

There are many reasons to modify a permit. In some cases, the regulatory agency may initiate a permit modification under 40 CFR 270.41. This section of the regulations identifies three causes for which the regulatory agency may require a permit modification: (1) alterations or additions to the permitted facility or activity; (2) new information received by the regulatory agency; or (3) new standards, regulations, or judicial decisions affecting the human health or environmental basis of a facility permit. In

addition, the regulatory agency may modify a compliance schedule for corrective action in the permit. Modifications initiated by the regulatory agency are subject to the full 40 CFR Part 124 permitting requirements, as described earlier in this chapter. Specifically, the permitting agency must

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

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

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

When the Facility Owner or Operator Initiates a Modification

When a facility owner or operator wants to change a RCRA permit, he or she informs the regulatory agency and interested members of the public, either before making the change if it is substantive (Class 2 or 3), or soon after (with a few exceptions), if the change is minor (Class 1). In any case, this is relatively *early* notification for members of the public, who often perceive that RCRA actions are "done deals" by the time public comment is solicited.

The *facility owner or operator* is responsible for conducting most of the public participation for modifications he or she initiates. In addition, the facility, rather than the regulatory agency, bears the burden of explaining

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

and defending its actions to the public. To ensure that the facility's public participation efforts are successful, staff from the facility and the agency should discuss how to conduct the required activities; the agency should provide guidance and assistance where necessary. Moreover, EPA encourages facilities to consult with communities to determine what activities will best promote public participation.

Class 1 Modifications

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

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

Class 2 Modifications

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

Class 2 modifications require the facility to submit a modification request and supporting documentation to the regulatory agency. In addition, *the facility must notify the people on its mailing list about the modification*

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

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

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

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

The permitting agency is required to consider all written comments submitted during the public comment period and must respond in writing to all significant comments in its decision. EPA expects that the meeting will provide information to the public and improve the written comments submitted to the permitting agency. EPA anticipates that community input at the meeting may also result in voluntary revisions in the facility's modification request.

As the following paragraphs explain, the Class 2 modification procedures were written to ensure quick action by the agency. However, when seen by

the public, these procedures can be very confusing. A simple solution that the permitting agency or the facility should consider is to provide a fact sheet or a time table to the public at the meeting.

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

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

As previously indicated, the permitting agency may approve a temporary authorization under 40 CFR 270.42(b) for 180 days for a Class 2 modification. In addition, the agency may grant a facility temporary authorization under 40 CFR 270.42(e), which would allow the facility, without prior public notice and comment, to conduct certain activities necessary to respond promptly to changing conditions. *The facility must notify all persons on the facility mailing list about the temporary authorization request within seven days of the request.* Temporary authorizations are useful for allowing a facility owner or operator to perform a one-time or short-term activity for which the full permit modification process is inappropriate, or for allowing a facility owner or operator to initiate a necessary activity while his or her permit modification

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

is undergoing the Class 2 review process. A temporary authorization is valid for up to 180 days, and the permitting agency may extend the authorization for an additional 180 days if the facility initiates the appropriate Class 2 modification process for the covered activity. In addition, any extension of the activity approved in the temporary authorization must take place under Class 2 procedures.

Class 3 Modifications

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

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

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

As with Class 2 modifications, Class 3 modifications require the facility to submit a modification request and supporting documentation to the permitting agency, and *notify persons on the facility mailing list about the modification request and publish notice in a major local newspaper of general circulation.* The facility must publish the notice and mail the letter within seven days before or after the submitting the modification request to the regulatory agency. The notice must contain the same information as the Class 2 notification (see above), including an announcement of a **public meeting to be held by the facility** at least 15 days after the notice and at least 15 days before the end of the comment period. The newspaper notice marks the beginning of a **60-day public comment period.**

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

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

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

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

- C Preparation of draft permit modification conditions or notice of intent to deny the modification;
- C Publication of a **notice** of the agency's draft permit decision, which establishes a 45-day **public comment period** on the draft permit modification;
- C Development of a **fact sheet** or **statement of basis**;
- C Holding a **public hearing**, if requested, with **30-day advance notice**;
- C Issuance of the **notice of decision** to grant or deny the permit modification; and
- C Consideration and response to all significant written and oral comments received during the 45-day public comment period.

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

agency.

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

Public Participation in Closure and Post- Closure

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

Closure and Post- Closure at Permitted Facilities

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

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

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

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

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

Closure and Post-Closure at Interim Status Facilities

Facilities may also close under interim status, often under enforcement orders. Facilities that are closing under interim status must submit closure and post-closure plans (if appropriate) under 40 CFR 265.112 and 265.118. Public participation activities for interim status facilities during the closure and post-closure processes are specified in 40 CFR 265.112(d)(4) and 265.118(f). The regulations require that *the permitting agency provide the public and the facility, through a **newspaper notice**, with the opportunity to submit written comments on the closure and post-closure plans and request modifications to the plans no later than 30 days from the date of the notice.* EPA encourages permitting agencies to use other methods of notice, as appropriate, to announce the meeting. In response to a request, or at its own discretion, the agency may hold a **public hearing** on the plan(s), if such a hearing might clarify one or more of the issues concerning the plan(s). The agency must provide **public notice** at least 30 days before the hearing. The agency will approve, modify, or disapprove the plan(s) within 90 days of their receipt.

The public can petition the permitting agency to extend or reduce the post-

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

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

Chapter Summary

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

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

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

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

1. The Pre-Application Stage
 - Facility gives public notice and holds an informal public meeting

- Agency develops a mailing list
 - Additional activities that may apply include: community assessments, public participation plans, information repositories, and fact sheets
2. Application Submittal, Notice, and Review
 - Agency issues a notice to the facility mailing list and state and local governments
 - Agency makes application available for public review
 - Additional activities that may apply include: observation decks, facility tours, community tours, workshops, and news conferences.
 3. Preparation of Draft Permit, Public Comment Period, and the Public Hearing
 - Agency issues public notice of draft permit (or intent to deny)
 - Agency prepares a fact sheet or statement of basis
 - Agency announces a 45-day public comment period
 - Hold a public hearing, if requested or at the agency's discretion, with 30-day advance notice
 - Additional activities that may apply include: information sessions, workshops, news releases, and fact sheets.
 4. Response to Public Comments and the Final Permit Decision
 - Agency responds to all significant comments raised during the public comment period, or during any hearing
 - Agency issues notice of final permit decision

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

1. Class 1

Facility Requirements:

- Notify mailing list within 90 days

2. Class 2

Facility Requirements:

- Notify mailing list and public newspaper notice
- Announce 60-day public comment period
- Place modification request and supporting documentation in an accessible location in the vicinity of the facility
- Hold public meeting
- If the regulatory agency does not act within 250 days of the modification request, notify mailing list that automatic authorization will become permanent in 50 days

Regulatory Agency Requirements

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

3. Class 3

Facility Requirements:

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

Regulatory Agency Requirements

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

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

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

Post-closure permits and plans often mandate corrective action.

Exhibit 3-1

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

Class 1

Type of Changes -- Routine and administrative changes

Required Activities

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

Class 2

Type of Changes -- Improvements in technology and management techniques

Required Activities

Day 1: Regulatory agency receives modification request.

Day 7: Facility publishes newspaper notice, notifies mailing list, and places copy of permit modification request and supporting documents in accessible location.

Days 15-45: Facility holds public meeting.

Day 60: Written public comments due to regulatory agency.

Day 90: Regulatory agency response to modification request due, including response to written comments. Deadline may be extended 30 days.

Day 120: If regulatory agency has not responded, requested activity may begin for 180 days under an automatic authorization.

Day 250: If regulatory agency still has not responded, facility notifies public that authorization will become permanent unless regulatory agency responds within 50 days.

Day 300: If regulatory agency has not responded, activity is permanently authorized.

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

Class 3

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

Required Activities

Day 1: Regulatory agency receives modification request.

Day 7: Facility publishes newspaper notice, notifies mailing list, and places copy of the permit modification request and supporting documents in an accessible location.

Days 15-45: Facility holds public meeting.

Day 60: Written public comments due to regulatory agency.

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

Ⓒ Issuing public notice of the draft permit modification or intent to deny the modification;

Ⓒ Preparing a fact sheet or statement of basis;

Ⓒ Announcing a 45-day public comment period;

Ⓒ Holding a public hearing, if requested, with a 30-day advance notice;

Ⓒ Considering and responding to all significant written and oral comments received during the 45-day comment period; and

Ⓒ Issuing notice of the final permit modification.

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

Chapter 4

Public Participation in RCRA

Corrective Action Under Permits and §3008(h) Orders

Introduction

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

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

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

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

At the federal level, corrective actions may take place under a RCRA permit or as an enforcement order under §3008 of RCRA. In authorized states, corrective action may take place under a state-issued RCRA permit, a state cleanup order, a state voluntary cleanup program, or another state cleanup authority. Since authorized states may use a variety or combination of state authorities to compel or oversee corrective actions, EPA encourages interested individuals to check with their state agency to gather information on the available public participation opportunities.

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

Current Status of the Corrective Action Program

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

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

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

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

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

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

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

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

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

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

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

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

Early Participation

Public participation should come early in the corrective action process.

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

Consistency with Superfund

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

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

Shared Responsibility for Public Participation Activities

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

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

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

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

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

In addition to ensuring that appropriate public participation activities occur during implementation of a corrective action order, in some cases, it may

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

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

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

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

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

C Writing a **statement of basis** discussing the proposed remedy;

- C Providing **public notice** that a proposed remedy has been selected and the statement of basis is available;
- C Providing a **public comment period** (30-45 days) on the proposed remedy;
- C Holding a **public hearing** if requested; and
- C Writing a **final decision** and **response to comments**.

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

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

Public Participation In Corrective Action

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

The regulatory requirements provide a baseline for adequate public participation while leaving a great deal of flexibility in the program. Some situations will call for public participation opportunities that go beyond the regulatory baseline. Where regulations do not specify public participation during corrective action, overseeing agencies and facility owners/operators

should develop site-specific public participation strategies that are consistent with existing requirements and provide for full, fair, and equitable public participation.

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

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

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

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

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

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

The corrective action process usually begins with an initial site assessment,

Initial Site Assessment (RFA)

called a RCRA Facility Assessment or RFA. The RFA is conducted either by the overseeing agency or by the facility with subsequent agency approval. The purpose of an RFA is to gather data about a site, including releases and potential releases of hazardous waste and hazardous constituents, to determine whether a cleanup may be necessary. RFAs usually include (1) a file review of available information on the facility; (2) a visual site inspection to confirm available information on solid waste management units (SWMUs) at the facility and to note any visual evidence of releases; and (3) in some cases, a sampling visit to confirm or disprove suspected releases.

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

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

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

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

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

On the day the order is issued, the administrative record, containing all information considered by the agency in developing the order, is made available for inspection by the public. The agency may also want to place a copy of the administrative record at a local library close to the facility.

The overseeing agency or facility owner/operator should consider writing a **fact sheet** that gives details of the order and the corrective action process. If there is a high level of interest in the facility, an **open house** or **workshop** should be considered.

Site Characterization (RFI)

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

Required Activities

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

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

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

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

Additional Activities

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

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

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

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

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

Interim Actions

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

Required Activities

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

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

Additional Activities

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

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

Evaluation of Remedial Alternatives (CMS)

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

Required Activities

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

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

Additional Activities

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

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

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

Remedy Selection

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

Required Activities

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

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

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

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

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

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

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

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

Additional Activities

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

Remedy Implementation (CMI)

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

Required Activities

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

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

Additional Activities

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

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

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

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

Completion of Remedy

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

Required Activities

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

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

Additional Activities

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

Chapter Summary

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

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

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

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

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

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

1. Under a §3008(h) order, there may be limitations on the release or discussion of certain information;
2. No public participation activities are required under §3008(h) but they are strongly encouraged in guidance. In addition, the agency may require the facility to conduct additional activities as a term in the order; and
3. Facilities may agree to conduct public participation activities under a consent order, however, under a unilateral order, the responsibility will likely fall to the agency.

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

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

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

1. Initial Site Assessment (RCRA Facility Assessment)
 - Schedule of compliance will go into permit, where public can comment
 - For enforcement orders, the agency will release administrative record and make it available for public review. The agency may provide a fact sheet and hold an open house or workshop.
2. Site Characterization (RCRA Facility Investigation)
 - Update mailing list, if necessary
 - Establish information repository, if required
 - Revise public participation plan
 - Modify permit, if necessary, to reflect changes to schedule of compliance
 - Under an order, provide notice and comment on the planned RFI
 - Develop fact sheets on the investigations
 - Mail summary of RFI Report to facility mailing list and make available to the public
 - Hold informal meetings or workshops
 - Issue notifications for discovery of contamination

3. Interim Actions -- May occur at any time during the process
 - Provide for public input and feedback , as appropriate given time constraints, and announce a contact person
 - Use fact sheets and informal meetings, if appropriate
4. Evaluation of Remedial Alternatives (Corrective Measures Study)
 - Hold informal meetings or workshops when facility presents preferred remedy
 - Identify a contact person
 - Develop fact sheets on the study
 - Establish a hotline
5. Remedy Selection
 - Agency-initiated permit modifications follow 40 CFR 124 procedures, including public notice, public comment period, and a hearing (if requested)
 - For corrective action under an order, the agency should: publish a notice and a statement of basis; take public comment; holding a public hearing or public meeting, if requested by the public or determined necessary by the overseeing agency; prepare and publish responses to comments; and, publish the final remedy decision while making supporting information available.
 - Hold workshop on proposed remedy
 - Once final remedy is selected, send out notice of decision
 - Issue response to comments
 - Hold informal meetings or workshops on the final remedy
6. Corrective Measures Implementation
 - Notify public when plans and specifications are available for review
 - Develop fact sheets on remedy implementation
 - Coordinate availability session/open house
7. Completion of Remedy
 - Agency may remove schedule of compliance from the permit or terminate the order by following the Class 3 modifications procedures for a permit or a similar process for an order.

Chapter 5

Public Participation Activities: How to Do Them

Introduction

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

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

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

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

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Public Participation Plans

Regulatory Requirements

None.

Description of Activity

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

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

Level of Effort

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

How to Conduct the Activity

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

- C Introduction -- several paragraphs clearly explaining the purpose of the document.
- C Facility History -- several paragraphs to several pages providing an overview of the facility, its technical and regulatory history, and a history of past community concerns and involvement in activities at

the facility. Short cut: attach the facility fact sheet if one already exists.

- C Community Concerns -- several paragraphs to several pages summarizing the concerns identified during the community interviews.
- C Objectives of the Plan -- several paragraphs to several pages, depending on the objectives, providing a narrative of the major objectives of the plan. Objectives typically relate to the specific concerns outlined in the previous section.
- C Public Participation Activities -- several paragraphs to several pages, depending on the plan, describing the specific activities that will be conducted to meet the objectives outlined in the previous section (e.g., meetings, fact sheets, briefings for local officials, etc.) and a schedule for conducting these activities.
- C Appendices -- Appendices can be included to provide the mailing list, media contacts, and public meeting and information repository locations.

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

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

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

When to Use

Public participation plans may be prepared:

- C At the beginning of the RCRA process (e.g., for facilities seeking a permit or facilities beginning corrective action) to schedule activities

and assign responsibilities;

- C After community interviews (if conducted).

Public participation plans should be revised:

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

Accompanying Activities

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

Advantages and Limitations

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

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

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

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

Checklist for Public Participation Plans

As applicable:

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

Public Notices

Regulatory Requirements

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

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

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

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

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

Permitting agencies must also provide public notice during the trial burn stage at permitted and interim status combustion facilities (§ 270.62(b)

and (d); 270.66(d)(3) and (g)) and when an interim status facility undergoes closure or post-closure (see §§ 265.112(d)(4) and 265.118(f)).

Description of Activity

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

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

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

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

- C Newspaper Advertisements. Traditionally, public notices have often appeared as legal advertisements in the classified section of a newspaper. While this method provides a standard location for the ads, display advertisements (located along with other commercial advertisements) are more likely to reach a larger audience. Display advertisements offer an advantage over legal classified ads since they are larger, easier to read, and are more likely to be seen by the casual reader. A sample is available in Appendix H of this manual.
- C Newspaper Inserts. Inserts stand out from other newspaper advertisements since they come as a “loose” section of the newspaper (a format often used for glossy advertisements or other solicitations). They provide a way to reach beyond the most-involved citizens to inform a broader segment of the community.
- C Free Publications and Existing Newsletters. Placing a notice in a newsletter distributed by a local government, a civic or community organization, or in a free publication (e.g., a paper that highlights local or community activities) is a generally inexpensive way to target a specific audience or segment of the community. Some publications may not be appropriate for communicating information from your

organization. By publishing information through a group that has a specific political interest or bias, your organization may be perceived as endorsing these views. Permitting agencies may want to avoid associations with groups that appear to represent the agency's interests. In any case, the relationship between your organization and the newsletter or publication should be clear to the public.

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

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

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

Level of Effort

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

How to Conduct the Activity

To prepare a public notice:

1. **Identify the major media contacts.** While there may be many daily newspapers serving a particular area, use only one or two for the public notice. In general, use the newspaper with the widest circulation and greatest visibility in order to reach the most people and elicit the greatest response. In some cases, you may want to choose specific newspapers to reach target audiences; find out what papers the affected community reads and place your notices there. Use a similar strategy for notices in the broadcast media. If you are giving notice via more than one media, you have more flexibility for reaching specific audiences. See the section on “Notice of the Pre-Application Meeting” in Chapter 3 for more information.
2. **Take into account publication schedules.** Many local or community newspapers are published on a weekly or bi-weekly basis. This may make it difficult to coordinate the publication of the notice with the event. In such a case, consider using a city-wide newspaper that is published more frequently. If the city-wide paper is not likely to reach all segments of the affected community, you should make efforts to supplement the newspaper notice with other means of notice (e.g., signs or broadcast media).
3. **Include the following information in the public notice:**
 - C Name and address of the facility owner/operator;
 - C A brief description of the business conducted at the facility and the activity that is the subject of the notice;
 - C Name, address and telephone number of an individual who can be contacted for further information on the activity;
 - C A brief description of the comment procedures and the date, time, and place of any hearing;

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

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

4. **Announce dates, times, and locations clearly in the public notice.** When announcing an event such as a hearing, make sure that the date and time do not conflict with other public meetings, religious or non-religious holidays, or other important community events.
5. **Provide ample notice.** For RCRA permits, the public notice must allow at least 45 days for public comment. Public notice of a public hearing must be given at least 30 days prior to the hearing. Be sure to state the opening and closing dates for comment periods.
6. **If possible, review a typeset version of the notice before it is published to ensure accuracy.**
7. **Keep proof of the notice for your files.** Newspapers often can provide “tear sheets” as a record of the notice. Similar proofs are available from radio or television stations. You should consider keeping photographs of posted signs.

When to Use

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

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

Accompanying Activities

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

Advantages and Limitations

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

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

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

Checklist for Public Notices

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

For publication in local newspaper(s):

<u>Name of Newspaper</u>	<u>Publication Days</u>	<u>Advertising Deadline</u>

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

Checklist for Public Notices (continued)

For distribution to the mailing list:

- Verify that facility mailing list is up-to-date
- Produce mailing labels
- Distribute to the mailing list

For broadcast on local radio/television stations:

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

Translations

Regulatory Requirements

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

Description of Activity

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

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

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

Level of Effort

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

How to Conduct the Activity

To develop a successful translation:

1. **Evaluate the need** for a translation. Evaluate the demographic characteristics of the community as well as the type of public participation activities being planned. Consider whether citizens' ability to take part in an activity is limited by their inability to speak or understand English.
2. **Identify and evaluate translation services**. A successful translation depends on the skill of the translator. More problems may be created than solved if inaccurate or imprecise information is given. Many translators will not be familiar with the technical terms associated with hazardous materials and few, if any, will be familiar with the RCRA permitting and corrective action processes. This problem may be further compounded in the case of oral translations (especially simultaneous translations) as there is no time for review or quality control. Thus, it is necessary to contract someone with experience in translating technical information and check the translator's work to ensure that the content and tone are in keeping with the intent. You also need to ensure that the translator uses the same dialect as those in your intended audience.

3. **Avoid the use of jargon or highly technical terms** . As a matter of standard practice, a staff member should go over in advance all technical and RCRA terms that may cause problems with the translator.
4. **For verbal presentations, public meetings, and news conferences, plan what to say ahead of time** . If the translator has a prepared written speech to work with in advance, there is more time to work out any vocabulary "bugs" and thereby reduce the chances of faltering over unfamiliar material or making inaccurate word choices. If possible, practice with the translator before the actual meeting or presentation date.
5. **Anticipate questions from the audience and reporters** , and have at least the technical aspects (e.g., chemical names, statistics) of the answers translated in advance.

When to Use

A translation can be used:

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

Accompanying Activities

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

Advantages and Limitations

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

Translations are very costly, especially simultaneous translations of public meetings. Sentence-by-sentence oral translations frequently double the length of public meetings, and may make information more difficult to present effectively and smoothly. In addition, very few translators are familiar with the RCRA permitting and corrective action processes. For facilities having highly volatile or sensitive problems, it may be difficult to communicate your organization's position and involve community

members in a constructive dialogue.

Checklist for Translations

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

Mailing Lists

Regulatory Requirements

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

Description of Activity

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

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

Level of Effort

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

How to Conduct the Activity

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

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

Individuals to include in your mailing list:

- C The people interviewed during community interviews, as well as other names these people recommend;
 - C All nearby residents and owners of land adjacent to the facility;
 - C Representatives of organizations with a potential interest in an agency program or action (e.g., outdoor recreation organizations, commerce and business groups, professional/trade associations, environmental and community organizations, environmental justice networks, health organizations, religious groups, civic and educational organizations, state organizations, universities, local development and planning boards, emergency planning committees and response personnel, facility employees);
 - C Any individual who attends a public meeting, workshop, or informal meeting related to the facility, or who contacts the agency regarding the facility;
 - C Media representatives;
 - C City and county officials;
 - C State and Federal agencies with jurisdiction over wildlife resources;
 - C Key agency officials; and
 - C The facility owner/operator.
2. **Review background files** to ensure all interested individuals are included on the mailing list.
 3. **Input information into a computer system** so that it can be categorized and sorted and printed on mailing labels.
 4. **Send a letter or fact sheet to the preliminary mailing list developed using 1) and 2) above.** Inform key Federal, State, and local officials, citizens, and other potentially interested parties of your activities and the status of upcoming permit applications or corrective actions. Ask whether they wish to receive information about this facility. Ask them for accurate addresses and phone numbers of other people who might be interested in the project.
 5. **Update your mailing list** at least annually to ensure its correctness. Mailing lists can be updated by telephoning each individual on the list, and by using local telephone and city directories as references. The permitting agency can update the official mailing list from time to time by requesting written indication of continued interest from those listed. The agency can then delete any people who do not

respond (see § 124.10(c)(1)(ix)(C)).

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

When to Use

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

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

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

Accompanying Activities

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

Advantages and Limitations

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

Checklist for Mailing Lists

Mailing List Development:

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

Checklist for Mailing Lists (continued)

- Have list typed
- Prepare mailing list
- Store on computer data base

Mailing List Updates:

- Verify names/addresses by searching telephone directory
- Verify names/addresses by searching city directory
- Verify names/addresses by calling each individual
- Consider issuing a notice asking for written indication of continued interest (§ 124.10(c)(1)(ix)(C))

Notices of Decision

Regulatory Requirements

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

Description of Activity

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

Level of Effort

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

How to Conduct the Activity

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

When to Use

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

Accompanying Activities

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

Advantages and Limitations

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

Checklist for Notices of Decision

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

Introductory Notices

Regulatory Requirements

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

Description of Activity

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

Level of Effort

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

How to Conduct the Activity

To prepare an introductory notice:

1. **Determine the best method to explain the permit application review or corrective action process.** An introductory notice can be presented as a public notice, a fact sheet, or a flier distributed to the facility mailing list.
2. **Prepare and distribute the notice.** Coordinate the writing and distribution of the notice with technical project staff. Take care to write the notice avoiding technical terms and jargon.
3. **Include an information contact.** Provide the name, address, and phone number of a contact person who the public can call if they have questions or need additional information about the facility. You might add a return slip to the notice for people to complete and return to your organization if they would like additional information or to be placed on a mailing list.

When to Use

An Introductory Notice can be used:

- C When you find the community knows little or nothing about the RCRA process; and
- C When you need to notify the public of how they can become involved in the RCRA process.

Accompanying Activities

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

Advantages and Disadvantages

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

Checklist for Introductory Notices

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

Fact Sheets/ Statements of Basis

Regulatory Requirements

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

Description of Activity

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

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

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

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

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

- C Describing other remedies that were considered in detail in the RFI and CMS reports.
- C Soliciting public review and comment on all possible remedies considered in the RFI and CMS reports, and on any other plausible remedies.
- C Providing information on how the public can be involved in the remedy selection process.

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

Level of Effort

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

How to Conduct the Activity

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

- C A brief description of the type of facility or activity which is the subject of the draft permit;
- C The type and quantity of wastes covered by the permit;
- C A brief summary of the basis for the draft permit conditions and the reasons why any variances or alternatives to the proposed standards do or do not appear justified;
- C A description of the procedures for reaching a final decision, including the beginning and ending dates of the public comment period and the address where comments can be sent, and procedures for requesting a public hearing; and
- C Name and telephone number of a person to contact for additional information.

A statement of basis is prepared the same way as a fact sheet. The statement of basis summarizes essential information from the RFI and

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

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

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

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

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

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

When to Use

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

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

In addition, fact sheets can be written to explain a facility inspection or

emergency action, a new technology, or a community-based activity.

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

Accompanying Activities

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

Advantages and Limitations

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

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

Checklist for Fact Sheets/Statements of Basis

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

Project Newsletters and Reports

Regulatory Requirements

None.

Description of Activity

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

Level of Effort

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

How to Conduct the Activity

To provide a project newsletter or project reports:

1. **Assign a staff person to produce the newsletter.** Instruct project staff to direct relevant information and reports to this person.
2. **Decide on a format and style for the newsletter.** Evaluate the resources you have available for the newsletter and decide what type of newsletter you will produce. Keep in mind that a visually-attractive newsletter with plenty of graphics and simple language is more likely to be read. Avoid bureaucratic or technical jargon. The newsletter should contain real news that is useful to people. Since people who are not familiar with the project may pick up the newsletter, write it so that first-time readers can understand it.
3. **Provide for review.** Permitting agencies, in particular, will want to ensure the credibility of their newsletters by making sure that they are objective. In such cases, you may consider asking a **citizen advisory group**, a consultant, or a non-partisan civic group (e.g., the League of Women Voters), to review the document. If the public has concerns over the credibility of your organization, it may be beneficial for the citizens advisory group or a neutral body to produce the newsletter. An objective newsletter should candidly report all developments at the facility.

4. **Summarize detailed reports.** If you are distributing a technical report, you should consider including a summary. Another option is to include findings in the project newsletter and allow people to send in a clip-out request form or contact your staff for copies of the full report.
5. **Check your mailing list.** Make sure that your mailing list is up to date and includes all interested stakeholders and media contacts (see the section on **Mailing Lists** above).
6. **Update your mailing list.** Project newsletters may continue for a number of years. You should consider updating your mailing list by including an “address-currency” card in the newsletter on a regular basis (e.g., once a year). By sending in this card, people will continue to receive the newsletter.

When to Use

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

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

Accompanying Activities

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

Advantages and Limitations

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

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

Checklist for Project Newsletters and Reports

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

Response to Comments

Regulatory Requirements

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

Description of Activity

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

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

Level of Effort

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

How to Conduct the Activity

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

- C Part I is a summary of commenters' major issues and concerns and expressly acknowledges and responds to those issues raised by the local community. "Local community" means those individuals who have identified themselves as living in the immediate vicinity of a facility. These may include local homeowners, businesses, the municipality, and facility employees. Part I should be presented by subject and should be written in a clear, concise, easy to understand manner suitable for the public.
- C Part II provides detailed responses to all significant and other comments. It includes the specific legal and technical questions and, if necessary, will elaborate with technical detail on answers covered in Part I. It also should be organized by subject.

Think of Part I as a type of fact sheet for the detailed responses provided in

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

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

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

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

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

When to Use

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

Accompanying Activities

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

Advantages and Limitations

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

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

Checklist for Response to Comments

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

Information Repositories

Regulatory Requirements

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

Description of Activity

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

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

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

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

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

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

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

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

Level of Effort

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

How to Conduct the Activity

To establish an information repository:

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

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

suggested by community residents. Typical locations include local public libraries, town halls, or public health offices.

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

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

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

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

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

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

appropriate.

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

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

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

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

3. **Publicize the existence of the repository.** For repositories required under RCRA regulations, the permitting agency will direct the facility, at a minimum, to announce the repository to all members of

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

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

When to Use

An information repository is recommended:

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

Accompanying Activities

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

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

Advantages and Limitations

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

An information repository is a one-way communication tool and does not allow for interaction between citizens and your organization (unless used in

conjunction with a “walk-up” information table). The information repository may also include technical documents, which may be difficult for citizens to understand.

Checklist for Information Repositories

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

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

Exhibits

Regulatory Requirements

None.

Description of Activity

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

Level of Effort

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

How to Conduct the Activity

To develop and display an exhibit:

1. **Identify the target audience.** Possible audiences include:
 - C General public;
 - C Concerned citizens;
 - C Environmental/Public Interest groups;
 - C Media representatives; and
 - C Public officials.
2. **Clarify the subject.** Possible subjects include:
 - C The RCRA program or the permit or corrective action process;
 - C Historical background on the facility;
 - C Public participation activities;
 - C Corrective action or waste management technologies; and
 - C Health and safety issues associated with the facility.
3. **Determine where the exhibit will be set up.** If the general public is the target audience, for example, assemble the exhibit in a highly visible location, such as a public library, convention hall, or a shopping center. If concerned citizens are the target audience, set up a temporary exhibit at a **public meeting, availability session/open house, or an informal meeting**. An exhibit could even be as simple as a bulletin board at the site or staff trailer.
4. **Design the exhibit and its scale according to the message to be transmitted.** Include photos or illustrations. Use text sparingly.

When to Use

Exhibits can be used:

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

Accompanying Activities

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

Advantages and Limitations

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

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

Checklist for Exhibits

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

Briefings

Regulatory Requirements

None.

Description of Activity

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

Level of Effort

Briefings will usually take a day to plan and conduct.

How to Conduct the Activity

To schedule and hold briefings:

1. **Inform your audience** far in advance of the date of the briefing. It is usually best to hold the initial briefing in a small public room, such as a hotel meeting room, conference room, or at the stakeholders' offices. Where relationships might be antagonistic, it may be best to hold the briefing in a neutral location.
2. **Present a short, official statement** explaining the information in the context of the RCRA process and announcing future steps in the process.
3. **Answer questions about the statement.** Anticipate questions and be prepared to answer them simply and directly.

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

When to Use

Briefings are appropriate:

- C When key stakeholders have expressed a moderate to high level of concern about the facility or the process;
- C Before the release of new information to the media and the public;

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

Accompanying Activities

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

Advantages and Limitations

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

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

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

Checklist for Briefings

— Determine date, time, and location of briefing.

Date: _____

Time: _____

Location: _____

— Notify key state and local officials, citizens, and other interested parties of the briefing

— Prepare presentation

— Prepare any handout materials

— Conduct briefing

— Follow-up on any questions you are unable to answer during the briefing

Presentations

Regulatory Requirements

None.

Description of Activity

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

Level of Effort

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

How to Conduct the Activity

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

1. **Contact groups that may be interested in learning about your work.** Announce the program through the media and in your publications. Adjust the tone and technical complexity of any presentation to suit the audience's needs.
2. **Select a standard format** such as the following:
 - C Introduce yourself, your organization, the RCRA permitting or corrective action process, and the facility;
 - C Describe the issues that affect your audience;
 - C Discuss what is being currently done; and
 - C Discuss how citizens can play a part in making decisions about the facility.
3. **Set a time limit of 20 minutes.** Consider having several staff members deliver short segments of the presentation. Allow time for a **question-and-answer session**.
4. **Schedule presentations at convenient times**, possibly evenings or weekends, or during regularly-scheduled meetings of other groups. Consult with members of your target audience to find out what time is best for them.
5. **Select supporting materials** (slides, graphics, exhibits, etc.) that will

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

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

When to Use

Presentations may be held:

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

Accompanying Activities

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

Advantages and Limitations

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

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

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

Checklist for Presentations

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

Facility Tours

Regulatory Requirements

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

Description of Activity

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

Level of Effort

Facility tours generally take a day to plan and conduct.

How to Conduct the Activity

To conduct facility tours:

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

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

Before the tour, you should:

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

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

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

- C Individual citizens or nearby residents who have expressed concern about the site;

- C Representatives of public interest or environmental groups that have expressed interest in the site;
 - C Interested local officials and regulators;
 - C Representatives of local citizen or service groups; and
 - C Representatives of local newspapers, TV, and radio stations.
3. **Determine the maximum number that can be taken through the facility safely.** Keep the group small so that all who wish to ask questions may do so. Schedule additional tours as needed.
 4. **Think of ways to involve tour participants.** A "hands-on" demonstration of how to read monitoring devices is one example.
 5. **Anticipate questions.** Have someone available to answer technical questions in non-technical terms.

When to Use

Tours may be conducted:

- C When there is moderate to high interest in the facility, especially among elected officials;
- C When it is useful to show activities at the facility to increase public understanding or decrease public concern;
- C When it is practical and safe to have people on facility grounds; and
- C During the remedial phase of corrective action.

Accompanying Activities

Fact sheets, exhibits, and presentations complement facility tours. An **observation deck** near the facility would allow them to watch the progress of activities on their own. An **on-scene information office** would allow for an agency official to be around and for less formal tours of the facility. An alternative to a facility tour would be a **videotape presentation** showing activity and operations at the facility. This would be effective in cases where tours cannot be conducted.

Advantages and Limitations

Facility tours familiarize the media, local officials, and citizens with the operations and the individuals involved in the permitting or corrective action. Unreasonable fears about the risks of the facility may be dispelled, as might suspicion of corrective action crews working at the facility. The result is often better understanding between stakeholders.

Facility tours require considerable staff time to arrange, prepare, and coordinate. Staff may have difficulty gaining site access for non-agency

people. Insurance regulations for the facility and liability, safety and injury considerations may make tours impossible.

Checklist for Facility Tours

- Determine need for facility tours
- Coordinate tours with the facility
 - Tour routes
 - Facility personnel
 - Tour dates
 - Compliance with health and safety
- Determine maximum number of people that can be taken on the tour
- Notify interested citizens on availability of facility tours
 - Call interested citizens
 - Distribute mailing to facility mailing list
 - Have citizens respond and reserve space on the tour
- Determine plant staff or agency staff to conduct tour
- Prepare responses to anticipated questions
- Conduct tours
- Follow-up on any requested information from interested citizens

Observation Decks

Regulatory Requirements

None.

Description of Activity

An observation deck is an elevated deck on the facility property, near the area where corrective or RCRA-regulated activities are in progress. The deck allows interested citizens to observe facility activities or corrective actions directly in order to remove some of the unfamiliarity, and hence fear, that may encompass RCRA-regulated activities.

Level of Effort

Maintaining an observation deck may be a time-intensive activity depending on the deck's hours of operation. Up to 40 hours a week may be necessary to staff the deck. Short Cut: Consider hiring a contractor to staff the deck, or limit the hours when it is open to the public.

How to Conduct the Activity

To use an observation deck, the agency and the facility should work together to:

1. **Decide whether or not an observation deck is needed or desirable.** Gauge community interest in the facility and whether or not there is a location for a deck that would facilitate observation.
2. **Coordinate deck construction.** Determine the best location for the observation deck keeping in mind safety and public access issues.
3. **Coordinate staffing of the observation deck.** Determine the hours of operation for the observation deck. Identify staff to supervise the observation deck and prepare staff to answer questions from the public.
4. **Announce the availability of the observation deck.** Notify the community that the deck is available through public notices, fact sheets, and a mailing to the facility mailing list.

When to Use

An observation deck may be used:

- C When community interest or concern is high;
- C When the community's understanding of facility operations will be enhanced by direct observation;
- C When there will be sufficient activity at the site to promote the community's interest;

- C When staff are available to supervise public use of the deck and answer questions;
- C When it is physically possible to set up an observation deck in a place where there is no danger to the public;
- C When a corrective action is being implemented; and
- C When a new technology is being tested or implemented.

Accompanying Activities

An observation deck could complement periodic **facility tours** or an **on-scene information office**. Citizens can initially be informed about operations or corrective actions during the tours, then can monitor the progress of these activities at their convenience from the observation deck. **Fact sheets** or an informative **exhibit** placed near the deck also could further aid in explaining facility activities.

Advantages and Limitations

An observation deck allows citizens and media representatives to observe site activities without hindering the activities.

Constructing and occupying an observation deck is expensive and needs to be supplemented with an informational/interpretive program, so that citizens understand what they see. Further, health and safety issues must thoroughly be considered so that any visitor to the observation deck is not endangered by activities at the facility.

Checklist for Observation Decks

- Determine need for an observation deck
 - Coordinate with facility
- Identify staff available to supervise the observation deck and answer questions from interested citizens
- Coordinate deck construction
- Set hours of operation for the observation deck
- Notify interested citizens of availability of observation deck
 - Public notice
 - Fact sheet
 - Mailing to facility mailing list
- Maintain observation deck

News Releases and Press Kits

Regulatory Requirements

None.

Description of Activity

News releases are statements that you or your organization send to the news media. You can use them to publicize progress or key milestones in the RCRA process. News releases can effectively and quickly disseminate information to large numbers of people. They also may be used to announce public meetings, report the results of public meetings or studies, and describe how citizen concerns were considered in the permit decision or corrective action.

Press kits consist of a packet of relevant information that your organization distributes to reporters. The press kit should summarize key information about the permitting process or corrective action activities. Typically a press kit is a folder with pockets for short summaries of the permitting process, technical studies, newsletters, press releases, and other background materials.

If your organization has public affairs personnel, you should coordinate with them to take on media contact responsibilities.

Level of Effort

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

How to Conduct the Activity

To prepare news releases and press kits:

1. **Consult with external affairs personnel who regularly work with the local media.** External affairs personnel will assure that you adhere to organization policy on media relations. They will assist in drafting the news release and can provide other helpful suggestions about the release and the materials for the press kit.
2. **Identify the relevant regional and local newspapers and broadcast media, and learn their deadlines.** Get to know the editor and environmental reporter who might cover the issue. Determine what sorts of information will be useful to them.
3. **Contact related organizations to ensure coordination.** For instance, permitting agencies should contact other regulatory agencies on the federal, state, and local levels to ensure that all facts and procedures are coordinated and correct before releasing any statement

or other materials. If your organization is local, you should coordinate with national or state-wide chapters. You may want to consider discussing the news release with other interested stakeholders (e.g., through a **briefing**). However, draft news releases should not be shared -- they are internal documents.

4. **Select the information to be communicated.** For the press release, place the most important and newsworthy elements up front and present additional information in descending order of importance. Use supporting paragraphs to elaborate on other pertinent information. Mention opportunities for public participation (i.e., public meetings, etc.) and contact persons and cite factors that might contribute to earlier implementation or delays in the corrective action or permit processing. Note the location of the information repository (if applicable) or other sources for relevant documents. If you are presenting study findings or other technical information, present it in layman's terms along with any important qualifying information (e.g., reliability of numbers or risk factors).

The press kit should contain materials that elaborate on the information in the press release. Basic summaries of the RCRA program, the permitting process, and public participation activities are helpful materials. Background reports or studies may also be useful. Enclose the name and phone number of a contact person and invite the reporter to call him or her with any questions.

5. **The news release should be brief.** Limit it to essential facts and issues.
6. **Use simple language.** Avoid the use of professional jargon, overly technical words, and acronyms.
7. **Identify who is issuing the news release.** The top of the sheet should include:
 - C Name and address of your organization;
 - C Release time ("For Immediate Release" or "Please Observe Embargo Until") and date;
 - C Name and phone number of the contact person for further information; and
 - C Headline summarizing the activity of interest.
8. **In some cases, send copies of the release and the press kit to other stakeholders** at the same time you give them to the news media. Coordinate with the public affairs office to determine appropriateness.

When to Use

The press kit and the news release can be complementary activities, though you may choose to use either one separately. Some of the occasions when you may want to issue a news release or a press kit include:

- C When significant findings are made at the site, during the process, or after a study;
- C When program milestones are reached or when schedules are delayed;
- C In response to growing public or media interest or after your organization takes a new policy stance;
- C When you are trying to increase public interest in a facility;
- C Before a public meeting to announce subject, time, place; and
- C A news release should not be issued at times when it may be difficult to get in touch with responsible officials (e.g., Friday afternoons, or the day before a holiday).

Accompanying Activities

The press kit is useful as a complement to a news release. News releases and press kits can accompany any formal **public hearings** or **public meetings**. They commonly accompany **news conferences**. They should provide the name of the **contact person** whom interested reporters can contact if they want more information.

Advantages and Limitations

A news release to the local media can reach a large audience quickly and inexpensively. Press kits allow reporters to put the issue in context. If a reporter is trying to meet a deadline and cannot contact you, he or she can turn to the press kit as an authoritative source of information. If the name, address, and phone number of a contact person are included, reporters and possibly interested community members can raise questions about the information in the release.

Because news releases must be brief, they often exclude details in which the public may be interested. A news release should therefore be used in conjunction with other methods of communication that permit more attention to detail. A news release is not an appropriate vehicle for transmitting sensitive information. In some cases, a news release can call unwarranted attention to a situation; a mailing to selected individuals should be considered instead. Frequent use of news releases to announce smaller actions may reduce the impact of news releases concerning larger activities.

One potential drawback of a press kit is that reporters may ignore it or use the information incorrectly when writing a story.

News releases and press kits cannot be used in lieu of a public notice. Certain activities, such as the preparation of a draft permit, are subject to public notice requirements. See the section on “Public Notices” earlier in this Chapter for more details.

Checklist for News Releases and Press Kits

- Coordinate with public affairs staff
- Determine purpose of news release and/or press kit
- Coordinate writing and distribution of release or press kit with the public affairs staff
 - Verify that media mailing list is up-to-date
 - Request mailing labels
- Write draft news release
 - Type and double space news release
 - Indicate the source of the news release (i.e., in the upper-left-hand corner, put the name and phone number of the person writing the release, along with the agency or department name and address)
 - Provide release instructions (i.e., "For Immediate Release")
 - Date the news release
 - Write concisely; avoid technical terms and jargon
 - Number pages; if more than one page is needed, put " -- more --" at the center bottom of the page that is to be continued; succeeding pages should be numbered and "slugged" with an identifying headline or reference (i.e., "EPA -- 2"); when you come to the end of the news release, indicate the end with one of the following: -- 30 --, ####, or -- END --.
- Prepare materials for the press kit
 - Collect short descriptions of the RCRA program, permitting, and public participation processes
 - Include other pertinent information, such as reports, studies, and fact sheets
- Coordinate internal review
- Prepare final materials based on review comments
- Distribute news release and press kit to local media

News Conferences

Regulatory Requirements

None.

Description of Activity

News conferences are information sessions or briefings held for representatives of the news media and may be open to the general public. News conferences provide all interested local media and members of the public with accurate information concerning important developments during a RCRA-regulated process. If your organization has public outreach personnel, you will probably want to coordinate news conferences with them.

Level of Effort

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

How to Conduct the Activity

To conduct news conferences:

1. **Coordinate all media activity through your outreach staff.** Public outreach personnel will assure that you adhere to organization policy on news conferences. They will help arrange location and equipment, etc.
2. **Evaluate the need for a news conference.** Use this technique carefully because statements made during a news conference may be misinterpreted by the media. For reporting the results of site inspections, sampling, or other preliminary information other public involvement techniques (e.g., **fact sheets, news releases, or public meetings**) may be more appropriate. A news conference announcing preliminary results of technical studies may add unnecessarily to public concerns about the facility.
3. **Notify members of the local and regional media of the time, location, and topic of the news conference.** Local officials also may be invited to attend, either as observers or participants, depending upon their interest. Including local officials at a news conference will underscore your organization's commitment to a community's interests and concerns.
4. **Anticipate reporters' questions and have your answers ready.**
5. **Present a short, official statement, both written and spoken, about developments and findings.** Explain your organization's decisions by reviewing the situation and identifying the next steps. Use visual aids, if appropriate. Live conferences leave no room for

mistakes, so preparation and rehearsal is very important.

Open the conference to questions, to be answered by your staff, local officials, and any other experts present. Have technical staff on hand to answer any technical questions. Decide ahead of time who will answer certain types of questions.

When to Use

News conferences can be used:

- C When time-sensitive information needs to reach the public, and a news release may not be able to address key issues for the community;
- C When staff are well-prepared to answer questions; and
- C During any phase of the permit application or corrective action.

Accompanying Activities

News conferences can be held before or after formal **public hearings** or **public meetings**. They are usually accompanied by **news releases**. **Exhibits, telephone contacts, briefings, and mailing lists** would contribute to the planning and effectiveness of a news conference.

Advantages and Limitations

News conferences provide a large public forum for announcing plans, findings, policies, and other developments. They also are an efficient way to reach a large audience. A written news release can help ensure that the facts are presented accurately to the media. During the question and answer period, your spokesperson(s) can demonstrate knowledge of the facility and may be able to improve media relations by providing thorough, informative answers to all questions.

A news conference can focus considerable attention on the situation, potentially causing unnecessary local concern. Residents may not welcome the increased attention that such media coverage is apt to bring. News releases or lower-profile means of disseminating information should be considered as alternatives.

A risk inherent in news conferences is that the media can take comments out of context and create false impressions. This risk is heightened when staff are unprepared or when the conference is not properly structured or unanticipated questions are asked.

Checklist for News Conferences

- Coordinate news conference with public affairs staff
- Determine purpose of news conference
- Identify staff to make presentations/answer questions at news conference
- Prepare visual materials (i.e., exhibits) and handout materials (i.e., fact sheets)
- Prepare responses to "anticipated" questions from the media
- Coordinate a rehearsal of all presenters
- Determine date, time, location, and equipment needs of news conference
 - Is the location large enough to accommodate the media?
- Notify local media of news conference in advance of news conference
- Call the local media the day before the news conference as a reminder
- Conduct the news conference
 - Set up room with a speakers table, chairs for the audience
 - Have handout materials available when media arrive

Community Interviews

Regulatory Requirements

None.

Description of Activity

Community interviews are informal, face-to-face or telephone interviews held with local residents, elected officials, community groups, and other individuals to acquire information on citizen concerns and attitudes about a facility. The interviews may be conducted by facility staff, the permitting agency, or public interest groups as part of the community assessment. Chapter 2 provides more information on community assessments in the section titled “Assessing the Situation.”

Community interviews can play an important role in the community assessment, which usually takes place at the beginning of the permitting process, or before major modifications and significant corrective actions. Community interviews will not be necessary in every community. For instance, in routine or non-controversial situations, there may be no need for community interviews. However, if a facility is controversial or has the potential to receive high levels of public interest, then EPA recommends a broad range of community interviews. Permitting situations that fall between the preceding cases may require some interviews, beginning with a survey of community representatives and group leaders (see “Assessing the Situation” in Chapter 2).

Community interviews allow agencies, facility owners, and public interest groups to tailor regulatory requirements and additional activities to fit the needs of particular communities. Information obtained through these interviews is typically used to assess the community's concerns and information needs and to prepare a **public participation plan**, which outlines a community-specific strategy for responding to the concerns identified in the interview process.

Level of Effort

Community interviews are a time-intensive activity because of the large amount of organization required and time needed for interviews. While level of effort will vary, interviewers should schedule at least one hour per interview for research and preparation, the interview itself, and follow-up activities. If time and/or resources are limited, interviewers may want to conduct interviews by phone and focus on community leaders.

How to Conduct the Activity

Permitting agencies, facility owners, and public interest groups who plan to conduct community interviews should follow the steps below, adjusting them as necessary to suit the situation at hand:

1. **Identify potential people to interview.** If a mailing list is not available, begin by reviewing available files and other documents (e.g., newspaper articles) to identify local residents, key state and local officials, and citizen organizations that have been involved with or expressed concern about the facility. Agency staff or other groups in the community (e.g., existing facility owners and operators, public interest organizations, civic groups, local government agencies) may also be able to suggest individuals or groups to interview. Develop a list of individuals and groups that provides the greatest variety of perspectives. Make sure to include individuals who tend to be less vocal to balance the views of those who are more outspoken. Your contact list may include:
 - C state agency staff, such as officials from health, environmental, or natural resources departments;
 - C local agency staff and elected officials, such as county health department officials, county commissioners, mayor or township administrator, and officials on environmental commissions, advisory committees, and planning boards;
 - C representatives of citizens' groups organized to address issues at the facility or in the area;
 - C non-affiliated area residents and individuals;
 - C local business representatives (e.g., from the Chamber of Commerce or Council of Governments);
 - C local civic groups, neighborhood associations, educational and religious organizations;
 - C local chapters of public interest groups (e.g., environmental organizations); and
 - C nearby landowners and businesses.
2. **Determine how many interviews to conduct.** Conduct interviews with the goal of obtaining a broad range of perspectives and gathering sufficient information to develop an effective public participation plan. However, the actual number of interviews is likely to depend on available time and resources as well as the community's level of interest and concern about the facility. It is generally desirable to conduct more extensive interviews in communities where the level of concern is high. Alternatively, where the level of interest is low or there has already been significant interaction with community, fewer interviews may be appropriate.
3. **Prepare for the interviews.** Before conducting the interviews, learn as much as possible about the community and community concerns

regarding the facility. Review any available news clippings, documents, letters, and other sources of information relevant to the facility. Determine whether the community has any particular language, geographic, or economic characteristics that should be addressed. Prepare a list of questions that can serve as a general guide when speaking with residents and local officials. Questions should be asked in a way that stimulates discussion on a variety of topics, including:

- C General knowledge of the facility. Find out what sort of information the community has received about the facility and if what level of involvement the community has had with the facility.
 - C Specific concerns about the technical and regulatory aspects of activities at the facility. Determine what the community's concerns are and what types of information would be most appropriate to address these concerns.
 - C Recommended methods of communicating with the community and receiving community input. Determine which communications tools are likely to be most effective -- e.g., mailings, meetings, broadcast media -- and what public participation events could best serve the community. Learn about special information needs that the community may have (e.g., the level of literacy, the percentage of non-English speakers).
 - C The best public meeting facilities, most relied-upon media outlets, and the best times to schedule activities.
 - C Other groups or individuals to contact for more information.
4. **Arrange the interviews.** Telephone prospective interviewees and arrange a convenient time and place to meet. Ideally, the meeting place should promote candid discussions. While government and media representatives are likely to prefer meeting in their offices during business hours, local residents and community groups may be available only in non-business hours. Meetings at their homes may be most convenient.

During the interviews:

1. **Provide background information.** Briefly describe the permitting activity or corrective action at hand.
2. **Assure interviewees that their specific comments will remain confidential.** At the beginning of each interview, explain the purpose of the interviews -- to gather information to assess community concerns and develop an appropriate public participation strategy.

Explain that while the public participation plan will be part of the administrative record, the plan will not attribute specific statements or information to any individual. Ask interviewees if they would like their names, addresses, and phone numbers on the mailing list.

3. **If community members do not feel comfortable with interviewers from your organization, consider using a third-party.** Some citizens may not be entirely forthcoming with their concerns or issues if they are uncomfortable with the interview. If sufficient resources are available, consider hiring a contractor to perform interviews. Some civic or community organizations may be willing to help in the interview process. If these options are not available, then consider distributing anonymous **surveys** or convening **focus groups**, where a number of citizens can give their input together.
4. **Identify other potential contacts.** During the discussions, ask for names and telephone numbers of other persons who are interested in activities at the facility.
5. **Gather information on past citizen participation activities.** Determine the interviewee's perceptions of past outreach activities by your organization.
6. **Identify citizens' concerns about the facility.** When identifying concerns, consider the following factors:
 - C Threat to health -- Do community residents believe their health is or has been affected by activities at the facility?
 - C Economic concerns -- How does the facility affect the local economy and the economic well-being of community residents?
 - C Agency/Facility/Interest Group credibility -- Does the public have confidence in the capabilities of the agency? What are the public's opinions of the facility owner/operator and involved environmental/public interest organizations
 - C Involvement -- What groups or organizations in the community have shown an interest in the facility? Is there a leader who has gained substantial local following? How have interested groups worked with the agency or facility in the past? Have community concerns been considered in the past?
 - C Media -- Have events at the facility received substantial coverage by local, state, or national media? Do local residents believe that media coverage accurately reflects the nature and intensity of their concerns?
 - C Number affected -- How many households or businesses perceive themselves as affected by the facility (adversely or

positively)?

7. **Assess how citizens would like to be involved in the RCRA permitting or corrective action process.** Briefly explain the RCRA public participation process and ask the interviewees how they would like to be involved and informed of progress made and future developments at the facility. Ask what is the best way to stay in contact with the interviewee. Ask the interviewee to recommend convenient locations for setting up the information repository or holding public meetings. Keep a list of those who wish to be kept informed.

When to Use

Community interviews should be conducted:

- C As part of a community assessment by facility owners who are applying for a permit, seeking a major permit modification, or beginning significant corrective action.
- C By the permitting agency to find out about community concerns at the outset of a major permitting or corrective action process.
- C Before revising a public participation strategy, because months, or perhaps years, may have elapsed since the first round of interviews, and community concerns may have changed.

As the level of community concern increases, so does the need to conduct more extensive assessments. If there has been a lot of interaction with the community and interested parties, information on citizen concerns may be current and active. In such situations, it may be acceptable to conduct only a few informal discussions in person or by telephone with selected, informed individuals who clearly represent the community to verify, update, or round out the information already available.

Accompanying Activities

As stated above, community interviews are conducted to gather information to develop an appropriate **public participation plan** for the facility. A **mailing list** may or may not be in place at the time interviews are conducted. If there is one, it can be used to identify individuals to interview. If one has not yet been established, the interviews themselves can provide the basis for the list.

Advantages and Limitations

Community interviews can be a valuable source of opinions, expectations, and concerns regarding RCRA facilities and often provide insights and views that are not presented in the media. In addition, these interviews may lead to additional information sources. The one-on-one dialogue that takes place during community interviews provides the basis for building a good working relationship, based on mutual trust, between the community and other stakeholders. Therefore, although its primary purpose is to gather

information, the community interview also serves as an important public outreach technique.

The major disadvantages of community interviews are that they may be time-consuming and resource-intensive for your staff; they could cause unnecessary fear of the situation among the public; and, they are not very useful if you do not talk with the right people -- the people who have not identified themselves as well as the more vocal ones who have.

Checklist for Community Interviews

- Determine number of interviews to be conducted: _____
- Determine dates for interviews: _____
- Identify team to conduct interviews:

- Identify individuals to interview
 - Review facility background files for names of people who have expressed interest
 - Identify community leaders to contact
 - Identify city/state/county officials to contact
- Prepare interview questions
- Review background information available about the facility and community
- Set up interviews
 - Confirm interviews by mail or phone
- Conduct interviews
 - Ask for additional people to contact
 - Gather information using prepared interview questions
- Follow-Up
 - Follow-up interview with a thank you letter
 - Notify the interviewee when the public participation strategy is available in the repository

Focus Groups

Regulatory Requirements

None.

Description of Activity

Some organizations use focus groups as a way of gathering information on community opinion. The advertising industry developed focus groups as an alternative to expensive market research (which relies heavily on polling). Focus groups are small discussion groups selected either to be random or to approximate the demographics of the community. The group is usually led by a trained moderator who draws out people's reactions to an issue.

Facility owners may want to consider focus groups as a complement to interviews during the community assessment or at important activities during the life of a facility. The permitting agency may want to consider focus groups to gauge public opinion before controversial permitting activities or corrective actions.

Level of Effort

Focus groups can be resource-intensive, depending on the number of groups you convene. This method will be more expensive if you need to provide for a moderator, meeting space, or transportation.

How to Conduct the Activity

To prepare for focus groups:

1. **Determine whether or not a focus group can help the process.** Community interviews serve much the same purpose as focus groups. Will gathering members of the community together provide more comfort? Will it be a more effective means of gauging public opinion?
2. **Select your focus groups.** Contact other stakeholders and community leaders to get input on who to include in your focus groups.
3. **Use community interview techniques to get input from the focus group.** You can follow the guidance in "Community Interviews" above in this Chapter to learn about the types of questions to ask your focus groups.
4. **Use the information in forming a public participation plan.**

When to Use

Facility owners may want to use focus groups as a complement to community interviews; permitting agencies may want to consider focus groups in situations where there is a high degree of public interest in a

permitting activity. Focus groups provide a quick means of feedback from a representative group and can be a good supplementary activity, especially if such group discussions will make some members of the public feel more comfortable.

Accompanying Activities

Use focus groups as a complement to **community interviews**. You may want to hold a **presentation** or provide the groups with information such as **fact sheets**.

Advantages and Limitations

Focus groups allow you to get an in-depth reaction to permitting issues. They can help to outline a public participation plan and give an indication of how the public will react to certain issues.

The reactions of a focus group cannot, in all cases, be counted on to represent the greater community. Some people may perceive focus groups as an effort to manipulate the public.

Checklist for Focus Groups

- Determine number of focus groups to be conducted: _____
- Determine dates for focus groups: _____
- Identify moderator to conduct focus groups:

- Identify individuals for focus groups
 - Review facility background files for names of people who have expressed interest
 - Identify community leaders to contact
 - Identify city/state/county officials to contact
- Prepare discussion questions
- Review background information available about the facility and community
- Set up focus groups
 - Confirm participation by mail or phone
- Conduct focus groups
 - Ask for additional people to contact
 - Gather information using prepared interview questions
- Follow-Up
 - Follow-up interview with a thank you letter
 - Notify the interviewee when the public participation plan is available

Door-to-Door Canvassing

Regulatory Requirements

None.

Description of Activity

Door-to-door canvassing is a way to collect and distribute information by calling on community members individually and directly. Public interest groups have long used such techniques, and they may also be useful for facility owners as a way to gauge public interest during the community assessment stage. The permitting agency may consider using this technique to interact with the community in situations where public interest is very high, such as emergency cleanups, or in other situations where direct contact with citizens is essential. See the section on “When to Use” below for more details.

During these interactions, canvassers can field questions about the permitting activity, discuss concerns, and provide fact sheets or other materials. Some citizens may want to find out more about the activity by signing up for mailing lists or by attending an upcoming event.

Level of Effort

Door-to-door canvassing is a very time-intensive activity because of the number of staff needed to conduct the canvassing and the amount of time you will need to plan for the canvassing. Canvassers should travel in pairs in areas where there may be a lot of contention or in high crime areas. Planning for the door-to-door canvassing will require at least a day. This includes identifying the area to be canvassed, determining the amount of staff needed, and notifying area residents. The amount of time spent canvassing will depend on the size of the area to be canvassed.

How to Conduct the Activity

A door-to-door canvass involves training staff to gather information, answer questions, and to communicate with a possibly irate or suspicious public.

Procedures to follow in preparing a door-to-door canvass include:

1. **Identify the area where canvassing is necessary or desirable.** Determine the area where special information must be given or collected. This area may range from just a few streets to several neighborhoods. Determine if there is a need for a translator or materials in languages other than English. Also determine when it is likely that people will be at home; the canvassing may have to be conducted in the evening.

2. **If time permits, notify residents** (e.g., by distributing a flyer) that canvassers will be calling door-to-door in the area. Tell residents what time the canvassers will be in the neighborhood and explain the purpose of the canvassing program. Advance notice will reduce the suspicions of residents and encourage their cooperation. Also, notify local officials so they are aware of the door-to-door canvassing.
3. **Provide canvassers with the information they will need** to respond to questions. Residents will want to know what is happening at the facility and may have questions about possible health effects associated with various activities. If appropriate, you should distinguish between the types of questions that a canvasser may answer (i.e., questions concerning the schedule of activity) and the types of questions that should be referred to technical staff (e.g., highly technical questions concerning hazardous waste or agency policies). Provide canvassers with fact sheets or other written materials for distribution.
4. **Canvass the designated area.** Note the name, address, and telephone number of residents requesting more information. Note also the names of those who were especially helpful in giving information. Be prepared to tell residents when they will next be contacted and how (i.e., by telephone, by letter, or in person). All canvassers should have an official badge to identify themselves to residents.
5. **Send a thank-you letter** after the canvass to all residents in the canvassed area. If possible, provide information concerning recent developments and any results or pertinent information gathered by the canvass. Respond to special requests for information either in the thank-you letter or by telephone.

When to Use

Door-to-door canvassing may be used:

- C When there is a high level of concern about the site, but meetings cannot be scheduled;
- C When there is a need to notify citizens about a certain event or an upcoming permitting issue;
- C When you need to reach a specific group of people for a specific purpose, such as getting signatures to allow access to properties adjacent to the facility;
- C When the community has a low literacy rate and written materials aren't useful;

- C When the area consists of a population whose primary language is not English, but it is important to pass information to the area; and
- C When there is an emergency situation that the community needs to know about.

Accompanying Activities

Telephone contacts and **community interviews** may help to identify appropriate areas for canvassing efforts. Canvassers should add to the **mailing list** names of individuals who either requested additional information or provided particularly useful information.

Advantages and Limitations

This activity involves face-to-face contact, thereby ensuring that citizens' questions can be directly and individually answered. Canvassing demonstrates a commitment to public participation, and is a very effective means of gathering accurate, detailed information, while determining the level of public concern.

This technique is very time-consuming and costly, even in a small area. Furthermore, trained people that can answer questions at the necessary level of detail are often not available for this activity. This activity is not recommended for the dissemination of information except in an emergency. This high level of direct contact can raise more concerns rather than allay them.

The safety and security of the canvassers also should be taken into account when planning this activity. Additional staff may be need so that people can work in teams to two or three; in extreme situations, security staff may be necessary .

Checklist for Door-to-Door Canvassing

- Identify area where canvassing will be conducted
 - Prepare maps for each team of canvassers
 - Send a letter to residents announcing canvassing
 - Prepare mailing list using the city directory (section listing residences by street address)
 - Prepare letter; coordinate internal review
 - Determine security needs of canvassing team
- Prepare any information (i.e., fact sheets) that canvassing team may provide to interested residents
- Identify staff to conduct canvassing and have official badges made to identify them
- Brief staff on canvassing effort
 - Provide staff with a copy of letter sent to residents
 - Tell staff what kinds of questions they may answer and provide them with information (i.e., questions concerning the schedule of activity)
 - Tell staff what kinds of questions they should refer to a specialist (i.e., technical questions)
 - Provide staff with prepared maps
- Canvass designated areas
 - Note the name, address, and telephone number of residents requesting more information
- Send thank you letter to all residents in the canvassed area

Public Comment Periods

Regulatory Requirements

Public comment periods are required whenever the permitting agency issues a draft permit or an intent to deny a permit (§ 124.10). Comment periods are also mandatory on requests for Class 2 and 3 permit modifications under § 270.42, for agency-initiated modifications under § 270.41, and during closure and post-closure for interim status facilities under §§ 265.112(d)(4) and 265.118(f).

Description of Activity

A public comment period is a designated time period in which citizens can formally review and comment on the agency's or facility's proposed course of action or decision. Comment periods for RCRA permits must be at least 45 days.

Level of Effort

There is no specific level of effort for a public comment period. Estimates of the time required to conduct activities associated with the public comment period (public notice, public hearing, etc.) are found elsewhere in this chapter. The time required to receive, organize, and determine how to respond to comments will vary depending on the number of comments received and the complexity of the proposed action (see the section on "Response to Comments" earlier in this chapter).

How to Conduct the Activity

Announce the public comment period in a local newspaper of general circulation and on local radio stations. Public notices must provide the beginning and ending dates of the public comment period and specify where interested parties should send their comments and/or requests for a public hearing. Refer to the section about "Public Notices" earlier in this chapter for further information.

When to Use

A minimum 45-day public comment period is required for RCRA permits, including modifications to permits initiated by the agency as well as Class 2 and 3 modifications requested by the facility.

Accompanying Activities

Public comment periods cannot begin until notice of the permitting activity is given. RCRA requires that the agency conduct a **public hearing** if requested by a member of the public during the public comment period. Announce the hearing through a public notice and through a fact sheet, if one is prepared in advance. Public comment periods cannot begin until notice is given.

Comments received during the public comment period must be discussed in a written **response to comments**.

Advantages and Limitations

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

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

Checklist for Public Comment Periods

- Determine dates of public comment period (minimum of 45 days)

Dates: _____

- Determine contact person within the agency who will answer citizens' questions regarding the public comment period
- Announce public comment period through a public notice
- If requested by a member of the public during the comment period, schedule a public hearing
- Document with a memo to the file any comments that were not received in written form

Unsolicited Information and Office Visits

Regulatory Requirements

None.

Description of Activity

EPA encourages permitting agencies, public interest groups, and facility owners/operators to seek input from interested citizens and other stakeholders. At times, this information may arrive in the form of phone calls, letters, and meetings. While this type of information is not always asked for, it can be helpful.

Citizens or stakeholders from other groups may want to visit the agency's office or the facility. In this situation, the visiting stakeholders will want to meet with the person who works most directly with their concerns.

Level of Effort

Depends entirely on the type of unsolicited information provided by the public. Office visits will also command varying amounts of time.

How to Conduct the Activity

Members of the public will come to the agency, the facility, or another organization with information and requests. Public outreach staff should be available for discussion and information when visitors come.

Unsolicited information can be very helpful. First, it can provide an idea of the level of public concern over a facility. Second, members of the public often provide information that is essential to making good technical, economic, and policy decisions. Local citizens often have the most knowledge and insight about the conditions of the land and the people surrounding a facility.

If interested people come to the office, they should be received by a staff member who can relate well with the public and knows the overall mission of your organization. If feasible, he or she should introduce the visitors to members of the staff who can discuss specific issues. Staff people should listen to the citizens' concerns and provide feedback where possible. They should be candid when they do not know the answer to a question. They should also be cordial, avoid jargon and overly technical language, and try to solve the visitor's problem. (See the section on "Informal Meetings With Other Stakeholders" in this Chapter for more information).

If citizens send a letter or call by phone, the receiving organization should respond as soon as possible. If the response will be delayed, a representative of the organization should write a letter or call to explain.

The receiving organization should consider all relevant comments as informal input into the permitting process and let citizens know how they can submit formal comments.

When to Use

Unsolicited information is a constant in community participation. You can improve (or maintain) the credibility of your organization by giving due weight to citizens' concerns and by replying promptly to citizen input.

Accompanying Activities

Fact sheets, project reports, and other mailings can answer questions or reply to citizen inquiries. Offer to put concerned citizens on the **mailing list**. Consider holding an **availability session, open house, or informal meetings** if you detect a high level of public interest.

Advantages and Limitations

A good outreach program can increase your organization's credibility. Unsolicited information can alert you to issues of high public concern and allow you to identify involved groups in the community. Visitors to your organization can get to know the staff, while the staff gains a better understanding of the visitors' concerns.

Unsolicited information is, at best, a supplement to more formal information-gathering. It may be misleading since it does not always reflect the overall level of public concern. Good handling of unsolicited information takes good communication and cooperation within your organization.

Checklist for Unsolicited Information and Office Visits

For office visits:

- Appoint a member of your staff to act as a liaison for public visits
- The liaison should answer questions and introduce stakeholders to members of your organization who are involved in the issue
- Invite visitors to put their names on your mailing list
- Follow up quickly on any questions that you could not answer during the visit

For phone calls and written requests:

- Keep a log of calls and letters from other stakeholders
- Respond quickly to questions; inform the questioner if your response will not be timely

Surveys and Telephone Polls

Regulatory Requirements

None.

Description of Activity

If public participation is to be a dialogue, citizens need ways to provide feedback to facilities, public interest organizations, and permitting agencies. Surveys and polls are designed to solicit specific types of feedback from a targeted audience, such as public opinion about a permitting activity, the effectiveness of public participation activities, or what could be done to improve distributed materials. Surveys may be either oral or written; used in person or by mail; and distributed either to specific segments of the community or to representative samples. We discuss telephone polls in this section, but you may want to consider door-to-door polling or other methods.

Facility owners may want to consider using surveys and polls during the community assessment to gauge public sentiment about constructing or expanding a facility, or as a complement to direct community interviews. The permitting agency can use surveys and polls in a similar fashion, especially during major projects and at facilities that raise controversy. The agency, public interest groups, and the facility owner may also want to use surveys and polls to find out if citizens are receiving enough information about the RCRA activity and are being reached by public notices or other outreach methods.

Level of Effort

On-paper surveys distributed at meetings or by mail are relatively easy and inexpensive, aside from postage. Surveys done in person or by telephone can be very time-consuming.

How to Conduct the Activity

To prepare for surveys or telephone polls:

1. **Specify the information that you need to gather.** Construct specific questions to include in the survey or poll. For written surveys, consider which questions should be multiple choice or “check one box” -- formats that people are more likely to answer. Ensure that oral questions are not too long or confusing and be wary of the factors that can bias your surveying method (e.g., the wording of the question).

Survey questions do not have to be highly detailed in every case. You may use surveys to allow people to submit general impressions after a meeting or a hearing.

2. **Design the survey or poll.** For written surveys, you should leave plenty of room for people to write. Give clear instructions and explain how you will be using the information. Always include the name and number of a contact person. Provide multi-lingual surveys where appropriate. Follow these same guidelines for oral surveys and polls. For oral surveys, you may want to provide a business card to the interviewee when your discussion is over
3. **Distribute the surveys and questionnaires.** As we mentioned earlier, you may distribute written surveys in person or via mail. You may also leave them for people to pick up after a meeting; or you may decide to distribute them by hand to peoples' homes. If people will need to mail the survey, consider including pre-stamped, pre-addressed envelopes.

If you are seeking out specific information, you may want to distribute the surveys to a representative sample of the community. In some cases, you may want to do a “blanket” distribution to all homes and businesses within a certain distance of the facility.

If you choose to do an oral survey, follow the information in the section on “Community Interviews” earlier in this Chapter.

For telephone polls, you will have to decide whom to call and whether you will address the poll to a random sample, a representative sample, or a targeted segment of the community. If you are attempting one of the latter two options, you may want to contact community leaders and local officials to determine the demographics of the area.

When to Use

Use surveys and telephone polls when:

- C you are seeking specific information from a targeted community or audience; or
- C you are trying to provide people with a means of giving anonymous feedback during the permitting process.

Accompanying Activities

Always include the name and number of a **contact person** on a survey or a questionnaire. Surveys and questionnaires can be useful for gathering general impressions about specific permitting activities or public participation events, such as **availability sessions** or **public hearings**. They may also complement **community interviews** by allowing people, who may have been uncomfortable or pressured during the interview, to submit anonymous thoughts and comments.

Advantages and Limitations

Written surveys and questionnaires are relatively inexpensive and simple ways to solicit information. They can provide feedback loops for many permitting activities and some people may be more comfortable with the

anonymity that written surveys can ensure. Oral surveys and polls allow you to interact directly with members of the public and to solicit their immediate feedback on permitting issues.

Surveys conducted in-person can be very time-consuming and expensive. Written surveys may not present viewpoints that are representative of the community because people who fill out the surveys tend to have stronger feelings in favor, or against, the proposed activity. Surveys conducted by mail have the additional weaknesses of undependable response rates and questionable response quality.

Checklist for Surveys and Telephone Polls

- Determine what type of information is needed
- Determine what format will work best for gathering the information

Written surveys:

- Determine if you will need to provide the survey in a multilingual format or you will need to provide for other special communication needs in the community (e.g., persons who are illiterate)
- Prepare interview questions
- Design the survey sheet; leave adequate writing room and make sure the instructions are clear and easy to understand
- Provide the name of a contact person on the survey
- Decide how you will distribute the survey, based on the public participation plan, community interviews, and background information on the facility and the community

Telephone polls or an oral surveys:

- Identify a team to conduct the survey or the telephone poll

- Identify how you will target the polling group
- Consult a polling firm or a consultant if you are conducting your survey with a representative sample
- Determine if you need to conduct a multilingual poll or survey and whether there are other special communication needs in the community (e.g., persons who are hearing impaired)
- Prepare the questions for the poll or survey
- Write a script you can use to give background information to people before the questions
- When you conduct the survey, provide the name of a contact person, either over the phone, or by handing out business cards in person

Contact Persons/Offices

Regulatory Requirements

EPA regulations require the permitting agency to designate a contact office in most public notices. This requirement applies to draft permits, notices of intent to deny a permit, and modifications initiated by the permitting agency (§§ 124.10(d) and 270.41), as well as to the notice of application submittal (§ 124.32(b)). In these cases, the permitting agency will also provide a contact for the permit applicant. When a permit applicant holds a pre-application meeting under § 124.31, the applicant must provide public notice that includes a contact person for the facility. Similarly, the facility must provide public notice, including a contact at the agency and the facility, when requesting a Class 2 or 3 permit modification (§ 270.42 (b) and (c)). Permitting agencies must also provide contacts and telephone numbers (for the facility and the agency) during the trial burn stage at permitted and interim status combustion facilities (§ 270.62(b) and (d); 270.66(d)(3) and (g)).

Description of Activity

The contact person is a designated staff member who is responsible for responding to questions and inquiries from the public and the media. Some organizations may want to consider distributing lists of contact persons who are responsible for answering questions in certain topic areas.

Level of Effort

The amount of time that the contact person spends responding to citizen concerns and questions will depend on the level of community interest in a facility's permit or corrective action activities. A contact person may spend a few hours a day responding to citizen inquiries if there is high to moderate interest in the facility's RCRA activities.

How to Conduct the Activity

For each permit or corrective action, designate a contact who will respond to citizens' requests for information, answer their questions, and address their concerns on any aspect of the permit or cleanup process. Although permitting agencies are only required to designate a contact office, specifying a person and keeping the same person as the contact throughout the process may engender more public trust and confidence.

When a contact person is assigned:

1. **Send out a news release** announcing the contact person to all local newspapers, radio stations, and television stations. Include the contact person's telephone number and mailing address in all news releases, fact sheets, and mailings. Include in publications a self-mailer, which can be a separate flyer or a designated cut-a-way section of the fact sheet that is addressed to the contact person and leaves room for interested people to request more information or

write their comments.

2. **Give the name, address, and phone number of the contact person to all involved staff in your organization and other stakeholders.** Let staff members know that the contact person may be approached for information and that your staff should coordinate the release of information with the contact person. Inform other stakeholders that the contact person will be available for questions and information-sharing.
3. **Keep a log book** of all citizen requests and comments received by the contact person, and how each one was handled. This will help to assure that incoming requests are not filed and forgotten. This log book also provides another record of issues and concerns.

When to Use

A contact person should be designated for every facility at the outset of the RCRA process.

Accompanying Activities

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

Advantages and Limitations

A contact person can assure citizens that your organization is actively listening to their concerns and can provide the community with consistent information from a reliable source.

The contact person may not have the authority to resolve all of the concerns raised by citizens and other stakeholders; his or her role may be limited to providing information and facilitating communication between your staff, citizens, and other stakeholders. If, for any reason, the identity of the contact person changes, it is important to inform the community, media contacts, and other stakeholders about this change quickly. You should designate a replacement as soon as possible.

Checklist for Contact Persons

- Designate a contact person for the facility:

- Notify media of the name, mailing address, and phone number of the contact person
- Inform your staff and other stakeholders who are involved with the facility
- Have contact person maintain a log book of all stakeholder requests and comments received

Telephone Contacts

Regulatory Requirements

None.

Description of Activity

Telephone contacts can be used to gather information about the community and to update State and local officials and other interested parties on the status of permitting or corrective action activities. See the section on “Surveys and Telephone Polls” earlier in this Chapter for related activities.

Level of Effort

Telephone contacts can be a time-intensive activity, depending on the nature of the call. Allow several hours per call when gathering information.

How to Conduct the Activity

In making telephone contacts:

1. **Know exactly what information to request or give out.** Plan carefully what you want to say or what information you would like to obtain from these individuals. Refer to the section on “Community Interviews” earlier in this chapter for information on how to conduct these interviews.
2. **Conduct telephone calls and take notes for your files.**

When to Use

Telephone contacts may be used:

- C In the early stages of the RCRA actions to identify key officials, citizens, and other stakeholders who have a high interest in the facility;
- C To gather information when face-to-face community interviews are not possible;
- C When new and time-sensitive material becomes available; and
- C When there is a high level of community interest in the facility, and it is important to keep key players informed.

Accompanying Activities

Telephone contacts are usually made to arrange or conduct community interviews, develop **mailing lists** and arrange for other public participation activities such as **news briefings**, **informal meetings**, and **presentations**.

Advantages and

Telephone calls can be an inexpensive and expedient method of acquiring

Limitations

initial information about the facility. Once the initial information has been gathered, telephone contacts are a quick means of informing key people about facility activities and for monitoring any shifts in community concerns.

Residents initially may feel uncomfortable discussing their concerns and perceptions over the telephone with a stranger. Once residents have met your staff in person, however, they may be more open and willing to discuss their concerns during follow-up telephone calls.

Checklist for Telephone Contacts

Initial telephone contacts:

- Identify individuals to contact:
 - State officials
 - Local officials
 - Regulatory agency officials
 - Concerned citizens
 - Media
 - Environmental groups, civic organizations, public interest groups
- Prepare information to discuss on telephone
 - Prepare questions for individuals to answer
 - Prepare information that you can give them
- Keep a log book of information received/given

On-going contacts:

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

Telephone Hotlines

Regulatory Requirements

None.

Description of Activity

A hotline is a toll-free (or local) telephone number people can call to ask questions and obtain information promptly about RCRA activities. Some hotlines allow people to order documents.

Level of Effort

The amount of time spent on the telephone hotline responding to citizen concerns and questions will depend on the level of concern the community has regarding the facility's permit or corrective action activities. You may spend several hours a day responding to inquiries if there is high to moderate interest in the facility's RCRA activities.

How to Conduct the Activity

To install a telephone hotline, either as a semi-permanent fixture (available throughout the permit review or corrective action process) or as a temporary measure (installed at the time of major community feedback, such as the public comment period):

1. **Assign one or more staff members** to handle the hotline calls. Consider installing more than one line to minimize busy signals. If staff are not available throughout the day, install an answering machine directing people to leave their name, number, and brief statement of concern, and informing them that someone in your organization will return their call promptly. If a voice mail system is available, provide information on commonly requested information such as meeting dates and locations and the permit status. Check the answering machine for messages at least once a day. If the level of concern is high, check for messages more frequently.
2. **Announce the telephone hotline** in news releases to local newspapers, radio stations, and television stations, and in fact sheets, publications, and public notices.
3. **Keep a record of each question**, when it was received, from whom, and how and when it was answered. All questions and inquiries should be responded to promptly (within 24 hours) if an answer cannot be given immediately. Be diligent in following up requests for information and tracking down accurate, direct responses.

When to Use

A telephone hotline may be used:

- c When community interest or concern is moderate to high;

- C When emergencies or unexpected events occur, or when a situation is changing rapidly;
- C When there is a high potential for complaints (e.g., about dust or noise);
- C Where literacy rates are low and written information must be supplemented; and
- C Where the community is isolated and has little opportunity for face-to-face contact with project staff (e.g., rural areas, areas far from Regional offices).

Accompanying Activities

The hotline can supplement all other public participation activities.

Advantages and Limitations

A hotline can provide interested people with a relatively quick means of expressing their concerns directly to your organization and getting their questions answered. This quick response can help reassure callers that their concerns are heard. A telephone hotline also can help monitor community concerns. A sudden increase in calls could indicate that additional public participation efforts may be warranted.

You must respond quickly to questions or concerns; otherwise callers may become frustrated. If the number of calls is large, responding quickly to each inquiry could prove burdensome to your staff. Furthermore, dialing a hotline number and receiving a recorded message could irritate or alienate some members of the public.

Checklist for Telephone Hotlines

- Determine need for telephone hotline
- Identify staff responsible for answering calls
 - Have staff maintain a log of all calls and responses
- Install telephone hotlines/answering machines
- Notify interested people about the hotline
 - Public notice
 - Fact sheet
 - Mailing to facility mailing list
- Coordinate staffing of hotline
- Follow-up on calls to hotline

On-Scene Information Offices

Regulatory Requirements

None.

Description of Activity

An on-scene information office is a trailer, small building, or office space on or near the facility site, depending on what is more convenient and accessible for the affected community. The office is staffed by a full-time or part-time person(s) who responds to inquiries and prepares information releases.

Level of Effort

An on-scene information office is a time-intensive activity. You may have staff in the office up to 40 hours a week. Short Cut: Hire a contractor to staff the office; however, always ensure that a representative is there for some specified period during the week.

How to Conduct the Activity

To provide an on-scene information office:

1. **Establish the office.** You may have to rent a trailer, arrange with the owner of the facility to designate space in the facility, or rent office space in a town to be used as an office and launching area. If you will be establishing the office off-site, then you should find an area in the vicinity of the facility or in the nearest town or village.
2. **Install a telephone** and an answering machine to respond to inquiries and publicize the number in local newspapers and your public participation publications.
3. **Assign someone to staff the office.** Establish **regular** hours, including some during the weekend and weekday evenings. Publicize the trailer's hours and the services it offers.
4. **Equip the office with the same materials normally contained in an information repository, if possible.** At a minimum, include key documents and summaries of other documents that are not available. Provide a copy machine so that the public can make copies of documents in the information repository.

When to Use

An on-scene information office may be used:

- C When community interest or concern is high;

- C During corrective actions;
- C When cleanup involves complex technologies or processes;
- C When the community perceives a high level of risk to health;
- C When activities may disrupt the area surrounding the facility (e.g., traffic patterns); and
- C When the area near the facility is densely populated.

Accompanying Activities

The on-scene staff person can conduct **meetings** and **question and answer sessions** to inform citizens about the status of the corrective actions or other facility operations. Staff may also prepare and distribute **fact sheets** and **newsletters** to local residents, conduct **facility tours**, and support the **telephone hotline**. With the **telephone contacts** they make, they can add to and update **mailing lists** and revise **public participation plans**. An on-scene information office may also be a good location for the **information repository**.

Individuals staffing an on-scene information office for an extended period of time will necessarily have a special role in the community. Involvement in other public participation activities may represent a large part of their function. In addition to distributing information to local residents, on-site staff may be responsible for maintaining data bases of residents' addresses, the status of access to property, and a daily log of inquiries. It is important that on-site staff monitor public perceptions and concerns daily. On-scene staff often can make useful recommendations regarding stakeholder concerns. Finally and perhaps most importantly, on-site staff members will frequently serve as a liaison with the public.

Advantages and Limitations

An on-scene information office can be an effective activity for ensuring that other stakeholders are adequately informed about permitting activities and that their concerns are addressed immediately.

An information office can be very expensive since it requires, at a minimum, a part-time staff person and a telephone. Hence, it should be used only when community concerns are currently high or may be high in the future.

Checklist for On-Scene Information Offices

- Determine need for an on-scene information office
- Identify staff to work in information office
- Rent a trailer or office space for the information office
- Equip the office with a telephone, office equipment (i.e., copier), and all materials contained in an information repository.
- Notify interested people of availability of on-scene information office
 - Public Notice
 - Fact sheet
 - Mailing to facility mailing list
- Maintain on-scene information office
 - Have staff conduct the following:
 - Maintain the mailing list
 - Review media coverage
 - Respond to calls from citizens and stakeholder groups

Question and Answer Sessions

Regulatory Requirements

None.

Description of Activity

A question and answer session makes knowledgeable staff available to stakeholders to discuss permitting and corrective action issues. Question and answer sessions typically accompany a presentation, briefing, or meeting. Anyone at the event who needs more information will have the opportunity to speak with officials after the event. These sessions can be informal or formal.

Level of Effort

Answering questions will add a small amount of staff time to other public participation activities.

How to Conduct the Activity

To conduct a question and answer session:

- 1. Announce that someone will be available for questions after the event.** Pick an area where people can meet a knowledgeable staff person for questions and answers.
- 2. Be responsive, candid, and clear.** Ensure that all questions are answered. If staff cannot answer the question on the spot, they should not be afraid to say “I don’t know” and offer to answer the question after getting more information. The staffer should write down the question, discuss it with other staff, and respond -- as soon as possible -- by phone or letter. Try to avoid using jargon that people will not understand.
- 3. Consider brainstorming ahead of time to develop potential questions and to prepare responses.**

When to Use

Question and answer sessions are appropriate whenever people at an event need more information or the presenting organization needs more feedback. Question and answer sessions are also appropriate when people may feel more comfortable asking questions in a one-on-one situation. If a particular issue, raised by one person at a meeting, is preventing other issues from making the floor at a meeting, you may want to offer to discuss the issue one-on-one after the meeting.

Accompanying Activities

Hold question and answer sessions after **exhibits, presentations, meetings, facility tours**, or on **observation decks**. Some events, such as **open**

houses, have built-in question and answer sessions. In responding to inquiries, you may want to provide written information, such as **fact sheets**, or refer the questioner to a **contact person**.

Advantages and Limitations

Question and answer sessions provide direct communication between your organization and citizens. They are a useful, easy, and inexpensive way of providing one-on-one explanations in an informal setting. One-on-one discussions may attract people who are intimidated from raising issues during a meeting. Such interactions may also increase public comfort and trust in your organization.

Citizens may not be pleased if you cannot answer a question on the spot; they will certainly not be pleased if your response is slow. Be sure to respond to all unanswered questions as soon as you can.

Checklist for Question and Answer Sessions

- Brainstorm potential questions and prepare responses
- If you are planning a Q&A session after a meeting or other event, let people know where it will be held by mentioning it during the meeting
- Be candid and avoid jargon in your answers. If you cannot answer a question, take the questioner's phone number or address and respond to the question as soon as you can.

Information Tables

Regulatory Requirements

None.

Description of Activity

Information tables are simple public participation tools that you can use to interact with interested stakeholders. An information table consists of a table or booth set up at a meeting, hearing, or other event (e.g., a community fair or civic gathering). It is staffed by at least one member of your organization who is available to answer questions. Pamphlets, fact sheets, and brochures are available on the table, along with a sign-up sheet for interested people to add their names to the facility mailing list.

Level of Effort

This activity is time-intensive, with at least one staff person staying at the table during the entire event. The information table is less of a drain on other resources since the materials should already be available.

How to Conduct the Activity

To prepare for an information table:

1. **Learn from community interviews which local events are most frequented by citizens during the year.**
2. **Decide whether the table will be sufficient to address community concerns.** The information table may not be effective in highly-charged environments.
3. **Set up the table.** Include important fact sheets, answers to common questions, general descriptions of the RCRA program, contact names, and hotline numbers. Allow people to sign up for the facility mailing list. Use **exhibits** if appropriate.

When to Use

Use information tables when:

- C You need to provide a feedback loop after a public event;
- C The RCRA activity has raised significant public interest or technical issues may raise many questions among the public;
- C You are gathering names for the facility mailing list;
- C A local event, where tables are available, will attract a significant portion of the community.

Information tables may be useful in connection with a **public hearing** or

Accompanying Activities

meeting. EPA recommends using information tables as part of **availability sessions** and **open houses**. **Fact sheets, newsletters, project reports** and other information should be available at the table. People who come to the table should have the opportunity to sign up for the **mailing list**. **Exhibits** and diagrams can be helpful for explaining the process or technical issues. Provide the name of a **contact person** (or a list of contact people) for interested people to take with them. Information tables provide a good opportunity to distribute questionnaires and **surveys**.

Advantages and Limitations

An information table can provide a feedback loop that complements other events in the permitting process. Information tables at availability sessions and open houses can provide a comfortable way for people to approach project staff and ask questions. At county fairs or other events, they allow project staff to interact with the community and spread information about important permitting activities.

People who approach the information table may ask questions that staff cannot answer. To avoid any negative reactions, staff should record the question and contact the person with an answer by a certain date.

Checklist for Information Tables

(As appropriate):

- Determine a location for the information table
 - Facility name, location _____
 - Contact person at location _____
- Confirm availability of location for information tables
- Discuss guidelines for information tables with the event planner
- Assign staff to cover the information table
- Collect materials for the information table
 - Table and chairs
 - Table skirt
 - A sign that identifies your organization
 - Exhibits, time-lines, surveys
 - Mailing list sign-up sheet
 - Name tags for your staff
 - Pens and notepads
 - Fact sheets, reports, pamphlets, and other documents that people can take
 - Business cards with the name of a contact person at your organization
 - Reference documents for your use
- Keep a record of comments and questions for your files

Informal Meetings with Other Stakeholders

Regulatory Requirements

None. (This type of informal meeting is distinct from the pre-application meeting required under § 124.31 (and discussed under “Public Meetings” in this Chapter) which EPA has stated should be an informal discussion open to the public).

Description of Activity

Informal meetings are meetings your organization holds with individual stakeholder groups that have particular interest in a permitting activity. These meetings are held in an informal setting, such as a resident's home or a local meeting place. Informal meetings allow interested citizens and local officials to discuss issues and concerns. Staff responsible for the facility receive first-hand information from interested community members, special interest groups, and elected officials, while citizens have the opportunity to ask questions and explore topics of interest regarding the facility in question.

Public meetings, which are distinct from **public hearings**, are a special form of informal meetings where the entire community can participate. Public meetings allow all interested parties to discuss issues regarding the facility with each other as well as the regulatory agency. Public meetings can be especially useful for allowing discussion before a public hearing and can be scheduled immediately before the hearing. Comments made during a public meeting do not become part of the official administrative record as they do during a hearing. (See the sections on “Public Meetings” and “Public Hearings” in this Chapter for more details.)

Level of Effort

An informal meeting will take two to three days to plan and conduct. This includes about three hours to set up and schedule the meeting, five hours for preparation, four hours to conduct the meeting, and four hours to follow up on any issues raised during the meeting.

How to Conduct the Activity

To conduct informal meetings:

1. **Identify interested citizens and officials.** Contact each group and local agency that is directly affected by the facility, or contact individuals who have expressed concern regarding the facility. Interested citizen/public interest groups may also want to contact the agency or the facility to set up a meeting. Offer to discuss the permit or corrective action plans at a convenient time, taking into consideration the following elements that will affect levels of community interest and concern: for facilities at which emergency

actions are required, schedule the meeting after the agency has accurate information to share with the participants; for a corrective action, determine first when community concerns may be highest and schedule meetings accordingly. For instance, it may be appropriate to hold an informal meeting when the risk assessment report is released. Holding informal meetings early in the permit process can help prevent potentially volatile situations from developing by providing citizens with one-on-one attention.

2. **Limit attendance.** To increase effectiveness, restrict attendance to between five and 20 individuals or specify attendance by invitation only. The larger the group, the less likely it is that some people will candidly express their concerns. It is difficult to establish rapport with individuals in a large group. If a greater number of stakeholders are interested, you should schedule additional small meetings. If a greater number of participants appears than are expected at an informal meeting, divide the group into smaller groups to allow more one-on-one discussion to take place.
3. **Select a meeting date, time, and place convenient to attendants.** The meeting place should have chairs that can be arranged into a circle, or some other informal setting conducive to two-way communication. A private home, public library meeting room, community center, or church hall may be more likely to promote an exchange of ideas than a large or formal public hall. When scheduling the meeting, make sure that the date and time do not conflict with other public meetings that citizens may want to attend, such as town council meetings, or with holidays or other special occasions. Permitting agencies should be sure that the meeting location does not conflict with state "sunshine laws." In selecting a public meeting place, be attentive to the special needs of handicapped individuals (e.g., access ramps or elevators). Be aware that meetings will frequently have to be scheduled during evening hours to accommodate work schedules.
4. **Begin the meeting with a brief overview.** This short presentation should include a summary of the permit review schedule and how stakeholders can be involved in the decision. These opening remarks should be kept brief and informal (no more than a few minutes) to allow maximum opportunity for open discussion with meeting attendees. Cover whatever topics the public is interested in discussing, these may include:
 - C Extent of the activity;
 - C Safety and health implications;
 - C Factors that might speed up or delay the regulatory and technical process; and

- C How community concerns are considered in making decisions on permits and corrective actions.
5. **Identify the regulatory decision-makers** (major agencies and individuals responsible for enacting and enforcing RCRA regulations.) Citizens and other stakeholders will then know where to direct further questions or voice new ideas or suggestions.
 6. **Gear the discussion to the audience.** Be sensitive to the level of familiarity that the citizens have with the more technical aspects of the activities discussed.
 7. **Listen and take notes.** Find out what the meeting attendees want done. Some concerns may be addressed by making minor changes in a proposed action. Discuss the possibility for accommodating these concerns or explain the reasons why citizen requests appear to be unworkable or conflict with program or legal requirements.
 8. **Promptly follow-up on any major concerns.** Stay in touch with the groups and contact any new groups that have formed, so that new or increasing concerns can be dealt with before problems develop.
 9. **Write up brief minutes for your files.**

When to Use

Informal meetings can be used:

- C When there is widely varying level of knowledge among community members;
- C When the level of tension is high and large meetings may not be appropriate;
- C When the community needs more personal contact to have trust in your organization or the process;
- C When groups want to discuss specific issues in which the community as a whole isn't interested.

Accompanying Activities

Community interviews or calls to **telephone contacts** usually precede these meetings, since it is during these interviews that concerned citizens groups are identified and contacted. Possible meeting locations also can be identified during the community interviews.

Distributing **fact sheets** at these meetings also may be appropriate, depending on when they are held.

Advantages and

The primary benefit of informal meetings is that they allow two-way interaction between citizens, local officials, the permitting agency, and the

Limitations

facility. Not only will citizens be informed about the developments, but the facility owner/operator and officials responsible for the site can learn how citizens view the site.

Informal meetings also add a personal dimension to what might otherwise be treated as a purely technical problem. Informal meetings offer citizens, facility staff, and officials a chance to increase their familiarity with how the process works, increase awareness of each other's point of view, and actively promote public participation. Informal meetings also may diffuse any tension between stakeholders.

Some groups may perceive your efforts to restrict the number of attendees as a "divide and conquer" tactic to prevent large groups from exerting influence on potential actions and to exclude certain individuals or groups. One way to prevent this perception is to hold informal meetings with those organizations who express concern about being left out of the process.

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

Checklist for Informal Meetings with Other Stakeholders

- Determine purpose of meeting
 - Determine number of attenders: _____
- Determine location(s) for meeting (complete for each available facility)
 - Facility name, location _____
 - Contact person at facility _____
 - Phone number _____
 - Occupancy size _____
 - Handicap accessibility _____
 - Features:
 - Restrooms
 - Public telephones
 - Adequate parking
- Determine date, time of meeting:
 - Date: _____
 - Time: _____
- Identify interested citizens and officials
 - Contact citizen groups, invite a representative to the meeting
- Prepare meeting agenda
 - Overview of project
 - Identify decision-makers
 - Allow time for discussion, question/answers
- Follow-up

Public Meetings

Regulatory Requirements

The pre-application meeting that a permit applicant is required to conduct under § 124.31 is a type of public meeting, though it need not be restricted to the type of meetings described in this section. In some cases, different meeting formats will fulfill the requirements (see “The Pre-Application Meeting” in Chapter 3). Permit holders are also required to hold public meetings when requesting a class 2 or 3 permit modification under § 270.42(b) or (c).

Description of Activity

Public meetings are not public hearings. **Public hearings** are regulatory requirements that provide a formal opportunity for the public to present comments and oral testimony on a proposed agency action. Public meetings, on the other hand, are less formal: anyone can attend, there are no formal time limits on statements, and the permitting agency and/or the facility usually answers questions. The purpose of the meeting is to share information and discuss issues, not to make decisions. Due to their openness and flexibility, public meetings are preferable to hearings as a forum for discussing complex or detailed issues.

Public meetings sometimes complement public hearings. Public meetings can be especially useful for allowing discussion before a public hearing and can be scheduled immediately before the hearing (**workshops**, see below, can also fulfill this need). Comments made during a public meeting do not become part of the official administrative record as they do during a hearing. Public meetings provide two-way communication, with community members asking questions and the permitting agency providing responses. Unlike the activity in the section above (“Informal Meetings with Other Stakeholders”), public meetings are open to everyone.

While public meetings are usually called and conducted by the permitting agency (e.g., before public hearings) or the facility (e.g., during permit modification procedures), it is common for civic, environmental, and community organizations to hold public meetings where ideas can be discussed freely.

EPA’s regulations require several specific public meetings. Section 124.31 calls on prospective permit applicants to announce and hold an informal public meeting prior to submitting a permit application. The permitting agency is not required to attend the meeting. See Chapter 3 for more information about the pre-application meeting. Permittees are required to hold public meetings when requesting a class 2 or 3 modification under § 270.42.

Level of Effort

While a public meeting should require less planning than a public hearing, it may take several days to a week to arrange the location and logistics. See

the “Public Notice” section above in this chapter to determine the resources you will need to announce the meeting. Other activities include preparing and copying materials for distribution. You may be able to distribute some of the same materials at the meeting and the public hearing (if applicable).

How to Conduct the Activity

To hold a public meeting, you will follow many of the same steps as for a public hearing (see Chapter 3 for specific guidance regarding pre-application meetings under § 124.31):

- 1. Anticipate the audience and the issues of concern.** Identify the audience's objectives, expectations, and desired results. With this information you will know what topics to spend time on and what materials and exhibits to provide. If a part of your audience does not speak English, arrange for a translator.
- 2. Schedule the meeting location and time** so that citizens (particularly handicapped individuals) have easy access. Ensure the availability of sufficient seating, microphones, lighting, and recorders. Hold the meeting at a time and place that will accommodate the majority of concerned citizens.
- 3. Announce the meeting** at least 30 days before the meeting date. Provide notice of the hearing in local newspapers, broadcast media, signs, and mailings to interested citizens (you can find requirements for pre-application meetings in § 124.31(d)). Choose communication methods that will give all segments of the community an equal opportunity to participate. Use multilingual notices where appropriate. Make follow-up phone calls to interested parties to ensure that the notice has been received. Provide the name of a contact person.
- 4. Make relevant documents available for public review.** If you are a permittee requesting a class 2 or 3 permit modification, you must place a copy of the modification request and supporting documents in a location that is publicly accessible and in the vicinity of the facility (see § 270.42(b)(3) and (c)(3)). Announce the location in the public notice for the meeting. For other public meetings, you should consider making important documents available prior to the meeting.
- 5. Provide an opportunity for people to submit written questions and comments.** Not all individuals will want, or be able, to attend the meeting. Announce in public notices and mailings that written comments and questions can be submitted to the contact person. You may want to raise some of these written comments and questions at the public meeting.
- 6. Post a sign-up sheet** so that attendees can voluntarily provide their names and addresses. If you are a permit applicant holding a pre-application meeting under § 124.31, you can use this sheet to produce

and submit an attendee list as part of your part B application (as required under § 124.31© and § 270.14(b)(22)). The permitting agency will use the attendee list to help generate the facility mailing list.

- 7. Take notes** about the major issues of concern and **prepare a summary of all oral and written comments.** If you are a permit applicant holding a pre-application meeting under § 124.31, you must submit a summary of the meeting as part of your part B permit application (as required under § 124.31© and § 270.14(b)(22)). For other public meetings, you should make a summary available for public review and announce where it is available.

When to Use

Some permitting agencies have had success in holding public meetings prior to a public hearing. Public hearings are often “staged” events with little opportunity for new input or discussion. Some participants have criticized them as opportunities for grandstanding. Public meetings, on the other hand, allow interested parties to ask questions and raise issues in an informal setting. A public meeting can provide a useful means of two-way communication at any significant stage during the permitting or corrective action process.

If you are a permit applicant required to hold a pre-application meeting under § 124.31, the public meeting format is one option you can use. Refer to the discussion in Chapter 3 for more information.

Accompanying Activities

Provide **public notice** of the meeting and designate a **contact person.** **Fact sheets** and **exhibits** can inform people about permitting issues at public meetings. You may also consider establishing an **information table** where people who may feel uneasy speaking during the meeting can ask questions and pick up materials. Another option is to make your staff available after in the meeting, in the same manner as an **availability session** or an **open house.** **Information repositories** can complement the meeting by making important documents available for public review.

Advantages and Limitations

A public meeting provides a forum where interested people can ask questions and discuss issues outside of the formality of a public hearing. They are flexible tools that are open to everyone.

Some citizens may be reluctant to speak up at public meetings. You can address this concern by providing one-on-one access to your staff via an information table or an open house, or by scheduling informal meetings. Public meetings, like public hearings, could become adversarial.

Checklist for Public Meetings

(As applicable):

- Determine location for public meeting
 - Facility name, location _____
 - Contact person at location _____
 - Phone number _____
 - Occupancy size _____
 - Handicap accessibility _____
 - Features:
 - Restrooms
 - Public telephones
 - Adequate parking
 - Security
- Determine date, time of public meeting:
 - Date: _____
 - Time: _____
- Confirm availability at location (if location is not available, determine new location or new date)
- Announce the public meeting. (Pre-application meetings under § 124.31 must be announced through a display advertisement in a newspaper of general circulation, over a broadcast medium, and through a sign posted on or near the site of the facility or proposed facility).
 - Contact local officials
 - Notify key agencies and other stakeholder groups
- Provide an opportunity, in the notice, for people to submit written comments
- Determine whether a translator is needed
- Determine presentation requirements (depending upon the specific requirements of your presentation, some of these items may be optional)
 - Electrical outlets
 - Extension cords

Checklist for Public Meetings (continued)

- Accessible lighting control panel
- Podium
- Stage
- Table(s) and chairs for panel
- Table skirt
- Sign-up sheet for the mailing list. (If you are conducting a pre-application meeting under § 124.31, you are required to provide a sign-up sheet or another means for people to add their names to the facility mailing list. You must provide the sheet to the permitting agency as a component of your part B permit application).
- Water pitcher and glasses
- Sound system
- Microphones (stand, tabletop)
- Cables
- Speakers
- Technician/engineers available for hearing
- Visual aids
- Slides
- Slide projector
- Extra projector bulbs
- Flip chart
- Flip chart markers
- Overhead transparencies
- Overhead machine
- VCR and monitor
- Screen
- Table for projection equipment

Checklist for Public Meetings (continued)

- Security personnel (if necessary)
- Table for meeting recorder (who will produce a meeting transcript or summary)
- Registration table
- Registration cards
- Writing pens
- Signs
- Miscellaneous supplies:
 - Scissors
 - Tape (masking, transparent)
 - Thumbtacks
 - Public information materials (fact sheets, etc.)
- Prepare meeting agenda. (Facility owners/operators conducting a pre-application meeting under § 124.31 should refer to chapter 3 of this manual for information on the subjects they should cover during the meeting).
- Arrange contingency planning. Decide what to do if:
 - ⌄ more people show up than capacity
 - ⌄ equipment malfunctions
- Prepare the meeting summary/transcript and make it available to the public. (Facility owners/operators conducting a pre-application meeting under § 124.31 must provide the summary to the permitting agency as a component of the part B application).

Public Hearings

Regulatory Requirements

Public hearings are required if requested (§ 124.11) by the public during the draft permit stage, during an agency-initiated modification under § 270.41, or a Class 3 permit modification under § 270.42(c)(6). The agency will also hold a public hearing at the draft permit stage when there is a high level of public interest (based on requests), or when the agency thinks that the hearing might clarify relevant issues (§ 124.12). The agency will also hold a hearing if these conditions apply during closure or post-closure at interim status facilities (§§ 265.112(d)(4) and 265.118(f)).

Description of Activity

Public hearings provide an opportunity for the public to provide formal comments and oral testimony on proposed agency actions. Occasionally the agency will present introductory information prior to receiving comments. All testimony received becomes part of the public record.

In contrast to a public hearing, a **public meeting** (see above in this Chapter) is intended to provide two-way discussion and is not always recorded for the public record.

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

Level of Effort

Several days to a week may be required to arrange for a public hearing, including the location, hearing logistics, and agenda preparation. Other activities include preparing the notice for the hearing, conducting a dry-run of the hearing, and preparing and copying materials.

How to Conduct the Activity

To conduct public hearings:

- 1. Anticipate the audience and the issues of concern.** Identify the audience's objectives, expectations, and desired results. With this information you can determine whether the hearing is likely to be confrontational, or if the audience will need more detailed information about a permit or corrective action. If a part of your audience does not speak English, arrange for a translator.
- 2. Schedule the hearing location and time** so that citizens (particularly handicapped individuals) have easy access. Identify and follow any procedures established by the local and state governments for public hearings. Ensure the availability of sufficient seating, microphones, lighting, and recorders. Hold the hearing at a time and place that will accommodate the majority of concerned citizens.
- 3. Arrange for a court reporter** to record and prepare a transcript of

the hearing.

4. **Announce the public hearing** at least 30 days before the hearing date. Provide notice of the hearing in local newspapers and mailings to interested citizens. Under § 124.10(b), you may combine the hearing notice with the draft permit notice. Make follow-up phone calls to interested parties to ensure that the notice has been received.
5. **Provide an opportunity for people to submit written comments.** Not all individuals will want to provide oral testimony. Publicize where written comments can be submitted and how they will be reviewed.
6. **Prepare a transcript of all oral and written comments.** Announce where the transcript will be available for public review.

The following are general tips on conducting public hearings:

Be clear and up front with meeting format and logistics. Public hearings are very limited in the amount of information that is exchanged and the extent to which responses are given. Participants should not expect the question and answer format found in public meetings.

Establish meeting format. Public hearings should be managed by a hearings officer or moderator, whose responsibility it is to ensure that all comments are taken for the public record.

- Establish a speakers list. A moderator should develop a list of speakers from the list of respondents to public notices (e.g., those responding to a notice saying, "those wishing to be placed on the list of commenters should contact ...") and/or by asking those wishing to speak to identify themselves on a sign-up list on the way into the hearing. While limiting commenters to a pre-developed list may be inappropriate, such lists serve as valuable management tools in bringing forward commenters in an orderly and expeditious manner.
- Establish time limits for commenters. A moderator should establish a set time limit for an individual to make comments. Typically the limit is five minutes or less. Those wishing to make more detailed comments should be encouraged to submit their comments in writing.
- Establish time limits (if any) for the hearing. Based on your speakers list, and assuming a limited speaking time for individual commenters, the moderator may establish time limits (if any) on the hearing. Most hearings last between two and five hours. However, for very controversial topics, public hearings have been known to extend over a period of days.
- Interacting with commenters. Because comments become part of the public record, the moderator should ask all commenters to give their

names and addresses. If there is doubt about spelling, the moderator should ask the commenters to spell names or street names. In cases where there may be litigation, it is common practice to further request that anyone legally representing any party as part of the permit process or decision identify that fact.

When giving the floor to a commenter, the moderator should also note the person's name, so that he/she can thank the commenters by name at the conclusion of the comment (e.g., "Thank you for those comments, Ms. Smith.").

- Speakers from the permitting agency. There are no set rules for who should participate or speak at a public hearing. In the spirit of the law, the participants from the agency should be those who will be most involved with making the actual decision -- that is, the permit writer, and senior staff who will weigh all information, including these public comments, prior to reaching a final decision. Speakers from the agency should be limited to explaining briefly the decision being made (e.g., "We are here to discuss a proposed modification to the facilities permit to conduct the following activities...").

When to Use

- C When requested by a member of the public during a public comment period on a permit, closure, or corrective action. Once requested, hearings require a minimum 30-day advance notice.
- C Public hearings are usually conducted during the public comment period following the issuance of a draft permit, major permit modification, or at the selection of a proposed corrective measure.
- C Public hearings may be appropriate at other times during the process, especially if the level of community concern warrants a formal record of communication.

Accompanying Activities

Public notices distributed to the **mailing list** and published in local newspapers are used to announce hearings to the public. If a hearing is held to solicit comments on either a draft permit decision or proposed corrective measure, the agency must prepare a **response to comments**. The response to comments documents all submitted public comments and includes the agency's responses. An educational **workshop** or **public meeting** may be useful shortly before the public hearing to explain key issues of the proposed decision or corrective measure and respond to citizen concerns.

Advantages and Limitations

A hearing provides a record of communication so citizens can be sure that their concerns and ideas reach the permitting agency. Public hearings generally should not serve as the only forum for citizen input. They occur at the end of a process that should have provided earlier public access to information and opportunities for involvement. Earlier opportunities

should answer most questions and arguments that are based on curiosity, emotion, sensationalism, or a lack of knowledge about the situation, thereby freeing the hearing for factually-based questions. Meet citizens' needs for information before a formal hearing with techniques such as fact sheets, small-group meetings, and one-on-one briefings.

The formality of a public hearing often creates an atmosphere of "us versus them." There may be little opportunity to interact with citizens. This may be frustrating to some; however, informal gatherings and question and answer sessions are often effective ways to interact with the public on an interpersonal level. A variety of informal techniques, ranging from talking to citizens groups to holding workshops, are discussed throughout this chapter.

Public hearings can easily become adversarial. One way to avoid hostility or confrontation is to make sure the community has had an opportunity to express concerns in a less formal setting prior to the hearing. More frequent contact with concerned citizens before a formal public hearing will reduce the likelihood of a confrontation.

Checklist for Public Hearings

(As appropriate):

- Determine location(s) for public hearing
 - Facility name, location _____
 - Contact person at facility _____
 - Phone number _____
 - Occupancy size _____
 - Handicap accessibility _____
 - Features:
 - Restrooms
 - Public telephones
 - Adequate parking
 - Security
- Determine date, time of public hearing:
 - Date: _____
 - Time: _____
- Confirm hearing facility availability (if facility not available, determine new facility or new hearing date)
- Announce the public hearing through a public notice in at least one newspaper 30 days prior to the hearing
 - Contact local officials
 - Notify key agencies
- Determine presentation requirements (depending upon the specific requirements of your presentation, some of these items may be optional)
 - Electrical outlets
 - Extension cords
 - Accessible lighting control panel

Checklist for Public Hearings (continued)

- Podium
- Stage
- Table(s) and chairs for panel
- Table skirt
- Water pitcher and glasses
- Sound system
- Microphones (stand, tabletop)
- Cables
- Speakers
- Technician/engineers available for hearing
- Visual aids
- Slides
- Slide projector
- Extra projector bulbs
- Flip chart
- Flip chart markers
- Overhead transparencies
- Overhead machine
- VCR and monitor
- Screen
- Table for projection equipment
- Security personnel

Checklist for Public Hearings (continued)

- Table for court reporter
- Registration table
- Registration cards
- Writing pens
- Signs
- Miscellaneous supplies:
 - Scissors
 - Tape (masking, transparent)
 - Thumbtacks
 - Public information materials (fact sheets, etc.)
- Prepare meeting agenda
- Determine hearing participants/speakers
 - _____
 - _____
 - _____
 - _____
- Prepare opening comments for hearing officer
- Arrange contingency planning, decide what to do if:
 - more people show up than capacity
 - the crowd becomes disruptive
- Coordinate with public involvement coordinator on notification of the media
- Set date and time for debriefing following the hearing

Availability Sessions/Open Houses

Regulatory Requirements

None. (In some cases, an availability session or an open house may fulfill the pre-application meeting requirement under § 124.31, as long as the meeting achieves the standards of that section. See “The Pre-Application Meeting” in Chapter 3 for more detail.)

Description of Activity

Availability sessions/open houses are informal meetings in a public location where people can talk to involved officials on a one-to-one basis. The meetings allow citizens to ask questions and express their concerns directly to project staff. This type of gathering is helpful in accommodating individual schedules.

Availability sessions and open houses can be set up to allow citizens to talk with representatives from all interested organizations. Citizens can find out more about all sides of a permitting issue through conversations with agency officials, facility staff, and representatives of involved interest groups and civic organizations.

Level of Effort

An availability session/open house may take two to three days to plan and conduct. Allow sufficient time to select a date, time, and location for the meeting, plan for the session, prepare supporting materials, and meet with and brief your staff who will attend the meeting. You should plan for about five hours for the actual session.

How to Conduct the Activity

To conduct an availability session/open house:

1. **Select a date, time, and location for the availability session/open house that encourages attendance.** Evening hours usually are preferable. The location should be in an easily accessible building familiar to residents (such as a public library, school, or local meeting room).
2. **Anticipate the number of attenders and plan accordingly.** If a large number of people is expected, consider the possibility of holding two availability session/open houses to enable staff to meet and talk with each attender. Alternatively, you can increase the number of staff or the length of the availability session/open house. As a general rule, planning for one staff member per 15-20 attenders should foster an informal atmosphere for conversation, and thereby avoid the situation where a staff member has to speak to a "crowd."

3. **Develop or gather together appropriate explanatory materials.** These materials may include poster boards, handouts, or fact sheets.
4. **Publicize the availability session/open house at least two weeks ahead of time, if possible.** Send announcements to newspapers, television and radio stations, citizens on the mailing list, and any interested community organizations that publish newsletters.
5. **Ensure that appropriate staff attend,** so that citizens can meet those who will be responsible for facility activities. The staff present should be able to answer both technical and policy questions.
6. **Meet with and brief staff and rehearse for the session.** Anticipate questions that may be asked during the session and prepare answers.

When to Use

An availability session/open house is most appropriate:

- C When scheduling of meetings is difficult because of community members' schedules;
- C When new information is available on several different technical or regulatory issues that would make explaining it in its entirety would be too long for a more formal meeting;
- C When community members have widely varying interests or levels of knowledge;
- C When an informal setting is appropriate to enhance your credibility with the community;
- C When staff is available;
- C When larger crowds will make it difficult for certain members of the public to raise questions; and
- C In some cases, to fulfill the pre-application meeting requirements in § 124.31 (see “Regulatory Requirements” above in this section).

Accompanying Activities

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

Advantages and Limitations

The one-to-one conversations during an availability session/open house can help build trust and establish a rapport between citizens and project staff. An informal, neutral setting will keep officials and the public relaxed and make communications smoother. Citizens can find out more about all viewpoints concerning a permitting action if public interest groups, civic

organizations, agency officials, and facility staff are present at the session.

Planning and conducting an availability session/open house can require a significant amount of staff time. A low turnout may not justify the effort. Hence, community interest in the site should be significant before an availability session/open house is planned.

Checklist for Availability Sessions/Open Houses

(* If you are conducting this activity to fulfill the requirements of § 124.31, the activity must meet the standards of that section. See Chapter 3 for more information).

(As appropriate):

- Determine location(s) for meeting (complete for each available facility)
 - Facility name, location _____
 - Contact person at facility _____
 - Phone number _____
 - Occupancy size _____
 - Handicap accessibility _____
 - Features:
 - Restrooms
 - Public telephones
 - Adequate parking
- Determine date, time of meeting:
 - Date: _____
 - Time: _____
- Prepare draft notice (public notice, flier)
- Coordinate internal review of notice
- Prepare final notice
- Determine what officials will attend availability session/open house
- If applicable, coordinate with other organizations that will be available at the session
- Notify citizens of availability session/open house
 - Direct mailing to citizens on facility mailing list
 - Verify that mailing list is up-to-date
 - Request mailing labels
 - Public notice in local newspaper(s)
- Prepare handouts, other informational material for availability session/open house

Workshops

Regulatory Requirements

None.

Description of Activity

Workshops are seminars or gatherings of small groups of people (usually between 10 and 30), led by a small number of specialists with technical expertise in a specific area. In workshops, participants typically discuss hazardous waste issues where citizens comment on proposed response actions and receive information on the technical issues associated with the permitting process and the RCRA program in general. Experts may be invited to explain the problems associated with releases of hazardous substances and possible remedies for these problems. Workshops may help to improve public understanding of permit conditions or hazardous waste problems at a facility and to prevent or correct misconceptions. Workshops also may identify citizen concerns and encourage public input.

Level of Effort

A one-day workshop may take about three days to a week to plan and execute. Another day will probably be required to follow up on any issues that arise during the workshop.

How to Conduct the Activity

To conduct a workshop:

1. **Determine the focus of the workshop.** Decide what topic or topics will be covered in either one or more workshops. Suggested topics include: purpose of RCRA; description of the permit process or corrective action program; proposed remedies; risk assessment; identified health or environmental problems; and/or method and format for receiving citizen comments on the proposed or ongoing actions. Determine what staff will be needed at each workshop and whether any outside experts will be needed.
2. **Plan the workshop.** Decide ahead of time on a minimum and maximum number of participants. If there are too few, consider holding an informal meeting and postpone the workshop until additional interest develops. Identify a convenient location and time for the workshop, and set a date that does not conflict with other important meetings or interests (for example, town council meetings, high school sporting events).
3. **Announce the workshop** by publishing a notice well in advance (at least 3 weeks) in the local newspapers. Send a notice of workshops with mailings to all citizens on the facility mailing list and distribute posters around town. Send out invitations and registration forms to

concerned citizens. Provide for multiple registrations on each form to accommodate friends who also might be interested in the workshop. Emphasize that the number of participants is limited, and provide a deadline for registration.

When to Use

Workshops are appropriate:

- C When the RCRA process needs to be explained to community members interested in participating in the process;
- C When specific topics needs to be discussed in detail, especially health or risk assessment issues; and
- C When technical material needs to be explained and feedback from the community is important to make sure that citizens understand the material.

Accompanying Activities

Workshops can be conducted before formal **public hearings** or during **public comment periods** to give citizens some ideas on developing and presenting testimony. **Fact sheets** and **exhibits** can complement the workshop.

Advantages and Limitations

Workshops provide more information to the public than is possible through fact sheets or other written materials. Workshops have proven successful in familiarizing citizens with key technical terms and concepts before a formal public meeting. Workshops also allow two-way communication, making them particularly good for reaching opinion leaders, interest group leaders, and the affected public.

If only a limited number are held, workshops can reach only a small segment of the affected population.

When planning a workshop, you should make sure that it is announced in local newspapers, to help ensure that it will be well-attended. In addition, it may be helpful to specifically invite all residents who have expressed an interest in the site.

Checklist for Workshops

(As appropriate):

- Determine purpose of workshop _____
- Determine number of attenders _____
- Plan the workshop
 - Identify topics to be presented
 - Identify agency officials to present topics, handle registration
 - Prepare handouts, other informational materials
- Determine location(s) for workshop (complete for each available facility)
 - Facility name, location _____
 - Contact person at facility _____
 - Phone number _____
 - Occupancy size _____
 - Handicap accessibility _____
 - Features:
 - Restrooms
 - Public telephones
 - Adequate parking
- Determine date, time of workshop:
 - Date: _____
 - Time: _____
- Prepare draft notice announcing workshop (public notice, flier)
- Coordinate internal review of notice
- Prepare final notice

Checklist for Workshops (continued)

- Notify citizens of workshop
 - Direct mailing to citizens on facility mailing list
 - Verify that mailing list is up-to-date
 - Request mailing labels
 - Public notice in local newspaper(s)
- Determine presentation requirements
 - Electrical outlets
 - Extension cords
 - Accessible lighting control panel
 - Window covers
 - Podium
 - Stage
 - Table(s) and chairs for panel
 - Water pitcher and glasses
 - Sound system
 - Microphones (stand, tabletop, lavalier)
 - Cables
 - Speakers
 - Technician/engineers available for hearing
 - Visual aids
 - Slides
 - Slide projector

Checklist for Workshops (continued)

- Extra projector bulbs
- Flip chart
- Flip chart markers
- Overhead transparencies
- Overhead machine
- VCR and monitor
- Screen
- Table for projection equipment
- Registration table
- Registration cards
- Writing pens
- Signs
- Miscellaneous supplies:
 - Scissors
 - Tape (masking, transparent)
 - Thumbtacks
 - Public information materials (fact sheets, etc.)
- Arrange and conduct at least one rehearsal

Attending Other Stakeholder Meetings and Functions

Regulatory Requirements

None. (The permitting agency may need to attend public meetings held by the permittee under § 270.42 in order to respond to public comments on the modification request. Agencies may also want to attend the applicant's pre-application meeting held under § 124.31. See the section on the "Pre-Application meeting" in Chapter 3 for more detail.)

Description of Activity

Permitting agencies, facilities, local governments, environmental organizations, religious and civic groups may all hold meetings or other gatherings during the permitting process. Some may be required by regulation and others may be informational meetings or discussions of important issues. As an involved stakeholder, you can learn more about the views of other stakeholders by attending their meetings. You can join in important discussions and provide information. Some groups may invite you to give a **presentation** or a **briefing**.

Level of Effort

The time you commit to attending other stakeholder meetings or functions will depend on the level of your participation. Meetings can vary in length; your resource commitment will be more substantial if you agree to give a **briefing** or a **presentation** (see those sections of this chapter for more information). You will need a few hours to prepare notes for your file after the meeting.

How to Conduct the Activity

If you decide to attend a meeting, you may want to inform the host organization that you plan to attend the meeting. If you choose to identify yourself at the meeting, be prepared to answer questions. You may want to bring fact sheets or other information you can provide upon request. In any case, be prepared to listen to the discussion and prepare notes for your files.

The host organization may ask you to provide a **briefing** or a **presentation**. See those sections of this chapter for more information.

When to Use

You may want to attend other stakeholders' meetings when the meetings are open and you want to learn more about the views held by other stakeholders. In some cases, a group may invite your organization to attend a meeting to provide input or answer questions. In such cases, you should be prepared to answer questions or present the views of your organization.

If appropriate, you may want to make **fact sheets** available upon request at

Accompanying Activities

the meeting. Provide the name of a **contact person**. If you are representing the permitting agency, let participants know about how to put their names on the facility **mailing list**.

Advantages and Limitations

Attending meetings or functions held by other stakeholders can provide useful insight to other opinions and concerns. This information can help you plan other public participation events and complement data you gather from community interviews.

This activity should not be used in place of informal meetings or other activities that may be more appropriate. If your attendance has the potential to cause problems, make sure to contact the host before the meeting.

Citizen Advisory Groups

Regulatory Requirements

None.

Description of Activity

A Citizen Advisory Group (CAG) provides a public forum for representatives of diverse community interests to present and discuss their needs and concerns with government and/or the facility. Although CAGs may come in many different forms and have different responsibilities and roles, they are generally composed of a board of stakeholders that meets routinely to discuss issues involving a particular facility. The purpose of a CAG is usually to advise a facility owner/operator or the permitting agency on permitting or corrective action activities.

CAGs can be a good way to increase active community participation in environmental decision-making and provide a voice for affected community members and groups. They promote direct, two-way communication among the community, the permitting agency, and the facility.

The make-up and mission of a CAG may vary -- there is no set formula governing the make-up or responsibilities of the group. The best type of CAG to use will depend on the situation. For instance, a citizen organization may create a CAG of affected community members to provide an official voice from the community. Facility owner/operators may create a CAG of affected community members to provide informal or formal advice. A permitting agency may form a CAG that includes stakeholders from the facility, the community, and the agency.

In establishing a CAG, it is important to bear in mind that the size of a group can often have an impact on its effectiveness -- for example, too large of a group can inhibit how efficiently it can work and come to consensus on issues, and too small of a group may not be adequate to represent diverse community concerns.

Forming a CAG does not necessarily mean that there will be universal agreement about permitting or corrective action issues. Nor does having a CAG mean there will be no controversy during the process. However, when decisions made by the facility or the permitting agency differ from the stated preferences of a CAG, the facility or the agency should accept the responsibility of explaining its decision to CAG members.

RCRA regulations do not require the use of advisory groups; however, EPA regulations do contain standards for advisory groups if EPA decides to require them under 40 CFR. These standards are located in 40 CFR 25.7.

Although these standards may not apply to all types of advisory groups used in conjunction with RCRA permitting, they provide useful guidance for agencies, facilities, and public interest groups who may want to use advisory groups. A copy of the part 25 regulations is available Appendix F.

EPA's Office of Emergency and Remedial Response has issued guidance on the use of CAGs at Superfund sites (see Appendix E). Although there are many differences between the Superfund and RCRA programs (most notably that Superfund often deals with abandoned sites while RCRA typically deals with existing or potential facilities), a large part of the Superfund CAG guidance discusses CAG development, membership, and training that may be applicable to some RCRA CAGs. Superfund terminology and process aside, the guidance contains some very useful, concise advice on various aspects of CAGs.

Although CAGs are a useful tool in many situations, they may not always be appropriate. See the section "When to Use" below for a list of factors you should consider before forming a CAG.

Level of Effort

CAGs can be a time-consuming and expensive endeavor. Membership selection, meeting preparation and follow-up, information dissemination, and training all take a lot of resources. Unlike the Superfund program, agencies that implement RCRA cannot provide Technical Assistance Grants (TAGs) to help defray the costs of CAGs.

How to Conduct the Activity

See EPA's *Guidance for Community Advisory Groups at Superfund Sites* and 40 CFR § 25.7 (in Appendices E and F) for information on how to set up CAGs. Keep in mind that CAGs under the RCRA program will differ from CAGs under Superfund. You may want to obtain a copy of the reference list of public participation and risk communication literature (available through the RCRA Hotline or the RCRA Information Center in Docket Number F-95-PPCF-FFFFF) to look for additional information sources on this topic.

When to Use

A CAG can be formed at any point in the permitting or corrective action process, and may be most effective in the early stages. Generally, the earlier a CAG is formed, the more members can participate in and impact decision-making.

CAGs may not be appropriate in every situation. If you are considering use of a CAG, you should consider the following factors:

- C the level of community interest and concern;
- C community interest in forming a CAG;
- C the existence of groups with competing agendas in the community;

- C environmental justice issues or concerns regarding the facility;
- C the history of community involvement with the facility, or with environmental issues in general; and
- C the working relationship between the facility, the community, and the permitting agency.

Accompanying Activities

Depending on the make-up and the purpose of the CAG, you may want to provide **public notice**, hold a **public meeting**, and issue a **news release** before forming the CAG. The CAG may choose to provide public participation activities (such as **meetings**, **newsletters**, or **availability sessions**) as part of its mission.

Advantages and Limitations

CAGs can increase active community participation in environmental decision-making and provide a voice for affected community members and groups. They promote direct, two-way communication among the community, the permitting agency, and the facility and can highlight your organization's commitment to inclusive stakeholder input.

CAGs can be time- and resource-intensive. CAGs that do not accurately reflect or account for public concerns may lose support in the community. In addition, uncertainty about the group's charter may cause conflict and hard feelings. If you plan to use a CAG, the mission and responsibilities of the CAG must be made clear from the start. Finally, CAGs can spend so much time agreeing on procedures that they drive away people who are concerned with substance. The need for elaborate procedures can be sharply reduced if an advisory group agrees to work on a consensus basis rather than by majority vote.

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APPENDIX D -- ENVIRONMENTAL JUSTICE PUBLIC PARTICIPATION CHECKLIST

Introduction:

The environmental justice movement has sparked a lot of discussion on ways to improve communications and working relations among agencies, industries, and communities. The InterAgency Working Group on Environmental Justice, led by EPA, developed a Public Participation Checklist that lays out ways to identify, inform, and involve stakeholders (e.g., environmental organizations, business and trade associations, civic/public interest groups, grassroots/community-based organizations, tribal governments, and industry). It reflects a combination of: guiding principles for setting up and conducting activities, such as public meetings; specific activities for ensuring widespread and meaningful involvement; and recommendations on how to effectively carry out those activities.

Although the checklist was initially developed in the context of environmental justice, to help federal agencies prepare for the first public meeting to discuss their EJ strategies, it embodies sound principles that apply to public participation for all communities.

ENVIRONMENTAL JUSTICE PUBLIC PARTICIPATION CHECKLIST

1. Ensure that Agency's public participation policies are consistent with the requirements of the Freedom of Information Act, the Emergency Planning and Community Right to Know Act and the National Environmental Policy Act.
2. Obtain Senior Management Support to ensure that the Agency's policies and activities are modified to ensure early, effective and meaningful public participation, especially with regard to Environmental Justice stakeholders. Identify internal stakeholders and establish partnering relationships.
3. Use following Guiding Principles in setting up all public meetings:
 - Maintain honesty and integrity throughout the process.
 - Recognize community\indigenous knowledge.
 - Encourage active community participation.
 - Utilize cross-cultural formats and exchanges.
4. Identify external Environmental Justice stakeholders and provide opportunities to offer input into decisions that may impact their health, property values and lifestyles. Consider at a minimum individuals from the following organization as appropriate:

Environmental Organizations
Business and Trade Organizations
Civic / Public Interest Groups
Grassroots \ Community-based Organizations
Congress
Federal Agencies
Homeowner and Resident Organizations
International Organizations
Labor Unions
Local and State Government
Media \ Press
Indigenous People
Tribal Governments
Industry
White House
Religious Groups
Universities and Schools

5. Identify key individuals who can represent various stakeholder interests. Learn as much as

possible about stakeholders and their concerns through personal consultation, phone, or written contacts. Ensure that information gathering techniques include modifications for minority and low-income communities, for example, consider language \ cultural barriers, technical background, literacy, access to respondent, privacy issues and preferred types of communications.

6. Solicit stakeholder involvement early in the policymaking process, beginning in the planning and development stages and continuing through implementation and oversight.

7. Develop co-sponsoring/co-planning relationships with community organizations, providing resources for their needs.

8. Establish a central point of contact within the Federal agency to assist in information dissemination, resolve problems and to serve as a visible and accessible advocate of the public's right to know about issues that affect health or environment.

9. Regionalize materials to insure cultural sensitivity and relevance. Make information readily accessible (handicap access, Braille, etc.) and understandable. Unabridged documents should be placed in repositories. Executive summaries/fact sheets should be prepared in layman's language. Whenever practicable and appropriate, translate targeted documents for limited English-speaking populations.

10. Make information available in a timely manner. Environmental Justice stakeholders should be viewed as full partners and Agency customers. They should be provided with information at the same time it is submitted for formal review to state, tribal and/or Federal regulatory agencies.

11. Ensure that personnel at all levels in the Agency clearly understand policies for transmitting information to Environmental Justice stakeholders in a timely, accessible and understandable fashion.

12. Establish site-specific community advisory boards where there is sufficient and sustained interest. To determine whether there is sufficient and sustained interest, at a minimum, review correspondence files, review media coverage, conduct interviews with local community members and advertise in local newspapers. Ensure that the community representation includes all aspects and diversity of the population. Organize a member selection panel. Solicit nominations from the community. Consider providing administrative and technical support to the community advisory board.

13. Schedule meetings and/or public hearings to make them accessible and user-friendly for Environmental Justice stakeholders. Consider time frames that don't conflict with work schedules, rush hours, dinner hours and other community commitments that may decrease attendance. Consider locations and facilities that are local, convenient and which represent

neutral turf. Ensure that facility meets American with Disabilities Act Statements for equal access. Provide assistance for hearing impaired individuals. Whenever practical and appropriate provide translators for limited-English speaking communities. Advertise the meeting and its proposed agenda in a timely manner in the print and electronic media. Provide a phone number and/or address for communities to find out about pending meetings, issues, enter concerns or to seek participation or alter meeting agenda.

Create an atmosphere of equal participation (avoid a "panel of experts" or "head table"). A two day meeting is suggested with the first day reserved for community planning and education. Organize meetings to provide an open exchange of ideas and enough time to consider issues of community concern. Consider the use of a neutral facilitator who is sensitive and trained in environmental justice issues. Ensure that minutes of the meetings are publically available. Develop a mechanism to provide communities with feedback after meetings occur on actions being considered.

14. Consider other vehicles to increase participation of Environmental Justice stakeholders including:

Posters and Exhibits
Participation in Civic and Community Activities
Public Database and Bulletin Boards
Surveys
Telephone Hotlines
Training and Education Programs, Workshops and Materials

15. Be sure that trainers have a good understanding of the subject matter both technical and administrative. The trainers are the Ambassadors of this program. If they don't understand - no one will.

16. Diversity in the workplace: whenever practical be sure that those individuals that are the decision makers reflect the intent of the Executive Order and come from diverse backgrounds, especially those of a community the agency will have extensive interaction with.

17. After holding a public forum in a community establish a procedure to follow up with concrete actions to address the communities' concerns. This will help to establish credibility for your agency as having an active role in the federal government.

18. Promote interagency coordination to ensure that the most far reaching aspects of environmental justice are sufficiently addressed in a timely manner. Environmental problems do not occur along departmental lines. Therefore, solutions require many agencies and other stakeholders to work together efficiently and effectively.

19. Educate stakeholders about all aspects of environmental justice (functions, roles, jurisdiction, structure and enforcement).
20. Ensure that research projects identify environmental justice issues and needs in communities, and how to meet those needs through the responsible agencies.
21. Establish interagency working groups (at all levels) to address and coordinate issues of environmental justice.
22. Provide information to communities about the government's role as it pertains to short term and long term economic and environmental needs and health effects.
23. Train staff to support inter and intra agency coordination, and make them aware of the resources needed for such coordination.
25. Provide agency staff who are trained in cultural, linguistic and community outreach techniques.
26. Provide effective outreach, education and communications. Findings should be shared with community members with an emphasis on being sensitive and respectful to race, ethnicity, gender, language, and culture.
27. Design and implement education efforts tailored to specific communities and problems. Increase the involvement of ethnic caucuses, religious groups, the press, and legislative staff in resolution of Environmental Justice issues.
28. Assure active participation of affected communities in the decisionmaking process for outreach, education, training and communities programs -- including representation on advisory councils and review committees.
29. Encourage federal and state governments to "reinvent government" -- overhaul the bureaucratic in favor of community responsive.
30. Link environmental issues to local economic issues to increase level of interest.
31. Use local businesses for environmental cleanup or other related activities.
32. Utilize, as appropriate, historically Black Colleges and Universities (HBCU) and Minority

Revised 1/13/95

Institutes (MI), Hispanic Serving Colleges and Universities (HSCU) and Indian Centers to network and form community links that they can provide.

33. Utilize, as appropriate, local expertise for technical and science reviews.

34. Previous to conducting the first agency meeting, form an agenda with the assistance of community and agency representatives.

35. Provide "open microphone" format during meetings to allow community members to ask questions and identify issues from the community.

Bibliography:

"Interim report of the Federal Facilities Environmental Restoration Dialogue Committee,"
February 1993, Environmental Protection Agency and the Keystone Center

"Community Relations in Superfund: A Handbook," January 1992, Environmental Protection
Agency, Document # EPA-540-R-92-009 and # PB92-963341

DRAFT "Partnering Guide for DoD Environmental Missions," July 1994, Institute for Water
Resources, U.S.A.C.E

"Improving Dialogue with Communities: A Short Guide for Government Risk
Communications," September 1991, Environmental Communications Research Program,
New Jersey Agriculture Experiment Station, Cook College, Rutgers University

OSD/DUSD/ES/OR/Ann Davlin/703/695-3329/28 September 94

APPENDIX H -- EXAMPLES OF RCRA NOTICES

March 4, 1996 Washington Post (page B5)

Example of a public notice placed as a display advertisement

**INFORMAL PUBLIC MEETING
and FORMAL PUBLIC HEARING
on PROPOSED DISTRICT
DRINKING WATER ORDER**



- WHO:** The United States Environmental Protection Agency, Region III
- WHAT:** EPA will conduct both an informal public meeting and a formal public hearing to discuss the District of Columbia's drinking water supply.
- WHEN:** **Tuesday, April 9, 1996** Informal Public Meeting: 5-9 pm
Wednesday, April 17, 1996 Formal Public Hearing: 6:30-9 pm
- WHERE:** National Guard Association of the United States
"Hall of States" (first floor)
One Massachusetts Avenue, NW
Washington, DC 20001
- WHY:** On November 13, 1995, EPA issues a Proposed Administrative Order (PAO) to the water system of the District of Columbia for violations of section 1414(g) of the Safe Drinking Water Act [42 USC §3000-3(g)]. These sessions are authorized under 40 CFR §25.5, §25.6 and §142.205.
- The **meeting** will focus on concerns about drinking water produced by the US Army Corps of Engineers' Washington Aqueduct and distributed by the District of Columbia Water Systems. Representatives of the Washington Aqueduct and DC Drinking Water System will attend the meeting.
- The **hearing** is to determine if the PAO: correctly states the nature and extent of the District's SDWA violations, and if the PAO provides, where appropriate, a reasonable time for the District to comply with the SDWA and applicable rules. EPA will transcribe the hearing.
- HOW:** For further information and/or to obtain copies of the proposed Administrative Order, call Joyce Baker at 1-800-438-2474 or 215-597-2460. The PAO is also available for review at the Martin Luther King, Jr. Library, Southeast Branch, 403 7th Street, SE, Washington, DC 20003.

ROLLINS

ENVIRONMENTAL SERVICES (NJ) INC.

P.O. Box 337, Bridgeport, NJ 08014, 609/467-3100 General Offices, 609/467-3105 Sales Office

PUBLIC NOTICE OF HSWA PERMIT MODIFICATION REQUEST

Rollins Environmental Services (NJ) Inc. [RES(NJ)] submitted a request on January 25, 1996 to the U.S. Environmental Protection Agency (EPA) for modification of its Hazardous and Solid Waste Amendments of 1984 (HSWA) Permit. The facility, located in Logan Township, New Jersey includes hazardous waste storage, transfer and treatment units. In this modification request, RES(NJ) is seeking authorization to continue to receive sixty-four newly listed wastes designed as hazardous wastes by EPA on August 9, 1995.

The public is invited to submit written comments on this request to the following Agency contact through the 60-day period ending March 25, 1996:

Ms. Ellen Stein
U.S. Environmental Protection Agency
Air & Waste Management Division
290 Broadway, 22nd Floor
New York, NY 10007-1866
(212) 637-4114

The permittee's compliance history during the life of the permit being modified is available from the Agency contact person.

A copy of the permit modification request and supporting documentation may be viewed and copied at the following location:

Logan Township Municipal Building
73 Main Street
Bridgeport, New Jersey 08014

Please call Ms. Elizabeth Bullock, Township Clerk, at 467-3424 to schedule your visit to the Municipal Building.

RES(NJ) will hold a meeting open to the public on Tuesday, February 13, 1996 at 4:00 pm for the purpose of describing the request and to address comments on the request. The meeting will be held at the Bridgeport Holiday Inn at Exit 10 of Interstate 295.

The RES(NJ) contact person is:

Mr. Gerard V. Hartig
Rollins Environmental Services (NJ) Inc.
P.O. Box 337
Bridgeport, New Jersey 08014
(609) 467-3100

Squibb Manufacturing, Inc.

P.O. Box 609 Humacao Puerto Rico 00092-0609
Tel. (809) 852-1255 Fax (809) 852-3800

March 21, 1995

FEDERAL EXPRESS

Mr. Richard Yue
U.S. Environmental Protection Agency
Hazardous Waste Facilities Branch
290 Broadway
New York, NY 10007

Dear Mr. Yue:

Re: Squibb Manufacturing Inc.
RCRA Permit Application

Pursuant to your request today, I am please to submit for your consideration and records, copy of documents generated since early 1995 related to our RCRA Permit Renewal Application. These documents are attached and consist of the following:

Annex 1

Correspondence dated January 18, 1995.

Leaflet distributed among residents of Villa Humacao and El Junquito, advising them that:

- a. SMI filed a RCRA Permit Renewal Application at EPA and EQB
- b. EPA will soon publish public notice announcing the date and time for a public meeting related to the renewal process
- c. copy of the documents are in the Public Library
- d. the general community is welcome to participate in these proceedings

Annex 2

Correspondence dated January 26, 1995.

Leaflet distributed among residents of El Junquito inviting them to a community meeting to be held on January 31, 1995, to discuss environmental issues including the RCRA Permit Renewal Application. (A similar meeting was held at the request of Villa Humacao residents during December, 1994).

Annex 3

Copy of a January 25, 1995 newspaper article in Humacao's El Oriental, related to our application and inviting the Humacao community to request any desired information pertaining to the application maintained in the Public Library and the Plant.

Additionally, we advised the community of a meeting to be held at El Junquito and the planned EPA Public Meeting.

Annex 4

(Not included)

Annex 5

Copy of correspondence dated January 30, 1995. SMI requests WALO radio station to notify the Humacao community of the forthcoming January 31, 1995 meeting at El Junquito and the February 8, 1995 Public Meeting.

Annex 6

Copy of public notice published on February 1, 1995 in Humacao's El Oriental regarding EPA's February 8, 1995 Public Meeting.

Annex 7

Copy of a February 8, 1995 newspaper article published in Humacao's EL Oriental, related to our waste management activities and the particulars of the permit renewal process.

Annex 8

Copies of correspondence addressed to Humacao community leaders and government officials which served as cover letters to the four-volume RCRA Permit Renewal Application deliver individually and by-hand.

Please advise if I may be of further assistance.

Sincerely,

Julio Ortiz Torres
Environmental Affairs Manager

JOT/c
Attachments
Yue

SQUIBB MANUFACTURING, INC.

15 de enero de 1995

Estimados vecinos:

Squibb Manufacturing, Inc., en su compromiso con la comunidad de Humacao, desea por este medio informarles que ha radicado su solicitud de renovación de permiso como facilidad de manejo de desperdicios sólidos peligrosos ante la Agencia de Protección Ambiental Federal (EPA pos sus siglas en inglés).

Próximamente la EPA anunciara el día y el lugar donde se celebrara una reunión pública con el propósito de informar sobre la renovación de Squibb y las oportunidades que tiene el publico en general de revisar la solicitud de renovación de permiso y posteriormente someter sus comentarios de conformidad con la reglamentaciones federal. Copia de la solicitud de renovación ya está disponible para el público en la Biblioteca Municipal de Humacao, Puerto Rico (Te. 850-6446) y en nuestras facilidades en la Carretera #3 Km., 77.5 en Humacao.

Squibb invita a la comunidad en general a participar en el proceso y está en la mejor disposición de proveer cualquier información u orientación sobre este asunto, en cuyo caso pueden comunicarse con el Ing. Julio Ortiz-Torres, Gerente de Asuntos del Ambiente, al teléfono 850-6731.

Héctor J. Totti
Gerente General

Annex 1

Squibb Manufacturing, Inc.

P.O. Box 609 Humacao Puerto Rico 00792-0609
Tel. (809) 852-1255 Fax (809) 852-3800

25 de enero de 1995

Estimados vecinos:

Cordialmente los invitamos a nuestra próxima reunión de comunicación con la comunidad a llevarse a cabo martes, 31 de enero de 1995, comenzando a las 7:00 de la noche en el Centro de Reuniones del Comité de Seguridad Vecinal en Junquito. Esa noche compartiremos con ustedes información relacionada con asuntos ambientales de suma importancia para la comunidad.

Los esperamos,

Sinceramente,

**Héctor J. Totti
Gerente General**

Annex 2

En defensa del Incinerado

“Las facilidades para el manejo de los desperdicios peligrosos que opera Squibb Manufacturing Inc. en Humacao, complen con los estrictos controles reglamentarios e lay ley federal”, sostuvo el gerente general de esta planta, Héctor Totti, en un comunicado de prensá enviado a El Oriental.

Sobre las mencionadas facilidades de desperdicios sólidos que despuntan como el foco de una nueva controversia ambiental en la región,

el ejecutivo de la plana aseguró que fueron diseñadas y construídas, “y se operan y se mantienen”, en conformidad con las estrictas disposiciones reglamentarias que impone la Ley Federal de Desperdicios Peligrosos.

Totti descartó la percepción de que la operación es una nueva; señalando que lo que su ompañía ha hecho es radicar una solicitud de renovación de permiso como facilidad de manejo “de desperdicios peligrosos ante la

Agencia Federal de Protección Ambiental (EPA pos sus siglas en inglés). “Esta facilidad lleva operando desde los años 60”, puntualizó.

Según el ejecutivo, el único efecto que tendría la renovación del permiso sería el de permitirle a la Squibb continuar disponiendo en su planta de los desperdicios peligrosos que resultan del proceso de manufactura de los productos farmacéuticos.

“Los incineradores son indispensables para continuar nuestras actividades de manufactura”, señaló el gerente, agregando que; “conforme a nuestro compromiso de mantener informada a la comunidad sobre este extenso proceso”, se han programado una serie de reuniones con varios sectores de la comunidad.

En diciembre pasado se realizó una de estes reuniones en la urbanización Villa Humacao y próximamente, según anunció, se estará realizando otra en al comunidad del Junquito.

“Además la EPA tiene programado una reunión sobre este asunto, para principios de febrero próximo, reveló.

Totti extendió una invitación a la comunidad en general para que participar de este proceso y reliero “el compañía de la Squibb Manufacturing de p?? Information y aclarar dudas que sobre el proyecor”.

A estos efectos, ofreció el número de teléfono, 850-6731, a donde pueden aquellos intersados en ob información sobre el mismo, e inu que existe una copia de la solicitud de renovación, disponible en la Biblioteca Municipal de Humacao, la JCA y propia planta.

Squibb Manufacturing, Inc.

P.O. Box 609 Humacao Puerto Rico 00792-0609
Tel. (809) 852-1255 Fax (809) 852-3800

30 de enero de 1995

**Sa. Mercy Padilla
WALO Radio Oriental
Call Box 1240
Humacao, Puerto Rico 00792**

Estimada Sa. Padilla:

Nos hacemos eco de la preocupación expresada por la Sra. Ferrer y Sra. Martínez en torno a la remoción de letreros y cruzacalles de su área vecinal.

Squibb no promueve y condena este tipo de acción ya que apoya totalmente la libre expresión de todos los sectores de la comunidad. Es por eso que estamos promoviendo un diálogo abierto entre todos para dilucidar y aclarar todas las dudas en cuanto al proceso de renovación de permisos.

Estamos participando en reuniones con las comunidades adyacentes. La próxima reunión es el martes, 31 de enero, con los residentes de la Comunidad de Junquito en el Centro de Seguridad Vecinal a las 7:00 p.m. El miércoles, 8 de febrero, la EPA celebrará una reunión en el Caracolillo con el objetivo de darle toda la información relacionada con este proceso.

Exhortamos a todos los vecinos de estas comunidades a asistir a estas reuniones para que puedan aclarar dudas y expresar sus preocupaciones.

Sinceramente,

**Julio Ortiz-Torres
Gerente, Asuntos del Ambiente**

**GOVERNMENT OF PUERTO RICO/
OFFICE OF THE GOVERNOR
PUBLIC NOTICE**

U.S. ENVIRONMENTAL PROTECTION AGENCY
26 FEDERAL PLAZA- REGION II
NEW YORK, NEW YORK 10278

PUBLIC NOTICE: PN #:

DATE: JANUARY 27, 1995

EPA I.D. NUMBER: PRD090021056

**NOTICE OF RECEIPT OF RCRA PART B PERMIT RENEWAL APPLICATION
AND HAZARDOUS WASTE INCINERATOR RISK ASSESSMENT REPORT**

Notice is hereby given that the U.S. Environmental Protection Agency (EPA) Region II, is in receipt of the Resource Conservation and Recovery Act (RCRA) Part B permit renewal application dated September 1, 1994, and the hazardous waste incinerator risk assessment report dated October 7, 1994, submitted by:

The Squibb Manufacturing Incorporated
State Road No. 3, Km 77.5
P.O. Box 609
Humacao, Puerto Rico 00792
Attention: Mr. Hector J. Totti, Vice President

The Squibb Manufacturing Incorporated ("Squibb") operates a pharmaceutical manufacturing facility which produces drugs for human consumption. The facility has been in operation since 1970. A permit was issued to Squibb effective on March 1, 1990 by EPA under the authority of the Resource Conservation and Recovery Act (RCRA), (42 U.S.C. _ 6901 et seq.), as amended by the hazardous and solid waste amendments of 1984 (HSWA), for the management of six (6) above-ground hazardous waste storage tanks, and the operation of two (2) incinerator units (the "trane" and "brule"). The trane unit is permitted to incinerate hazardous waste, while the brule unit is permitted to incinerate only ignitable waste. The brule unit is scheduled for closure in 1995. The current RCRA permit expires on March 1, 1995.

Squibb has applied to renew their permit for the management of hazardous wastes at the Humacao facility. Under the RCRA permit renewal application, Squibb proposes to continue the operation of the trane incinerator treating hazardous wastes. Additionally, Squibb proposes to treat hazardous wastes in the existing caloric 1 incinerator and in a new caloric 2 incinerator which is currently being constructed. The three hazardous waste incinerator units that are included in the permit renewal application (trane, caloric 1, and caloric 2) will burn hazardous waste generated solely from the Squibb facility. With regards to the storage of hazardous wastes in the tank system, Squibb proposes to operate a new seventh (7) above ground hazardous waste storage tank, along with the six (6) existing storage tanks.

This notice of the receipt of the RCRA permit renewal application is for the administrative record. The administrative record consists of this notice, RCRA Part B permit renewal application which includes the trial burn plan, and the hazardous waste incinerator risk assessment report submitted by Squibb, and other data and materials assembled or prepared by EPA and the Puerto Rico Environmental Quality Board (EQB) for the Squibb facility. Its contents may be inspected any time between 9:30 a.m. to 4:00 p.m. Monday through Friday, except Holidays. Copies of these documents are available at \$.15 per copy sheet. To make an appointment to inspect the administrative record is also on file at the Puerto Rico Environmental Quality Board, and pollution control area, 431 Ponce De Leon Avenue Hato Rey Puerto Rico 00919. To make an appointment to inspect the administrative record at EQB, please contact Mr. Santos Cabrera at (809) 767-8181 ext. 2351.

For citizens residing near the Humacao municipality, a public information repository has been established by the facility for all citizens interested in becoming involved during the permitting process. The public information repository will have copies of the administrative record documents, and other information material relevant to the facility which is available for public review. The repository will also include the name and telephone number of EPA and EQB's contact office, and the mailing address to which comments and inquiries may be directed during the permit review process the repository will be maintained throughout the permitting process at the following location: the public library of the municipality of Humacao, Road No. 3, Km 77.5, Humacao, Puerto Rico. Telephone number: (809) 850-6446. A public meeting will be held on February 8, 1995, between 6:00 pm to 10:00 pm, at the Caracolillo Restaurant, Road No. 3, Km. 74.5, Humacao, Puerto Rico, 00791, Telephone number: (809) 850-0833. The purpose of the public meeting is to answer any questions the public

may have regarding the RCRA permit renewal application. This notice also provides the citizens interested in receiving relevant permitting information and future public notices on the draft and final permit determination an opportunity to be included in the facility or EPA's mailing list.

Finally, this notice also services the initial notification that Squibb may request a temporary emergency permit to treat hazardous waste in the existing non-permitted caloric 1 incinerator. If issued, the emergency permit would authorize Squibb to treat hazardous waste in the caloric 1 incinerator while the crane unit is used to perform trial burn tests to determine applicable permit operating conditions. Squibb must demonstrate to EPA and EQB that the temporary authorizations necessary for the facility's hazardous waste management activities and will minimize the over-accumulation of hazardous waste on-site, therefore, allowing for safer management of on-site hazardous waste.

Any written comments concerning the permit renewal process or temporary emergency permit. Requests for information, and requests to be on the EPA's mailing list should be made to:

Mr. Andrew Nellina, P.E.
Chief, Hazardous Waste Facilities Branch
U.S. Environmental Protection Agency, Region II
26 Federal Plaza, Room 1037
New York, New York 10278

[Note: Text of notice also provided on next page.]

PUBLIC NOTICE

U.S. ENVIRONMENTAL PROTECTION AGENCY - REGION II
26 FEDERAL PLAZA
NEW YORK, NEW YORK 10278
DATE: January 27, 1995

PUBLIC NOTICE: PN # _____
EPA I.D. NUMBER: PRD090021056

NOTICE OF RECEIPT OF RCRA PART B PERMIT RENEWAL APPLICATION AND HAZARDOUS WASTE INCINERATOR RISK ASSESSMENT REPORT

NOTICE IS HEREBY GIVEN THAT THE U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) REGION II, IS IN RECEIPT OF THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) PART B PERMIT RENEWAL APPLICATION DATED SEPTEMBER 1, 1994, AND THE HAZARDOUS WASTE INCINERATOR RISK ASSESSMENT REPORT DATED OCTOBER 7, 1994, SUBMITTED BY:

THE SQUIBB MANUFACTURING INCORPORATED
STATE ROAD NO. 3, KM 77.5
P.O. BOX 609
HUMACAO, PUERTO RICO 00792
ATTENTION: MR. HECTOR J. TOTTI, VICE PRESIDENT

THE SQUIBB MANUFACTURING INCORPORATED ("SQUIBB") OPERATES A PHARMACEUTICAL MANUFACTURING FACILITY WHICH PRODUCES DRUGS FOR HUMAN CONSUMPTION. THE FACILITY HAS BEEN IN OPERATION SINCE 1970. A PERMIT WAS ISSUED TO SQUIBB EFFECTIVE ON MARCH 1, 1990 BY EPA UNDER THE AUTHORITY OF THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA), (42 U.S.C. § 6901 ET SEQ.), AS AMENDED BY THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984 (HSWA), FOR THE MANAGEMENT OF SIX (6) ABOVE-GROUND HAZARDOUS WASTE STORAGE TANKS, AND THE OPERATION OF TWO (2) INCINERATOR UNITS (THE "TRANE" AND "BRULE"). THE TRANE UNIT IS PERMITTED TO INCINERATE HAZARDOUS WASTE, WHILE THE BRULE UNIT IS PERMITTED TO INCINERATE ONLY IGNITABLE WASTE. THE BRULE UNIT IS SCHEDULED FOR CLOSURE IN 1995. THE CURRENT RCRA PERMIT EXPIRES ON MARCH 1, 1995.

SQUIBB HAS APPLIED TO RENEW THEIR PERMIT FOR THE MANAGEMENT OF HAZARDOUS WASTES AT THE HUMACAO FACILITY. UNDER THE RCRA PERMIT RENEWAL APPLICATION, SQUIBB PROPOSES TO CONTINUE THE OPERATION OF THE TRANE INCINERATOR TREATING HAZARDOUS WASTES. ADDITION, SQUIBB PROPOSES TO TREAT HAZARDOUS WASTES IN THE EXISTING CALORIC 1 INCINERATOR AND IN A NEW CALORIC 2 INCINERATOR WHICH IS CURRENTLY BEING CONSTRUCTED. THE THREE HAZARDOUS WASTE INCINERATOR UNITS THAT ARE INCLUDED IN THE PERMIT RENEWAL APPLICATION (TRANE, CALORIC 1, AND CALORIC 2) WILL BURN HAZARDOUS WASTE GENERATED SOLELY FROM THE SQUIBB FACILITY. WITH REGARDS TO THE STORAGE OF HAZARDOUS WASTES IN THE TANK SYSTEM, SQUIBB PROPOSES TO OPERATE A NEW SEVENTH (7) ABOVE-GROUND HAZARDOUS WASTE STORAGE TANK, ALONG WITH THE SIX(6) EXISTING STORAGE TANKS.

THIS NOTICE OF THE RECEIPT OF THE RCRA PERMIT RENEWAL APPLICATION IS FOR THE ADMINISTRATIVE RECORD. THE ADMINISTRATIVE RECORD CONSISTS OF THIS NOTICE, RCRA PART B PERMIT RENEWAL APPLICATION WHICH INCLUDES THE TRIAL BURN PLAN, AND THE HAZARDOUS WASTE INCINERATOR RISK ASSESSMENT REPORT SUBMITTED BY SQUIBB, AND OTHER DATA AND MATERIALS ASSEMBLED OR PREPARED BY EPA AND THE PUERTO RICO ENVIRONMENTAL QUALITY BOARD (EQB) FOR THE SQUIBB FACILITY. ITS CONTENTS MAY BE INSPECTED ANY TIME BETWEEN 9:30 A.M. TO 4:00 P.M. MONDAY THROUGH FRIDAY, EXCEPT HOLIDAYS. COPIES OF THESE DOCUMENTS ARE AVAILABLE AT \$15 PER COPY SHEET. TO MAKE AN APPOINTMENT TO INSPECT THE ADMINISTRATIVE RECORD IS ALSO ON FILE AT THE PUERTO RICO ENVIRONMENTAL QUALITY BOARD, LAND POLLUTION CONTROL AREA, 431 PONCE DE LEON AVENUE HATO REY PUERTO RICO 00919. TO MAKE AN APPOINTMENT TO INSPECT THE ADMINISTRATIVE RECORD AT EQB, PLEASE CONTACT MR. SANTOS CABRERA AT (809) 767-8181 EXT. 2351.

FOR CITIZENS RESIDING NEAR THE HUMACAO MUNICIPALITY, A PUBLIC INFORMATION REPOSITORY HAS BEEN ESTABLISHED BY THE FACILITY FOR ALL CITIZENS INTERESTED IN BECOMING INVOLVED DURING THE PERMITTING PROCESS. THE PUBLIC INFORMATION REPOSITORY WILL HAVE COPIES OF THE ADMINISTRATIVE RECORD DOCUMENTS, AND OTHER INFORMATION MATERIAL RELEVANT TO THE FACILITY WHICH IS AVAILABLE FOR PUBLIC REVIEW. THE REPOSITORY WILL ALSO INCLUDE THE NAME AND TELEPHONE NUMBER OF EPA AND EQB'S CONTACT OFFICE, AND THE MAILING ADDRESS TO WHICH COMMENTS AND INQUIRIES MAY BE DIRECTED DURING THE PERMIT REVIEW PROCESS THE REPOSITORY WILL BE MAINTAINED THROUGHOUT THE PERMITTING PROCESS AT THE FOLLOWING LOCATION: THE PUBLIC LIBRARY OF THE MUNICIPALITY OF HUMACAO, ROAD NO. 3, KM 77.5, HUMACAO, PUERTO RICO. TELEPHONE NUMBER: (809) 850-6446. A PUBLIC MEETING WILL BE HELD ON FEBRUARY 8, 1995, BETWEEN 6:00 PM TO 10:00 PM, AT THE CARACOLILLO RESTAURANT, ROAD NO. 3, KM. 74.5, HUMACAO, PUERTO RICO, 00791, TELEPHONE NUMBER: (809) 850-0833. THE PURPOSE OF THE PUBLIC MEETING IS TO ANSWER ANY QUESTIONS THE PUBLIC MAY HAVE REGARDING THE RCRA PERMIT RENEWAL APPLICATION. THIS NOTICE ALSO PROVIDES THE CITIZENS INTERESTED IN RECEIVING RELEVANT PERMITTING INFORMATION AND FUTURE PUBLIC NOTICES ON THE DRAFT AND FINAL PERMIT DETERMINATION AN OPPORTUNITY TO BE INCLUDED IN THE FACILITY OR EPA'S MAILING LIST.

FINALLY, THIS NOTICE ALSO SERVICES THE INITIAL NOTIFICATION THAT SQUIBB MAY REQUEST A TEMPORARY EMERGENCY PERMIT TO TREAT HAZARDOUS WASTE IN THE EXISTING NON-PERMITTED CALORIC 1 INCINERATOR. IF ISSUED, THE EMERGENCY PERMIT WOULD AUTHORIZE SQUIBB TO TREAT HAZARDOUS WASTE IN THE CALORIC 1 INCINERATOR WHILE THE TRANE UNIT IS USED TO PERFORM TRIAL BURN TESTS TO DETERMINE APPLICABLE PERMIT OPERATING CONDITIONS. SQUIBB MUST DEMONSTRATE TO EPA AND EQB THAT THE TEMPORARY AUTHORIZATION IS NECESSARY FOR THE FACILITY'S HAZARDOUS WASTE MANAGEMENT ACTIVITIES AND WILL MINIMIZE THE OVER-ACCUMULATION OF HAZARDOUS WASTE ON-SITE, THEREFORE, ALLOWING FOR SAFER MANAGEMENT OF ON-SITE HAZARDOUS WASTE.

ANY WRITTEN COMMENTS CONCERNING THE PERMIT RENEWAL PROCESS OR TEMPORARY EMERGENCY PERMIT. REQUESTS FOR INFORMATION, AND REQUESTS TO BE ON THE EPA'S MAILING LIST SHOULD BE MADE TO:

MR. ANDREW BELLINA, P.E.
CHIEF, HAZARDOUS WASTE FACILITIES BRANCH
U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION II
26 FEDERAL PLAZA, ROOM 1037
NEW YORK, NEW YORK 10278

AVISO PUBLICO

**AGENCIA DE PROTECCION AMBIENTAL DE LOS ESTADOS UNIDOS
26 FEDERAL PLAZA
NEW YORK, NEW YORK 10275**

EPA ID. NO. PRDO90021056

27 DE ENERO DE 1995

Por este medio, la Agencia de Protección Ambiental de los Estados Unidos (EPA, por sus siglas en inglés), Región II, da aviso de haber recibida la Solicitud de Renovación de Permiso Parte B de la Ley de Conservación y Recuperación de Recursos (RCRA) el día 1ro de septiembre de 1994, y el Reporte de Estudio de Riesgo de Incinerador de Desperdicios Peligrosos el día 7 de octubre de 1994, sometido por:

**Squibb Manufacturing, Incorporated
Carr. Num. 3, Km. 77.5
P.O.Box 609
Humacao, Puerto Rico 00792
ATTN: Sr. Héctor J. Totti, Vice-Presidente**

Squibb Manufacturing Incorporated ("Squibb") opera una facilidad que manufactura productos farmacéuticos, el cual produce drogas para consumo humano. La facilidad ha estado en operación desde 1970. Un permiso fue emitido a Squibb efectiva el 1 de marzo de 1990 por EPA bajo la autoridad de RCRA, (42 U.S.C. §6801 et seq.), según revisada por las Enmiendas a los Desperdicios Sólidos y Peligrosos de 1984 (HSWA, por sus siglas en inglés), para el manejo de seis (6) tanques de almacenaje de desperdicios peligrosos sobre el terreno, y la operación de dos (2) unidades de incinerador (el "TRANE" y "BRULE"). En la unidad "TRANE" lo es permitido incinerar desperdicios peligrosos, mientras en la unidad "BRULE" lo es permitido incinerar solo desperdicios ignitivos ("ignitables"). La unidad "BRULE" está programada para cerrarse en 1995. El permiso de RCRA actual expira el 1 de marzo de 1995.

Squibb ha solicitado renovar su permiso para el manejo de desperdicios peligrosos en la facilidad de Humacao. Bajo la solicitud de renovación de permiso RCRA, Squibb propone continuar con la operación del incinerador "TRANE" tratando desperdicios peligrosos. En adición, Squibb propone el tratar desperdicios peligrosos en el incinerador existente Caloric 1 y en el nuevo incinerador Caloric 2 el cual está actualmente en construcción.

Los tres incineradores de desperdicios peligrosos que están incluidos en la solicitud de renovación de permiso (TRANE, Caloric 1 y Caloric 2) quemará desperdicios peligrosos generados únicamente de la facilidad de Squibb. Con respecto al almacenaje de desperdicios peligrosos en el sistema de tanques, Squibb propone operar un nuevo séptimo (7) tanques sobre el terreno para almacenar desperdicios peligrosos. Junto con los seis (6) tanques de almacenaje existentes.

Este aviso del recibo de la solicitud de renovación de permiso RCRA es para el archivo administrativo. El archivo administrativo consiste de este aviso, la solicitud de renovación de permiso RCRA Parte B, la cual incluye la prueba de quemado ("Trial Burn Plan"), y el reporte de estudio de Riesgo del Incinerador de desperdicios peligrosos sometido por Squibb, y otra información y material reunido o preparado tanto por EPA como por la Junta de Calidad Ambiental de Puerto Rico (JCA) para la facilidad de Squibb. Su contenido puede ser inspeccionado en cualquier momento entre las 8:30 A.M. a las 4:00 P.M. de Lunes a Viernes, excepto días feriados. Copias de estos documentos están disponibles a \$.20 por página. Para hacer una cita con el propósito de inspeccionar el archivo administrativo en EPA en la ciudad de Nueva York, favor de comunicarse con el Sr. Richard Yue al (212)264-9339. El archivo administrativo se encuentra también disponible en la Junta de Calidad Ambiental; Área Control Contaminación de Terrenos, Avenida Ponce de León #431, Hato Rey, Puerto Rico 00919. Para hacer una cita con el propósito de inspeccionar el archivo administrativo en la JCA, favor de comunicarse con el Sr. Santos Cabrera al teléfono (809)767-8181 ext. 2351.

Para los ciudadanos residentes en o cerca del municipio de Humacao, interesados en conocer sobre el caso durante el proceso de permiso se ha designado un lugar donde estará disponible la información pública. En este lugarse tendrá disponible al público copia de los documentos del archivo administrativo y otro material de información relevante a la facilidad, nombres y números de teléfono de las oficinas de contacto de EPA y la JCA, y la dirección a la cual los comentarios y las preguntas deben ser dirigidas durante el proceso de evaluación del permiso. La información estará disponible durante todo el proceso de permiso en la siguiente localización: La Librería Pública en el municipio de Humacao, Carretera Núm. 3, Km. 77.5, Humacao, Puerto Rico. Número de teléfono (809)850-6464.

Una reunión pública se llevará a cabo el 8 de febrero de 1995, entre las 6:00 P.M. e 10:00 P.M., en el Restaurante El Caracolillo, Carr. Núm. 3, Km. 74.5, Humacao, Puerto Rico, 00791. Número de teléfono (809)850-0833. El propósito de la reunión pública es aclarar cualquier pregunta que el público pueda tener con respecto a la solicitud de renovación de permiso RCRA. Este aviso también provee el ciudadano interesado en recibir información relevante al permiso y avisos públicos futuros en el borrador y la determinación de permiso final una oportunidad para ser incluido en la lista de envío ("Mailing List") de la facilidad o en la de la EPA.

Finalmente, este aviso también sirve de notificación inicial de que Squibb solicita un permiso temporero de emergencia para tratar desperdicios peligrosos en el incinerador existente Caloric 1 no-permitido. Si es emitido, el permiso de emergencia puede autorizar a Squibb a tratar desperdicios peligrosos en el incinerador Caloric 1 mientras que la unidad "TRANE" es usada para efectuar pruebas de quemado para determinar condiciones de operación aplicables al permiso. Squibb debe demostrarlo a la EPA y a la JCA que la autorización temporera es necesaria para actividades de manejo de desperdicios peligrosos en el sitio de tal forma que permita un cuidadoso manejo de los desperdicios peligrosos en el sitio.

Cualquier comentario escrito con relación al proceso de renovación de permiso o al permiso temporero de emergencia, solicitudes de información y solicitudes para estar en la lista de envío ("Mailing List") de EPA puede ser sometidos a:

**Mr. Andrew Bellina, P.E.
Chief, Hazardous Waste Facilities Branch
US Environmental Protection Agency
26 Federal Plaza - Region II - Room 1037
New York, New York 10278**

**HECTOR RUSSE MARTINEZ
PRESIDENTE
JUNTA CALIDAD AMBIENTAL**

Insisten en defensa del Incinerador

Por: Magaly Monserrate Cerpa

Varios ejecutivos de la Squibb Manufacturing, entre los que se encontraba el gerente general de la planta de Humacao, insistieron en la seguridad y confiabilidad de sus incineradores y reiteraron que la compañía cumple con los estrictos controles reglamentarios de la Ley Federal de Desperdicios Peligrosos, durante una entrevista realizada por este rotativo en sus facilidades.

En la reunión que se produjo por invitación de la Squibb, el gerente de Asuntos Ambientales, Ing. Julio Ortíz rechazó algunos de los argumentos que han sido esbozados por detractores de los actuales planes de esta compañía, en las reuniones y manifestaciones que recientemente ha realizado el grupo opositor.

Ortíz comenzó por aclarar el comentario de que engañaban a la comunidad al decirles que estaban solicitando un permiso para disponer de desperdicios líquidos cuando el documento de solicitud indica que se trata de desperdicios sólidos peligrosos. Al respecto, indicó, que se trataba de un mal entendido producto del desconocimiento de la Reglamentación, que bajo la clasificación de Desperdicios Sólidos Peligrosos, cobija también a los líquidos.

“No hemos engañado a nadie, vamos a trabajar como hasta la fecha lo hemos hecho, con desperdicios líquidos, pero la Reglamentación no contempla una clasificación aparte para éstos, que no sea dentro de la de Desperdicios Sólidos Peligrosos”. Debe quedar claro que no vamos a procesar sólidos”, arguyó.

Rivera también descartó de plano el comentario de que estuvieran contemplando transportar hasta las facilidades de Humacao los desperdicios de las plantas de Barceloneta y Mayaguez, para ser procesados en los incineradores de acá.

Sobre la interrogante más neurálgica relacionada con el nuevo incinerador, el impacto al ambiente ya la salud de los vecinos de la zona que tendrá esta nueva operación, aseguró que no se produciría aumento alguno en las emisiones.

En este tema, entró Héctor Totti, el gerente general de la planta, para señalar que “por el contrario” con este incinerador y los cambios que proponen hacer en el área de disposición, se minimizan los desperdicios sólidos peligrosos que genera la planta”.

“La nueva reglamentación federal nos obliga a instituir un programa agresivo de minimización de estos desperdicios. Lo que estamos haciendo responde a la necesidad de avanzar en la tecnología para seguir cumpliendo con los restricciones federales y estatales de disposición de desperdicios peligrosos”, expresó Totti.

Otro aspecto de la controversia en la que los propios ejecutivos coincidieron a generado confusión, por lo que intentaron explicarla, es la mezcla de dos procedimientos a un mismo tiempo.

Sobre esto, Ortíz Torres explicó que cuando en el 1990 tramitaron la renovación del permiso para disponer de desperdicios sólidos peligrosos incluyeron los incineradores Trane y Brule pero no así el Caloric-1, que se encontraba en diseño. Poco después

solicitaron a la EPA la inclusión de este último incinerador (para desperdicios sólidos peligrosos) pero esta agencia se dilató en su respuesta. Esa es la razón, por la que actualmente cuando se tramita nuevamente la renovación del referido permiso (que por ley tiene que hacerse cada cuatro años) se aprovecha para solicitar nuevamente la inclusión de este incinerador y el nuevo Caloric-2. Por instrucciones de la EPA, en lugar de hacer dos documentos, ambas cosas se incluyen en uno.

Agregó que estos dos incineradores, el Caloric-1 y el Caloric-2 deberán estar sustituyendo eventualmente al Trane (desperdicios peligrosos) y al Brule (de desperdicios peligrosos). El primero que deberá salir de operación se el Brule; en septiembre de este año y posteriormente (una fecha que no se especifico) el Trane.

Con esta nueva tecnología, reiteró Totti, lo que persigue es minimizar los desperdicios líquidos de manejo que la operación de la planta sea cada vez menos, impactando al ambiente. “En esto, aseguró, invertimos la mayor parte de nuestro presupuesto para mejoras. Un 70 por ciento de éste, está destinado a pruebas y labores conducente a disminuir este impacto. Esto lo venimos haciendo desde hace años, por ejemplo en nuestra área de experimentación con nuevos solventes, conocidos como environmentally friendly”, concluyó

Squibb Manufacturing, Inc.

P.O. Box 609 Humacao Puerto Rico 0092-0609
Tel. (809) 852-1255 Fax (809) 852-3800

20 de enero de 1995

Hon. Joel Rosario Hernández
Representante
Cámara de Representantes
Apartado 2228
San Juan, PR 00902

Señor Representante:

Squibb, en su compromiso de mantener a la comunidad informada, por este medio le entregó una copia de la solicitud de renovación de permiso para sus unidades de manejo de desperdicios líquidos peligrosos y del análisis de riesgo realizado como parte de la misma. Esta solicitud fue radicada ante la Agencia Federal de Protección Ambiental (por sus siglas en inglés "EPA") y Junta de Calidad Ambiental ("JCA").

Squibb es una farmacéutica dedicada a la manufactura de productos para el consumo humano. Entre ellos se producen Mycolog, Corgard, Capoten, y Zerit- un producto para el tratamiento del SIDA. La planta ha estado en operación desde los años setenta. Esta consiste de varios edificios de producción, y facilidades de apoyo tales como laboratorios de control de calidad y de desarrollo e investigación, utilidades, área de recobro y reuso de solventes, área de tratamiento de aguas usadas, área de manejo de desperdicios líquidos peligrosos, y otras.

En los procesos de manufactura se utilizan compuestos orgánicos, incluyendo solventes, como es usual en este tipo de industria. Se generan residuos líquidos en los diferentes procesos de manufactura, los cuales son reciclados en nuestra planta de forma óptima para minimizar su impacto en el ambiente. Aquellos residuos que no son reutilizables se clasifican como desperdicios líquidos peligrosos para disposición mediante incineración, la mejor tecnología para disponer de éstos. Los mismos consisten principalmente de una mezcla de agua (85% a 98%) y pequeñas cantidades de solventes.

Desde sus comienzos en la década de 1970, Squibb opera unidades de incineración dentro de sus predios para el manejo de estos desperdicios. Estas unidades han sido autorizadas por la EPA y la JCA. Respondiendo al desarrollo de la tecnología cada vez más avanzada, a través de los años Squibb ha mejorado los incineradores incorporando unidades más modernas.

En estos momentos, Squibb está renovando el permiso para sus unidades de manejo de desperdicios líquidos peligrosos. Estas incluyen tanques de almacenamiento e incineradores. Se incorporan dos modernos incineradores, que sustituirán uno que ya fue cerrado y otro programado para cierre durante este año.

Pruebas de eficiencia demuestran que estos nuevos incineradores cumplen tanto con toda la reglamentación aplicable como con políticas establecidas recientemente por la EPA para unidades de incineración.

Más aún, como parte del proceso se realizó un análisis de riesgo. Este establece que la operación de los incineradores, presumiendo condiciones de exposición extremas e improbables, no afecta la salud ni el ambiente del área.

En agosto de 1994 Squibb comenzó un proceso de comunicación pública con el propósito de divulgar información sobre los nuevos incineradores, para así promover la participación ciudadana en el proceso de permiso. A tales efectos, se celebró una reunión pública el 14 de septiembre de 1994, y otra en Villa Humacao el 1 de diciembre de 1994. Próximamente se celebrará otra en Junquito, similar a la ya celebrada en Villa Humacao. Además, EPA tiene otra reunión pública programada durante el mes de febrero.

Nos reiteramos a su disposición para proveer información adicional o aclarar cualquier duda con respecto a estos particulares. Puede comunicarse conmigo o con el Ing. Julio Ortiz-Torres, Gerente de Asuntos del Ambiente, al teléfono 850-6731.

Cordialmente,

Héctor J. Totti
Gerente General

wwin/data/environ.123
Anejo

**APPENDIX I -- EXAMPLES OF ADDITIONAL RCRA PUBLIC
PARTICIPATION TOOLS (FACT SHEETS, PUBLIC
INVOLVEMENT PLANS, NEWS RELEASES)**

United States
Environmental Protection
Agency

Region 10
1200 Sixth Avenue
Seattle, WA 98101

Alaska
Idaho
Oregon
Washington



News Release

90-14

Contact: Dawnee Dahm
EPA Region 10
Hazardous Waste Program
442-2867

March 12, 1990

FOR IMMEDIATE RELEASE

EPA AND DEQ ANNOUNCE HAZARDOUS WASTE PERMIT FOR TEKTRONIX

A draft hazard waste permit has been issued for public comment which would allow Tektronix to operate hazardous waste storage units, to administer "post-closure" care to closed hazardous waste disposal units, and to carry out corrective activities on the closed hazardous and solid waste disposal units at its Beaverton facility.

The draft permit will be available for public review and comment until April 23, 1990.

Tektronix manages hazardous waste generated as by-products of manufacturing operations at its Beaverton facility and routinely manages wastes from other Tektronix facilities.

The draft permit requires Tektronix to take corrective action for trichloroethylene (TCE) contaminated groundwater at the facility and to monitor and maintain I closed surface impoundments for at least 30 years. The permit also sets out operational requirements for Tektronix's hazardous waste storage units. These storage units include tanks and containers.

Copies of the permit are available at the Oregon Department of Environmental Quality, 811 S.W. Sixth Avenue, Portland and at the Beaverton City Library, 12500 S.W. Allen Blvd.

(more)

Public comments on the draft permit will be accepted until April 23, 1990. A public hearing will be held if enough interest is expressed. Comments should be sent to:

Fred Bromfeld
DEQ
811 S.W. Sixth Avenue
Portland, OR 97204

Dawnee Dahm
EPA Region 10, HW-112
1200 Sixth Avenue
Seattle, Washington 98101

United States
Environmental Protection
Agency

Office of Public Affairs
Region 5
230 South Dearborn Street
Chicago, Illinois 60604

Illinois Indiana
Michigan Minnesota
Ohio Wisconsin



Public Involvement Plan
Ohio Technology Corporation
Proposed Incineration Facility

April 1989 - Revised



PUBLIC INVOLVEMENT PLAN
OHIO TECHNOLOGY CORPORATION
PROPOSED INCINERATION FACILITY
NOVA, OHIO
APRIL 1989

EPA WORK ASSIGNMENT NUMBER 96-5Q00.0

Prepared for: U.S. Environmental Protection Agency
Region V
230 South Dearborn Street
Chicago, Illinois 6064

Prepared by: ICF Technology, Inc.
35 East Wacker Drive
Suite 800
Chicago, Illinois 60601
Associates Firm, REM IV Contract No. 68-01-7251

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I. INTRODUCTION

In 1976, Congress passed the Resource Conservation and Recovery Act (RCRA) to regulate the generation, treatment, storage, and disposal of municipal and industrial solid wastes that are generated across the country. The RCRA law requires that before a facility can treat, store, or dispose of any hazardous waste, it must obtain a permit from either the United States Environmental Protection Agency (U.S. EPA) or an authorized state government agency.¹ In addition to reviewing technical information, federal and state agencies encourage public involvement during the permitting process to ensure that residents understand proposed plans for handling hazardous wastes in their communities, and to provide an opportunity for residents to voice any concerns they may have.

This public involvement plan identifies some community concerns regarding Ohio Technology Corporation's application to build and operate a hazardous waste incinerator facility in Nova, Ohio. The plan details specific activities that U.S. EPA will engage in to disseminate information to the Nova community and to encourage public involvement as the Ohio Technology Corporation application is reviewed. The plan consists of the following sections:

- € Description of the proposed facility;
- € Community information;
- € Community concerns;
- € Objectives of the public involvement program;
- € Public involvement activities; and an
- € Implementation schedule.

The objectives and activities discussed in this plan are based on an assessment of community concerns collected during interviews with local officials, several residents, and local community opposition

¹ In many instances, authority for implementing RCRA has been given to the states by U.S. EPA. The State of Ohio, however, does not have such authority and all RCRA laws are currently enforced in Ohio by U.S. EPA.

groups conducted by U.S. EPA and contractor personnel in August 1988. Background information included in the plan was obtained from reviewing state and federal files; interviews with state, federal, and local officials; and local community opposition groups.

This plan has been prepared in accordance with U.S. EPA's Guidance on Public Involvement in the RCRA Permitting Program (Draft, January 1986).

II. DESCRIPTION OF THE PROPOSED ACTIVITY

A. Location and Description of Facility

Ohio Technology Corporation (OTC) proposed to construct and operate a hazardous waste and toxic substance treatment facility in Nova, Ohio, located in Troy Township, Ashland County. The property purchased by OTC in 1987 consists of approximately 280 acres of rural farm land along Township Road 791, one mile east of Nova and approximately 12 miles northeast of the City of Ashland (see Figures 1 and 2). The Nova Reservoir is located on the southwest portion of the property. Of the 280 acres, approximately 40 acres would be used for the facility.

The proposed facility includes construction of an incinerator called a Hybrid Thermal Treatment System developed by IT Corporation. The system involves a modularly designed rotary kiln incinerator for the destruction of a wide variety of organic wastes. As designed, fumes resulting from the kiln are burned in a secondary combustion chamber. In Nova, the proposed incinerator would be operated to burn both general hazardous wastes and polychlorinated biphenyls (PCBs). The Hybrid Thermal Treatment System would be designed to incinerate liquid wastes, viscous fluids, solids, soil, and other contaminated debris.

The proposed facility is designed not to discharge wastewater from the facility operating areas, but would be designed to treat wastewater on the site and reuse wastewater in the incineration process. Debris resulting from the incineration process, including processed solids and incinerator ash, are proposed to be disposed of in a RCRA licensed disposal facility off the site.

Access to the proposed OTC facility would be gained from Township Road 791. Trucks entering the facility would include tractor-trailer trucks carrying wastes contained in drums. Tankers trucks containing bulk liquids also would enter the facility. Fully loaded trucks would weigh approximately 30,000 to 50,000 pounds. An average of eight to 12

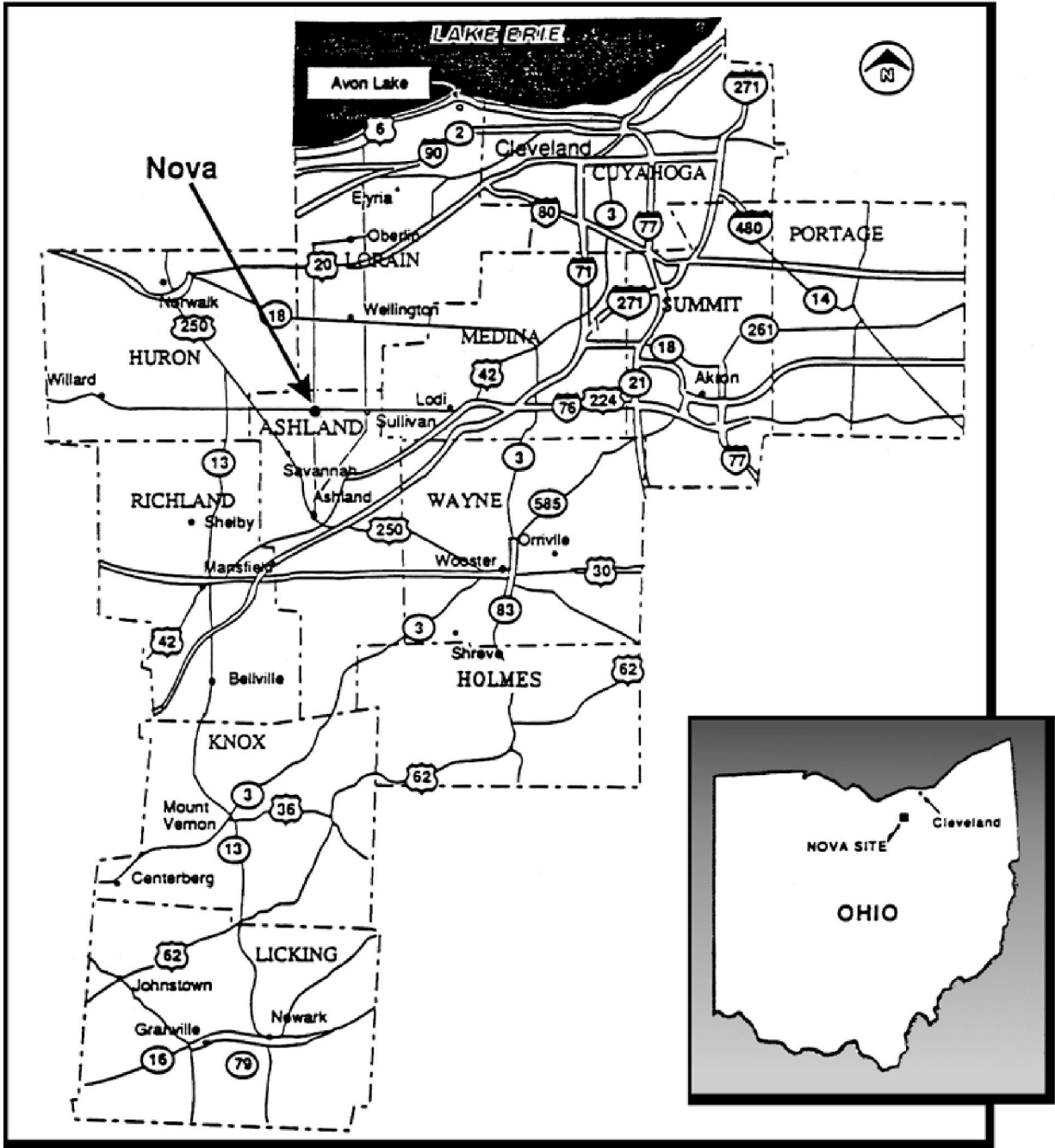


Figure 1
Proposed Facility Location Map

trucks would enter the facility per day.

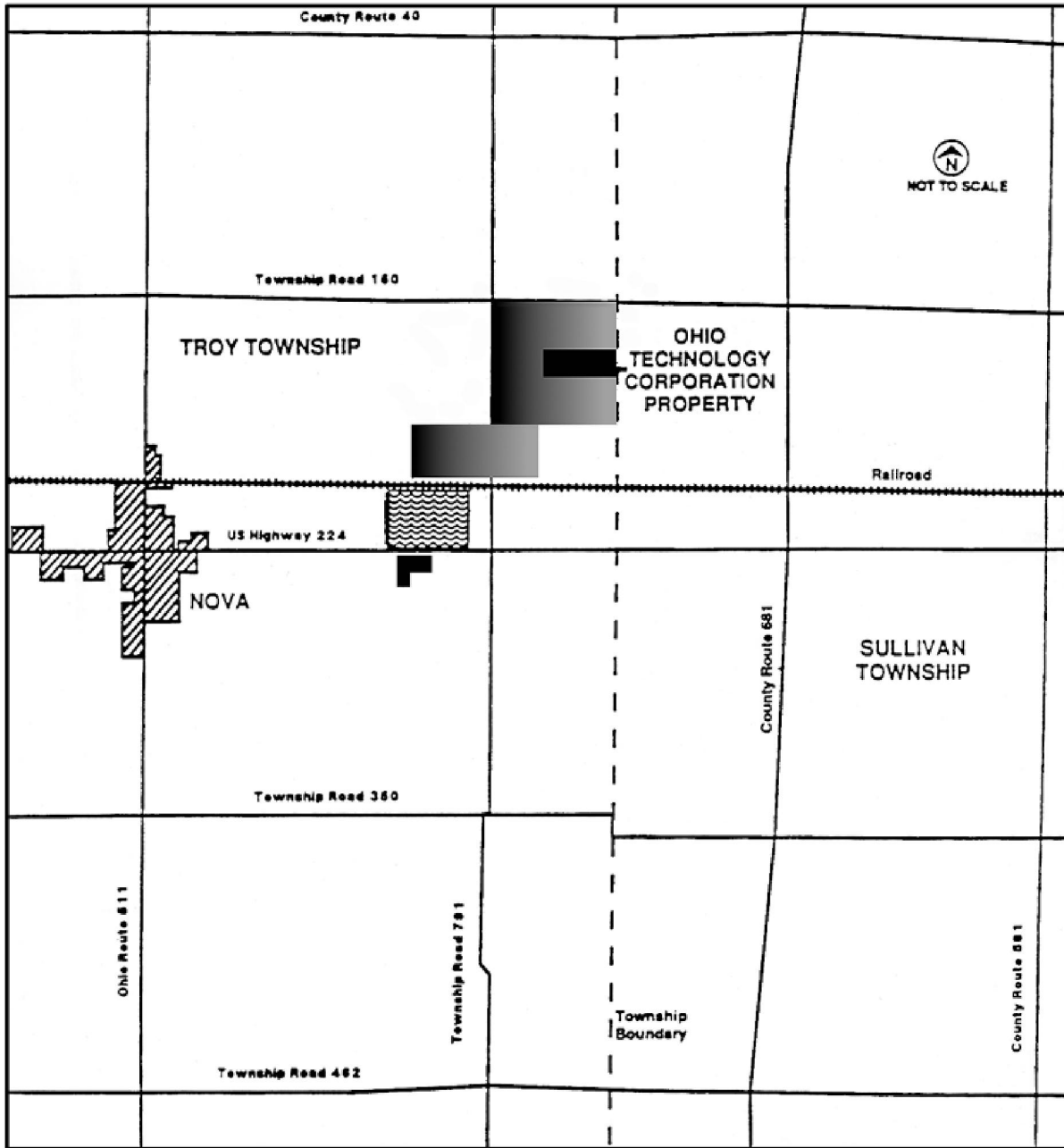


Figure 2
Proposed Facility Area Map

B. Owner/Operator Information

The current owner of the property is OTC which is also named as the proposed owner of the incineration facility in the RARA permit application. IT Corporation would operate the facility. OTC's headquarter offices are located in Cleveland, Ohio and IT Corporation's regional offices are located in Monroeville, Pennsylvania. According to an OTC official, the facility as proposed could reach its capacity by accepting wastes from within Ohio, although the facility is designed to be a regional hazardous waste treatment facility.

C. Regulatory Agencies

In order to obtain the required permits to construct and operate the incineration facility, OTC must submit permit applications to the Ohio Environmental Protection Agency (OEPA) and the U.S. EPA. Because OTC desires to build a facility that will burn both hazardous waste and PCBs, U.S. EPA permits are required from under both RARA and the Toxic Substance Control Act (TSCA). The RCRA permit is required for incineration of hazardous wastes, and the TSCA permit is required for incineration of wastes containing PCBs.

In addition, OTC must apply for and be issued permits from the State of Ohio. The primary permits required are a permit to install and a permit to operate a hazardous waste facility, both of which would be issued by the Ohio Hazardous Waste Facility Board. All proposed facilities in Ohio must receive these permits before any construction can begin. The application for the permits must be submitted for review to OEPA's Division of Solid and Hazardous Waste Management before a ruling on the applications is approved or denied by the Hazardous Waste Facility Board. In addition, OTC must receive an Air Permit to Install from OEPA's Division of Air Pollution, and a National Pollutant Discharge Elimination System (NPDES) permit -- a provision of the Clean Water Act -- from the Division of Water Pollution control. The air permit addresses the potential air emissions that could result from operations from the proposed incinerator, and the NPDES permit addresses potential discharges to water.

Currently, OTC has submitted permit applications to both OEPA and U.S. EPA. By law, permit applications must be reviewed for completeness and technical adequacy before the permits are either granted or denied.

III. COMMUNITY INFORMATION

A. Community Profile

Located in Troy Township, Nova is a rural, unincorporated town with a population of approximately 200 people. According to several residents interviewed, approximately 50% of the population are full-time farmers, and the remainder farm half time in addition to having jobs in other parts of the region.

Nova residents describe themselves as people not interested in urbanization. Several expressed pride in their families that have a long regional heritage, and have continued to live in the Nova area generation after generation. Several residents have recently move into the area away from more urban surroundings, preferring the clean air and rural atmosphere. According to residents interviewed, Nova residents view their population as one consisting of diverse individuals who possess a broad range of interests, all of which add to the character of the community.

Troy Township has a population of 450 people and is governed by a board consisting of three trustees and one clerk. Trustee and clerk elections are held every two years. The next election will be held in November 1989. The township chairperson is appointed every January by the trustees. The township administration also includes a Township Zoning Commission and a Zoning Board of Appeals. Both the Commission and Board of Appeals consists of five members of the community who are appointed by the township trustees to serve four-year terms.

Ashland County is governed by three county commissioners who each serve four-year terms. County Commissioner elections are held every two years. The commissioners elect a president each January.

B. Public Involvement to Date

In the Nova community, public involvement in issues surrounding the proposed facility has to date been primarily channeled through community groups. The next few paragraphs characterize the major community groups involved.

1. STOP IT

According to residents interviewed, community interest and concern over the proposed facility began when OTC purchased its property at an auction in 1987. Soon after the property was purchased, the community learned that OTC planned to install and operate a hazardous waste incinerator on the property. Concerned over the potential impact of the incinerator on the Nova community, Nova residents formed a citizens group called Nova's Right to Know in July 1987. The intent of the group was to collect information about the proposed project from Ohio Technology, International Technology, and local, state, and federal government agencies. In September 1987, the group change its name to STOP IT ("IT" stands for IT Corporation, the proposed operator of the facility) because the group's constituency broadened beyond the Nova community. STOP IT is managed by a director, three co-chairpersons, and an executive committee. Currently, membership in the group consists of approximately 400 people.

STOP IT activities have included establishing an information center in Nova, holding public meetings working with the state of legislature, coordinating with national and international environmental groups, and disseminating information to its membership and other interested parties. The goal of STOP IT is to prevent the proposed incinerator from being built. According to group members, STOP IT does not want to negotiate a permit; the organization does not want any permits issued to OTC at all. STOP IT is a highly organized group whose leadership possesses a strong commitment to its position. STOP IT has conducted various activities to heighten awareness of the proposed incinerator, and has worked to increase support for its position in Ashland County and other surrounding counties. According to an August

1988 STOP IT newsletter, the group's networking activities have resulted in the formation of other STOP IT chapters in Ashland, Parma, and Wellington. When U.S. EPA granted an extension for completion of the application to OCT in May 1988, U.S. EPA received over 400 telephone calls in protest. The telephone calling was largely organized by STOP IT. U.S. EPA responded in writing to each telephone call.

2. Citizens Against Pollution

In August 1987, residents from communities near the proposed facility formed a grassroots citizens group called Citizens Against Pollution (CAP). News of the proposed facility in Nova motivated the formation of the group which is run by a director and a board of trustees. With offices in Huntington, Ohio, the group consists of chapter representatives from neighboring communities such as Sullivan, Nova, Homerville, Medina, Ruggles, Spencer, and Elyria. CAP's major issue is the proposed incinerator, although the group's focus has widened over the past year to address several other environmental issues in Ohio, and is viewed as a growing grassroots environment organization in the state. Adopting a global ecosystem philosophy, CAP representatives indicated that they would like to see a moratorium placed on incineration technologies until the global impact of incineration can be adequately evaluated. According to a CAP representative, the group is interested in working with both OEPA and U.S. EPA to "stop the environmental degradation of Ohio."

3. The Amish Communities

One of the distinct features of the proposed facility is its proximity to several Amish settlements. The Lodi and Ashland settlements are the closest to the OTC property, but the proposed facility has captured the interest of Amish settlements throughout the region, including Holmes County, the largest Amish settlement in the world.

In April 1988, leaders of the Amish community traveled to Columbus, Ohio and participated in a press conference conducted with

support from STOP IT. The purpose of the conference was to present over 4,000 petition signatures from the Amish community in opposition to the proposed facility. Invited to the press conference were OEPA, U.S. EPA, the Ohio Hazardous Waste Facility Board, and state and federal government representatives. In a written statement, the Amish contingency voiced their concerns:

We are meeting here today because of a concern. The old Order Amish are thankful to God for the privilege to live in a country where we can live, work and share our lives with our neighbors and fellowman.

We still adhere to and believe in the Golden Rule: Do unto others as you would that others do unto you.

It is with this in mind that we have over 4,000 signatures protesting a proposed toxic waste incinerator site in Ashland County.

Living close to this site is an Amish community of over 100 families that would be severely disrupted and handicapped if this site was approved. Without any doubt these people would have to relocate.

Also from information we have received we would be subject to toxic emissions in our area.

So we plead with meekness to please accept our protests with an open mind and sincere concern.

The involvement of the Amish in this manner -- a people not known for their political activism -- generated significant media attention and was reported by the Chicago Tribune, U.S.A. Today, and the New York Times. Leaders of the Amish settlements keep informed about the status of the project, and are in contact with both STOP IT and CAP.

Public involvement over the last year can be characterized as significant. The work of the citizens groups has served to heighten awareness of the proposed project all over the region. In April 1988, the Troy Township Trustees polled their constituents and concluded that 94% of the responders were opposed to the proposed facility. In addition, several communities and organizations from a wide geographical area have adopted ordinances and resolutions in opposition to the proposed facility (see Appendix A). Although opposition to the proposed facility is widely known and publicized, there is some evidence of

support for OTC's project within the region. Newspaper reports indicate, however, that although there may be support for the facility, the strength of the opposition to the facility has caused proponents to keep their views to themselves.

Political interest in the proposed project has also grown over the last year. Responding to letters of concern from their constituents, U.S. Senator Howard Metzenbaum, U.S. Senator John Glenn, Congressman Don Pease, State Representative Ron Amstutz, and State Senator Dick Schafrath have all taken positions in opposition to the proposed facility. In addition, Cleveland's mayor, George Voinovich, has opposed the project. Many residents have written their concerns to both U.S. EPA and OEPA.

IV. COMMUNITY CONCERNS

The following community concerns were expressed by Nova area residents and local officials during interviews conducted in August 1988.

A) Lack of trust in the proposed operator of the facility . Residents interviewed expressed concern regarding IT Corporation's involvement in the proposed project. Nova area residents and members of STOP IT and CAP feel strongly that IT Corporation is not a reliable company to be operating the proposed facility. The citizens groups have distributed information about IT Corporation, including a list of violations of State of California environmental regulations and the Louisiana State Ethics Code. Members of STOP IT cite a recent Forbes article which discusses management and financial problems of IT Corporation, and the fact that the company insures itself against environmental liabilities as proof of IT Corporation's instability (see "Warning -- Hazardous Management," Forbes , Volume 142, Number 2, July 25, 1988, Page 60). Residents also are concerned that IT Corporation will purchase OTC and that OTC is merely acting as a "front" for IT Corporation.

B) Effects of proposed facility on quality of life . Residents interviewed stressed their concern regarding the impact of the proposed facility on the quality of life in the area. Residents said that the major reason why people move into rural areas and stay in these areas is the clean air, and non-urbanized, undeveloped characteristics of these regions. These residents feel that construction and operation of an incinerator in the area would destroy the appeal of the area, negatively impact property values, and drive people away. Moreover, residents and members of the Amish community pointed out that siting an incinerator in the Nova area is counter-culture to the Amish way of life. CAP stressed the fact that the Amish communities increase the tourist appeal of the area. According to newspapers reports, the Amish community has hinted to the possibility that the Amish settlements in the area may relocate if the incinerator is licensed and built. Community interviews with

Amish representatives, however, indicated that this would be a last resort.

C) Effects of proposed facility on environmental quality in the region. All residents interviewed expressed the greatest concern about the impacts of the proposed facility on the environment. The community is very concerned about air emissions from the proposed incinerator and feels strongly that there would be a threat of toxic air contamination. CAP and STOP IT also spoke about the fact that the facility would be located near the headwaters of the Black and Vermilion rivers. The groups feel that these rivers would be endangered by contamination resulting from operation of the incinerator. The Amish leaders voiced their concern that air emissions would contaminate rainwater which is a primary water source through cisterns and wells on many of the Amish properties. The Amish are concerned about how their livestock and crops may be affected by the proposed incinerator. Such a concern is echoed by other farmers in the area who view the proposed incinerator as a threat to their livelihoods.

D) Inappropriateness of site selection. Most people interviewed questioned why Nova was chosen as the site for OTC's project. These people feel that it is inappropriate for an incinerator to be located in a rural community where natural resources are a significant aspect of the economy. Two residents interviewed, one that breeds Navajo Churro sheep (an endangered species) and another that propagates native American seeds, were particularly concerned that an incinerator in the area could endanger their projects. The Amish leaders expressed similar concerns and asked why incinerators had to be sited in places where people lived. They suggested that a better location would be in a desert, or some other unpopulated area.

E) Waste management in Ohio . Both CAP and STOP IT said that they wanted to obtain more information about the waste management industry in Ohio. These groups feel that there are plenty of incinerators in the area, and that building another one is not necessary. The groups are interested in exploring alternative waste management technologies to incineration. Their interests in this area reflect their concerns that OTC and IT are not acting in the best interest of the community or the state, and are proposing the incinerator for their own financial benefit.

F) Safety of the proposed incinerator . Residents and local officials brought up several safety issues. Most people interviewed said they are concerned about having trucks filled with contaminated material driving through the area. According to several residents, the roads in the area have several sharp curves which could lead to accidents by trucks traveling to the facility. In addition, residents cited air and fugitive emissions, and public health effects of long-term exposure to such emissions as major concerns.

Residents who oppose incineration altogether as a waste management technology believe that too little information is known about the synergistic effect of several chemicals burning at once, and feel that such an occurrence is a health threat to the area.

Many of the people interviewed wanted clarification on monitoring of the incinerator should it become operational. These residents wanted to know who would conduct the monitoring and how often it would be done. STOP IT and CAP expressed reservations about monitoring programs and said that the proposed incinerator would not be adequately monitored. These groups suspect that officials would only monitor for a narrow range of contaminants.

CAP representatives shared their frustration about the safety issue and rhetorically asked why the burden of making the incinerator safe rested with the residents. They expressed distrust in the ability of government officials to protect the environment and public health.

G) Emergency response capabilities in the area . Several concerned residents and local officials felt that siting the facility in the Nova area places the region in peril should an accident occur. Nova itself has no emergency response capabilities and relies on the City of Ashland and other communities for such assistance. The community is concerned that should an accident occur, there would be no efficient and comprehensive way of responding. Moreover, the Amish representatives expressed concern that should an accident occur, emergency communication with the settlements and evacuation would be impossible due to their lack of telephone, electricity, and modern transportation systems.

H) Confusion regarding the permitting process . Most of all the residents and local officials agreed that the permitting process is confusing. Many expressed frustration about the many levels of government involved and wanted clarification on the authorities of the federal, state, and local governments. In March 1988, OEPA held an informational session for Nova area residents. At the session, several division representatives from OEPA and U.S. EPA answered questions and provided information on the permitting process. Community members and OEPA officials indicated that the session was informative, although residents said that some confusion still remains about the permitting process.

I) Poor response from government officials . While many residents appeared satisfied with the information provided by government officials, several residents and the citizens groups felt that both the state and federal government officials should provide more information regarding the permitting process and should be more accessible. STOP IT complained about being "hung up on" by U.S. EPA officials, and said they were frustrated that U.S. EPA had not acknowledged much of the information sent to them by STOP IT. CAP representatives expressed the same concerns.

J) Frustration over limited opportunities for public involvement . Most people interviewed did not understand the extent to which formal opportunities for public involvement exist during the permitting process. Those residents and local officials that are more

aware of public opportunities feel that they are limited and that they do not serve the interests of the communities. Most people interviewed, including the Amish leaders, asked about effective ways of becoming involved in the process so that their concerns can be officially considered before the agencies make any final decisions.

V. OBJECTIVES OF THE PUBLIC INVOLVEMENT PROGRAM

Based on the concerns voiced by area residents and local officials, the following are the objectives of the public involvement program during the permitting process:

A) Establish accessibility among U.S. EPA personnel to the community . As the Nova community works toward becoming informed about the issues surrounding the proposed facility, it will be very important for U.S. EPA personnel to be available to answer questions and provide information. Both STOP IT and CAP already are frustrated with the difficulty they have in contacting U.S. EPA personnel. Maintaining good positive contact with concerned citizens in the Nova community will strengthen U.S. EPA's credibility and allow people to become more involved in the process.

B) Coordinate with OEPA to make sure the community understands the permitting process and opportunities for public involvement . Community interviews reflected the confusion that residents and local officials have about the permitting process and opportunities for public involvement. A crucial component of the public involvement program is to make certain that interested residents and local officials have adequate opportunities to understand and be involved in the permitting process and the opportunities for their involvement. Because so many levels of government are involved in the process, U.S. EPA should work closely with OEPA to provide the community with adequate information and opportunities to ask questions of appropriate government officials.

C) Provide specific information on issues of interest to ensure a strong level of understanding by the community . Both STOP IT and CAP are working hard to acquire information that will put many of the issues of concern into perspective. Much of CAP and STOP IT's activities will involve disseminating information to all interested parties. U.S. EPA and OEPA should work together to provide the community with accurate information on subjects such as incineration technology, alternative waste management practices, emergency response procedures, monitoring

practices, and environmental impacts of waste management practices.

VI. PUBLIC INVOLVEMENT ACTIVITIES

Specific public involvement activities related to the OTC RCRA permit application are required by Title 40 of the Code of Federal Regulations, Part 124 and RCRA Section 7004. The public involvement activities describe below include required activities (indicated by an asterisk), as well as other activities intended to address community concerns and to carry out the objectives established for the public involvement program.

A) Designate U.S. EPA contact to respond to questions from the community. U.S. EPA has assigned one member of the Office of Public Affairs (OPA) staff in the Region V office in Chicago to be the central U.S. EPA liaison for the community (see Appendix B). This person will respond to community requests for information and will field telephone requests for information to other appropriate U.S. EPA personnel. The OPA's name and telephone number will appear on all correspondence between U.S. EPA and the community in addition to U.S. EPA's toll-free number. The OPA official also will be the central contact for local media to acquire information regarding the proposed incinerator, and will keep an up-to-date mailing list of interested individuals.

B) Establish local information repositories for interested parties to review material. In Nova as well as in other nearby communities (see Appendix C), information repositories will be established to provide the community with copies of the permit applications, applicable laws, and other relevant information. As new information is developed, the information repositories will be updated.

C) Coordinate with OEPA to provide fact sheets on issues of concern regarding the proposed facility. U.S. EPA will coordinate closely with OEPA to provide the community with fact sheets that summarize the permitting process in a clear and easy to read format. The first fact sheet will include information on the state and federal permitting process, and on the role of local government and opportunities for public involvement. In addition, separate fact sheets

will be distributed to provide information on other topics of concern expressed by the community. These fact sheets will cover incineration technology, monitoring practices of the U.S. EPA and OEPA, alternative waste management practices, and current information on environmental impacts of incinerators. The fact sheets will be printed and distributed to individuals on U.S. EPA's current mailing list.

D) Conduct availability sessions to answer specific questions .

After the fact sheets are prepared and distributed, U.S. EPA in cooperation with OEPA will hold at least three availability sessions in the community. The availability sessions will be designed to accommodate small groups and will consist of representatives of OEPA and U.S. EPA who will be available to answer specific questions of the community. The sessions will be held in different geographic areas of the region and will accommodate members of the Amish community. Notices announcing the availability sessions will be published in local newspapers.

E) Notify the community about progress made on application review . As progress is made on processing of the permit application, or if the schedule for reviewing the application alters significantly, U.S. EPA will notify the community by providing a written update to individuals on the mailing list and media representatives.

*F) Develop and distribute fact sheet on draft permit or denial .

It is required by RCRA regulations that one fact sheet, or "Statement of Basis," be distributed that describes both the facility and the permit that is being proposed for that facility. Such a fact sheet will be developed and distributed to individuals on the mailing list, media, and any other interested parties in advance of the public comment period.

*G) Conduct a public comment period on draft permit or denial .

RCRA regulations require that the public must be notified through a local newspaper and broadcast over local radio stations that a draft permit has been prepared. A forty-five day period is also required under RCRA regulations to accept public comments. U.S. EPA may extend the public comment period if necessary. U.S. EPA will distribute a

press release to local media and a notice to the mailing list announcing the beginning of the public comment period.

H) Hold public hearing on draft permit or denial . RCRA regulations require that a public hearing be held if an individual organization or community requests one, or if the Regional Administrator determines that one is needed. The purpose of having a public hearing is to officially accept and record public comments. For this site, U.S. EPA has decided to hold a public hearing. U.S. EPA will hold such a hearing and will publicize it via a press release to local media, and advertisements in local newspapers. A notice also will be sent to the mailing list. After the hearing has been held, a tape or transcript will be placed in the information repositories.

*I) Prepare Response to Comments to address community concerns . RCRA regulations require that a response to comments be prepared at the conclusion of the public comment period. This document will consist of a summary of the written comments received, the oral comments presented at the hearing, and a response to those comments prepared by U.S. EPA. The Response to Comments will be placed in local information repositories for public review.

* denotes required activity

VI. TIME LINE FOR IMPLEMENTING PUBLIC INVOLVEMENT ACTIVITIES

The following is a time line for public involvement activities through issuance of a final decision on the Ohio Technology Corporation's RCRA permit application. Should a permit be issued, U.S. EPA would continue the public involvement program.

Activity	Approval of the Public Involvement Plan	Completion of Technical Review	Issuance of Draft Permit (if applicable)	Issuance of Final Permit (if applicable)
1. Designate Contact	X			
2. Establish Information Repositories	X			
3. Fact Sheets	-----X	X-----	X	
4. Availability Sessions	-----X	X-----		X-----
5. Updates	-----	X-----		-----As needed-----
6. Public Comment Period				X----- -----X
7. Public Hearing				X
8. Responsiveness Summary				X

APPENDIX A

LOCAL GOVERNMENTS AND ORGANIZATIONS ISSUING
WRITTEN STATEMENTS OF OPPOSITION TO THE PROPOSED INCINERATOR
[obtained from state and federal files]

<u>Government Body</u>	<u>Date resolution adopted</u>
Village of Savannah	December 15, 1987
City of Avon Lake	December 14, 1987
Troy Township	September 28, 1987
Village of Lodi	October 19, 1987
Ashland County Soil and Water Conservation District	April 26, 1988
Russia Township	March 22, 1988
City of Allure	March 21, 1988

<u>Local Organization</u>	<u>Date of written position</u>
Cinnamon Lake Association, Inc.	December 16, 198
Ashland County Farm Bureau, Inc.	May 16, 1988
Episcopal Diocese of Ohio	July 12, 1988
Lodi Rotary Club	January 20, 1988
Lodi Chamber of Commerce	January 20, 1988
Ruritan Club of Lodi	January 20, 1988

APPENDIX B

LIST OF CONTACTS, INTERESTED PARTIES, AND MEDIA

1. Federal Elected Officials

Senator John Glenn (202) 224-3353
503 Senate Hart Office Building
Washington, DC 20510-3501

District Office (216) 522-7095

Federal Courthouse
201 Superior Avenue
Cleveland, OH 44114

Senator Howard Metzenbaum (202) 224-2315
140 Senate Russell Office Building
Washington, DC 20510-3502

District Office (216) 522-7272

Celebreeze Federal Building
Room 2915
1240 East Ninth Street
Cleveland, OH 44199

Congressman Donald Pease (202) 225-3401
2410 Rayburn House Office Building
Washington, DC 20515

District Office (419) 325-4184

The Centre
Suite 101
42 East Main Street
Ashland, OH 44805-2336

2. State Elected Officials

Governor Richard Celeste (614) 466-3555
Office of the Governor
Statehouse
Columbus, OH 43216

State Senator Richard Schafrath (614) 466-8086
Ohio Senate
Statehouse
Columbus, OH 43216

Local Address (419) 994-4161
424 West Main Street
Loudonville, OH 44842

State Representative Ronald Amstutz (614) 466-1474
Ohio House of Representatives
Statehouse
Columbus, OH 43216

Local Address (216) 262-7371
2243 Friar Tuck Circle
Wooster, OH 44691

3. Local Government Officials

Ashland County Commissioners (419) 289-0000
Court House
West Second Street
Ashland, OH 44805
Marilyn Byers, President
C.R. "Dick" Myers
Robert Valentine

Ashland County Board of Health (419) 289-0000
c/o Ashland County Health Department
110 Cottage Street
Ashland, OH 44805

Gloria Weirick, President

Ashland County Regional Planning Commission (419) 289-0000
110 Cottage Street
Ashland, OH 44805

Mike Wolfson, Director

Ashland County Disaster Services (419) 289-6511
c/o Ashland City Fire Department
274 Cleveland Avenue
Ashland, OH 44805

John Augustine, Director

Troy Township Trustees
Donald Biddinger, Chairman (419) 652-3462
Ralph Smith, Vice Chairman (419) 652-3258
Richard Robertson (419) 652-3361
Mary Judith Fox, Clerk (419) 652-3187

Troy Township Zoning Inspector
Willard Smith (419) 652-3362

Troy Township Zoning Commission
Leslie White (419) 652-3842
Richard Hawley (419) 652-3021
Delmar Rife (419) 625-3851
Janet Cleugh (419) 652-3760
John M. Gorman (419) 652-3354

Troy Township Zoning Board of Appeals
James R. Callihan (419) 652-2225
Dean Sheppard (419) 652-3838
Tod Crumrine (419) 652-3194
Janice Schneiter (419) 652-3181
Eugene Fowler (419) 652-3808

4. Federal Government Agencies

U.S. Environmental Protection Agency
Region V
230 South Dearborn Street
Chicago, IL 60604

Valdas Adamkus, Regional Administrator (312) 353-2000
Anne Rowan, Public Participation Coordinator (312) 886-7857
Office of Public Affairs
Wen Huang, Environmental Engineer (312) 886-6191
RCRA Permit Branch

Charles Slaustas, Supervisor (312) 886-6190
 RCRA Permit Branch

Lisa Pierard , Ohio Section Chief (312) 353-4789
 RCRA Permit Branch

Sheldon Simon, Regional PCB Coordinator (312) 886-6087
 Pesticides and Toxic Substances Branch

John Connell, Chief (312) 886-6832
 PCB Compliance Section
 Office of the Environmental Sciences Division

5. State Government Agencies

Ohio Environmental Protection Agency

P.O. Box 1049
 1800 Water Mark Drive
 Columbus, OH 43266-0149

Richard Shank, Director (614) 644-2782

Linda Whitmore, Public Involvement Coordinator (614) 644-2160
 Public Interest Center

Robert Babik, Environmental Engineer (614) 644-2949
 Division of Solid and Hazardous Waste
 Management

Ohio Hazardous Waste Facility Board (614) 644-2742

P.O. Box 1049
 1700 Water Mark Drive
 Columbus, OH 43266-0149
 James Adair III, Executive Director

Board members :

Richard C. Sahli, Deputy Director
 Legal and Governmental Affairs
 Ohio Environmental Protection Agency

Warren W. Tyler, Chairman
 Ohio Water Development Authority

Charles E. Mauger, Assistant Director
 Ohio Department of Natural Resources

Thomas Sweeney, Ph.D., Assistant Vice
 President of Research and Graduate Studies
 The Ohio State University

W.B. Clapham Jr., Ph.D., Associate Professor of Geology

Cleveland State University

6. **Citizens Groups**

STOP IT (419) 652-3000

P.O. Box 134
Nova, OH 44859

Dave Schlaufman, Director (419) 652-3862
Vern Hurst, Co-chairperson
Diana Schlaufman, Co-chairperson

Citizens Against Pollution (216) 647-6127
P.O. Box 122 (Mon.,Wed., Fri.)
Sullivan, OH 44880
Ardith Jordan, Trustee

7. **Media**

Newspapers

Ashland Times Gazette
40 East Second Street
Ashland, OH 44805
(419) 281-0581

New London Record
P.O. Box 110
New London, OH 44851
(419) 929-3411

Akron Beacon-Journal
44 East Exchange Street
Akron, OH 44328
(216) 375-8111

Mansfield News Journal
P.O. Box 25
70 West Fourth Street
Mansfield, OH 44901
(419) 522-3311

Elyria Chronicle-Telegram
P.O. Box 4010
225 East Avenue
Elyria, OH 44035
(216) 329-7000

Wellington Enterprise
P.O. Box 38
Wellington, OH 44090
(216) 647-3171

Cleveland Plain Dealer
1801 Superior Avenue
Cleveland, OH 44114
(216) 344-4500

Television

WAKC-TV
853 Copley Road
Akron, OH 44320
(216) 525-7831

WBNX-TV
P.O. Box 2091
Akron, OH 44309
(216) 928-5711

WEAO-TV
275 Martinel Drive
Kent, OH 44240
(216) 678-1656

WQHS-TV
2681 West Ridgewood
Parma, OH 44134
(216) 888-0061

WEWS-TV
3001 Euclid Avenue
Cleveland, OH 44115
(216) 431-5555

WJW-TV
5800 South Marginal Road
Cleveland, OH 44102
(216) 431-8888

WKYC-TV
1403 East Sixth Street
Cleveland, OH 44114
(216) 344-3333

WUAB-TV
8443 Day Drive
Cleveland, OH 44129
(216) 845-6043

WVIZ-TV
4300 Brockpart Road
Cleveland, OH 44134
(216) 398-2800

Radio

WNCO-Radio
P.O. Box 311
Ashland, OH 44805
(419) 289-2605

WRDL-Radio
Ashland College
401 College Avenue
Ashland, OH 44805
(419) 289-2480

WLKR-Radio
P.O. Box 547
Norwalk, OH 44857
(419) 668-8151

WCLS-Radio
711 McPherson Street
Mansfield, OH 44906
(419) 525-2331

WMAN-Radio
P.O. Box 8
Mansfield, OH 44901
(419) 524-2211

WVNO-Radio
2900 Park Avenue West
Mansfield, OH 44906
(419) 529-5900

WCWS-Radio
College of Wooster
Wooster, OH 44691
(216) 263-2240

WWST-WQKT Radio
South Hillcrest Drive
Wooster, OH 44691
(216) 264-5122

8. Owner/Operator

Ohio Technology Corporation (owner)
3350 Lander Road
Cleveland, OH 44124
John Tracy, Principal Manager

(216) 464-2121

International Technology Corporation (operator)
Regional Office
William Penn Plaza
2790 Mosside Boulevard
Monroeville, PA 15146-2792
Brian Borofka, Site Assessment Group Leader

(412) 243-3230

Headquarters

23456 Hawthorne Boulevard
Torrence, CA 90509

(213) 378-9933

APPENDIX C
LIST OF INFORMATION REPOSITORY LOCATIONS
AND PUBLIC MEETING FACILITIES

1) Information Repository Locations

Ashland Public Library
224 Claremont Avenue
Ashland, OH 44805
(419) 289-8188

Contact:
Constance Wolfson, Librarian

New London Public Library
67 South Main Street
New London, OH 44851
(419) 929-3981

Contact:
Melissa Karnosh, Librarian

Troy Township Trustees
Nova, Ohio
(419) 652-3200

Contact:
Ralph Smith

2) Public Meeting Facilities

Mapleton Middleton School
(Ruggles Troy School)
U.S. Highway 224
Nova, OH 44859
(419) 652-3540

Contact:
John Neighbors, Principal
Capacity: Approximately 250

Mapleton High School
County Rod 620
Polk, OH 44861
(419) 945-2188

Contact:
Mr. Schneider, Principal
Capacity: Approximately 600

Citizens Against Pollution
Corner School House
Sullivan, OH 44880

APPENDIX D
LIST OF PERSONS CONTACTED FOR PREPARATION
OF THE PUBLIC INVOLVEMENT PLAN
(for U.S. EPA and Ohio EPA use only)

Ashland County Board of Commissioners (419) 289-0000

Court House
West Second Street
Ashland, OH 44805

J. Myron Leininger
Marilyn Byers
C. Jay Welsh

Troy Township Trustees

Donald Biddinger (419) 652-3463
Ralph Smith (419) 652-3258
Richard Robertson (419) 652-3361

Ohio Environmental Protection Agency

P.O. Box 1049
1800 WaterMark Drive
Columbus, OH 43266-0149

Linda Whitmore, Public Involvement Coordinator (614) 644-2160
Public Interest Center
Michael Greenberg, Public Information Specialist (614) 644-2160
Public Interest Center
Robert Babik, Environmental Engineer (614) 644-2949
Division of Solid and Hazardous Waste
Management

U.S. Environmental Protection Agency

Region V
230 South Dearborn Street
Chicago, IL 60604

Anne Rowan, Public Participation Coordinator/RCRA Office of Public Affairs	(312) 886-7857
Nancy Sullivan, Public Affairs Specialist/TSCA Office of Public Affairs	(312) 886-6687
Margaret McCue, RCRA Public Participation Manager Office of Public Affairs	(312) 886-6694
George Harper, Ohio Section Chief RARA Permit Branch	(312) 353-4789
Wen Huang, Environmental Engineer RCRA Permit Branch	(312) 886-6191
Charles Slaustas, Supervisor RCRA Permit Branch	(312) 886-6190
Sheldon Simon, Regional PCB Coordinator Pesticides and Toxic Substances Branch	(312) 886-6087

Local Residents and Interested Individuals

Mike Stanfield
962 County Route 40
Nova, OH 44859
(419) 652-3133

Gladys Thomas
838 U.S. Highway 224
Nova, OH 44859
(419) 652-3818

Elaine Drotliff
836 Township Road 150
Nova, OH 44859
(419) 652-3122

Diana Schlaufman
946 Township Road 150
Nova, OH 44859
(419) 652-3862

David Schlaufman
946 Township Road 150
Nova, OH 44859
(419) 652-3862

Vern Hurst
995 Township Road 150
Nova, OH 44859
(419) 652-3337

Frank Rickett
402 Township Road 791
Sullivan, OH 44880
(419) 652-3238

Tod Crumrine
173 State Route 511
Nova, OH 44859
(419) 652-3194

Lois Kinter
Box 15
U.S. Highway 224 West
Nova, OH 44859
(419) 652-3892

Bob Janca
12595 New London E Road
Homerville, OH 44235
(419) 648-2853

Judith Casteel
7730 Firestone Road
Homerville, OH 44235
(419) 625-2141

John Nethers, Ph.D.
Professor of History
Department of Social Sciences
Bixler Hall -- Ashland College
Ashland, OH 44805
(419) 289-5381

Joanne Slorgie
129 Broadway Street
Lodi, OH 44254
(216) 948-2482

Anne Slorgie
129 Broadway Street
Lodi, OH 44254
(216) 948-2482

Linda Martz
Mansfield News-Journal
P.O. Box 25
40 West Fourth Street
Mansfield, OH 44901
(419) 522-3311

Phil Dague
210 Township Road 2150
Jeromesville, OH 44840
(419) 368-3281

Sue Grycza
Ashland Times - Gazette
40 East Second Street
Ashland, OH 44805
(419) 281-0581

Leroy J. Keim
Lodi, OH

David Yoder
Firestone Road
Homerville, OH

Ardith Jordan
Mary Beth Derekito
Mary Warner
Eli Troyer

APPENDIX L -- PERMIT MODIFICATIONS FACT SHEET



Modifying RCRA Permits

Introduction

The Resource Conservation and Recovery Act (RCRA) requires each hazardous waste treatment, storage, and disposal facility to manage hazardous waste in accordance with a permit issued by the Environmental Protection Agency (EPA) or a state agency that has a hazardous waste program approved by EPA. A RCRA permit establishes the facility's operating conditions for managing hazardous waste. EPA and state agencies use the permit to specify the administrative and technical standards for each facility. Over time, however, the facility needs to modify the permit to improve equipment or make changes in response to new standards. Recognizing this, EPA established procedures early in the program for modifying permits. The Agency has now revised these procedures to provide more flexibility to both owners and operators of facilities and EPA and to increase public involvement. This brochure briefly describes EPA's new procedures for modifying RCRA permits.

These procedures are effective now in states where EPA administers the RCRA program. However, authorized states will not use these procedures until they have adopted them as part of their own programs.

The Old Process

Acknowledges that a permit would need to be modified for various reasons during its life, EPA established in 1980 a process for modifying them. The process included different procedures for major and minor modifications. A minor permit modification allowed a limited number of minor changes to occur, after EPA reviewed and approved the modification request. There was no requirement for public notice and comment.

For major modifications, EPA would follow procedures that were almost the same as those for issuing an initial permit. These procedures included developing a draft permit modification, announcing in a local newspaper and on the radio the availability of the proposed modification, providing a 45-day public comment period, and, if

requested, holding a public hearing. Public participation was limited to the specific permit conditions being modified.

A Need for Change

The old permit modification process was becoming increasingly unwieldy. It was impeding the ability of treatment, storage, and disposal facilities to respond quickly to improvements in technology and shifts in the types of wastes being generated. This made the routine changes necessary for effective operations more difficult to accomplish. Furthermore, the procedures often did not involve the public early enough in the modification process.

In response to these concerns, EPA developed new procedures with help from representatives from states and industrial, environmental, and public interest groups. The new process provides more flexibility for facilities to respond to changing conditions, clean up waste, and generally improve their waste management operations. In addition, the new procedures allow for more public involvement by expanding public notification and participation opportunities.

The Congress, in an effort to address the nation's growing concern about its hazardous and solid waste problem, enacted the Resource Conservation and Recovery Act (RCRA). The Hazardous and Solid Waste Amendments of 1984 greatly expanded RCRA and the Environmental Protection Agency's (EPA) authority to regulate the wastes.

As a result, EPA is developing regulations and programs to reduce, recycle, and treat wastes: restrict land disposal and require corrective action for releases of hazardous wastes, or their constituents, into the environment. EPA's Office of Solid Waste, through its publications, aims to foster public understanding and encourage citizen involvement in helping to manage the nation's waste problem.

The New Process

The new process establishes three classes of permit modifications and sets administrative procedures for approving modifications in each class.

Class One addresses routine and administrative changes. Lowest range of permit modifications.

Class Two primarily addresses improvements in technology and management techniques. Middle range of modifications.

Class Three deals with major changes to a facility and its operations. Highest range of modifications.

Class One Modifications

Class One modifications do not substantially alter the conditions in the permit or reduce the facility's ability to protect human health and the environment. Such changes may include

Improving administrative and routine functions.

Upgrading plans and records maintained by the facility.

Replacing some equipment with functionally equivalent equipment.

Most Class One changes do not require approval by the authorized permitting agency -- either EPA or a state -- before they are implemented. There are several types of changes, however, that may require such approval. EPA may deny any Class One modification.

Notifying the Public. Within 90 days of implementing a change, a facility making a Class One modification must notify the public by sending a notice to all parties on its mailing list. This mailing list includes people and organizations who have asked to be notified of the facility's activities. The list is maintained by the permitting agency. Citizens may be added to the mailing list by sending a written request to the agency. Any member of the public may ask EPA to review a Class One modification.

Class Two Modifications

Class Two modifications include those changes that enable a facility to respond to variations in the types and quantities of wastes that it manages, technological advancements, and new regulatory requirements. Class Two changes do not substantially alter the facility's design or the management practices prescribed by the permit. They do not reduce -- and in most cases should enhance -- the facility's ability to protect human health and the environment. Under some circumstances, the permitting agency may determine that the modification request should follow the more restrictive Class Three procedures.

Class Two modifications address change like

Increases of 25 percent or less in a facility's tank treatment or storage capacity.

Authorization to treat or store new wastes that do not require different management practices.

Modifications to improve the design of regulated units or improve management practices.

The new procedures require the facility to submit a request for approval of the change to the permitting agency. The request describes the change, explains why it is needed, and provides information showing that the change complies with EPA's technical standards for the facility. For Class Two modification, a facility may begin construction 60 days after submitting a request, although the permitting agency may delay all or part of the construction.

Involving the Public. The permit holder must notify people and organizations on the facility mailing list about the modification request by sending them a letter and publishing a notice in a major local newspaper. The notice must appear within seven days before or after the facility submits the request to the permitting agency. The newspaper notice marks the beginning of a 60-day comment period and announces the time and

place of an informal public meeting.

This public comment period is an opportunity for the public to review the facility's permit modification plans at the same time as the permitting agency -- early in the process. All written comments submitted during the 60-day comment period will be considered by the agency before a final decision is made on the modification request.

The public meeting is conducted by the permittee and is held no fewer than 15 days after the start of the comment period and no less than 15 days before it ends. The purpose of this meeting is to provide for an exchange of views between the public and the facility's owner or operator and if possible, to resolve any issues concerning the permit modification. The meeting is less formal than the public hearings held when a new RCRA permit is under development. Because the meeting is intended to be a dialogue between the facility owner or operator and its neighbors, the permitting agency is not required to attend the meeting. EPA believes that the meeting will result in more public comments being submitted to the agency and perhaps voluntary revisions to the permitted facility's notification request.

To inform citizens about how the facility has met the conditions of the permit the permitting agency must make the facility's compliance history available to the public. A compliance history may include many of any permit violations, when violations have occurred, and how the violations have been corrected.

Default Provision. The procedures for Class Two modifications include a default provision to ensure that the permitting agency responds promptly to the facility's request. The agency must respond to a request within 90 days or, if the agency calls for an extension, 120 days. If the agency does not reach a final decision on the request within 120 days, the facility is automatically allowed to conduct the requested activities for 180 days. During this period, the facility must comply with all federal and state regulations governing hazardous

waste facilities. If the permitting agency still has not acted by day 250, the facility then must let the public know that the facility will become permanently authorized to conduct the proposed activities unless the agency approves or denies the request by day 300. At any time during the Class Two procedures, the agency may reclassify the request as Class Three if there is significant public concern or if the permitting agency determines that the facility's proposal is too complex for the Class Two procedures. This reclassification would remove the possibility of an automatic decision by default.

Class Two Modification Schedule

Day 1	Modification request received by agency. Newspaper notice published and mailing list notified.
Days 15-45	Informal public meeting held.
Day 60	Written public comments due to agency.
Day 90	Agency response to Class Two modification request due. Deadline may be extended 30 days.
Day 120	If no response, requested activity may begin for 180 days.
Day 250	If still no response, public notified.
Day 300	If still no response, activity permanently authorized.

Class Three Modifications

Class Three modifications address changes that substantially alter a facility or its operation. For example, the following modification requests fall under Class Three:

Requests to manage new wastes that require different management practices.

Major changes to landfill, surface impoundment, and waste pile liner, leachate collection, and detection systems.

Increases in tank, container, or incinerator capacity of more than

25 percent.

Major changes to the facility's groundwater monitoring program.

Involving the Public. For Class Three modifications, the facility must initially follow the same public notice, comment, and meeting procedures as for Class Two modifications. This allows for early public review and comment on proposed changes. Then the permitting agency must prepare a draft permit modification, allow 45 days for public comment on the draft, hold a public hearing if requested, and then issue or deny the permit modification request.

Public Involvement Steps for Class Three Modifications:

The facility representative

Requests a modification of the permit to the permitting agency.

Notifies the public.

Holds a public meeting

The permitting agency

Allows 60 days for public comment on the modification requests.

Prepare draft permit modification conditions.

Notifies the public of the agency's draft permit conditions.

Allows 45 days for public comment on permit conditions.

Holds a public hearing, if requested.

Issues or denies the revised permit conditions.

Temporary Authorization

For certain Class Two or Three modifications, the permitting agency may grant a facility temporary authorization to perform certain activities for up to 180 days. For example, temporary authorization may be granted to ensure that cleanups, or corrective actions, and closure activities can be undertaken

quickly and that sudden changes in operations not covered under a facility's permit can be addressed promptly. Activities performed under a temporary authorization must comply with the applicable waste management regulations. The facility must notify the public within seven days of making the request. The permitting agency may grant a temporary authorization without notifying the public. A facility may renew a temporary authorization only by requesting permit modification and initiating public participation.

Administering Permit Modifications

These procedures are effective only in states where EPA administers the RCRA program. States with hazardous waste programs equivalent to, or more stringent than, the federal program may be authorized by EPA to administer RCRA hazardous waste programs. Authorized states are not required to adopt this new permit modification process, although it is expected that many of them will. Therefore, for state-administered RCRA permits, the state agency may use different modification procedures until it adopts the new modification approach. However, EPA may use these new procedures in authorized states whenever it is necessary to change a RCRA permit to implement provisions imposed by federal law. EPA regional offices, listed below, maintain up-to-date information about which states are following this and other hazardous waste programs.

Getting Involved

EPA encourages community involvement in the permitting and permit modification processes. The revised permit modification procedures expand opportunities for the public to be notified and to participate. The procedures also allow for the expeditious approval of requests when there is no apparent public concern about proposed changes.

Citizen Involvement Steps

Contact your EPA regional office or state agency to identify the permitting agency.

Write the permitting agency and

request to be put on the mailing list to receive notices of permit modification requests.

Review modification requests.

State your support for, or objection to, the requested modification during the public comment period by providing written comments.

Participate in the public meetings. These informal meetings allow facility representatives to explain their permit modification requests and answer your questions.

For a copy of the new regulations governing the permit modification process and more information on the new permit modification process or other RCRA programs,

call EPA's RCRA Hotline: 800-424-9346; in Washington, DC., the number is 382-3000. Or contact EPA Regional Offices:

Region I

JFK Federal Building
Boston, MA 02203
(617) 573-9644

Region II

26 Federal Plaza
New York, NY 10278
(212) 264-8683

Region III

841 Chestnut Building
Philadelphia, PA 19107
(215) 597-7940

Region IV

345 Courtland Street, N.E.
Atlanta, GA 30365
(404) 347-3433

Region V

230 S Dearborn Street
13th Floor (HR-11)
Chicago, IL 60604
(312) 353-0398

Region VI

First International Bldg..
1445 Ross Avenue
Dallas, TX 75202
(214) 655-6785

Region VII

726 Minnesota Avenue
Kansas City, KS 66101
(913) 236-2888

Region VIII

999 18th Street
One Denver Pl., Suite 1300
Denver, CO 80202-2413
(303) 293-1676

Region IX

215 Fremont Street
San Francisco, CA 94105
(415) 974-8026

Region X

1200 Sixth Avenue
Seattle, WA 98101
(206) 442-1099

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

APPENDIX M -- PUBLIC PARTICIPATION RESOURCES AVAILABLE TO THE PERMITTING AGENCY

Two keys to developing an effective public participation program are knowing who within your agency or elsewhere can provide support on public participation activities and knowing where to obtain information. Most Regions have one person assigned as the **public involvement coordinator** (PIC). The PIC serves as a liaison between community members and permit writers, enforcement personnel (both EPA and state), facility owners and operators, and other individuals or groups. The PIC oversees the implementation of the overall public participation program. He or she may handle logistics for public meetings, develop and maintain mailing lists, and review and/or help prepare news releases, fact sheets, and informational materials.

Other individuals who may be able to assist with public participation activities include:

Other EPA Staff - Other members of the EPA Regional technical, legal, public affairs, project officer, or permit writer staffs are also valuable resources. It is essential that these staff coordinate their efforts. They can provide technical assessments of the facility for release to the public or provide information relative to permitting issues and aspects of enforcement, compliance, and corrective action activities developed for the facility. Graphic designers, typesetters, and other support staff can help you with your program. In addition, CERCLA community relations coordinators in your office who have sites in the same community could take care of some of your activities, or at least provide you with valuable advice.

State Personnel - In authorized states, most of the public participation responsibilities listed for EPA staff will be assumed by state personnel. Regardless of authorization status, state agencies should play an active role in the development and implementation of public participation programs. For example, agencies in unauthorized states can provide information such as names for inclusion on a mailing list, background information on a facility's history, and knowledge of community attitudes toward the facility.

Facility Staff - While oversight of the permitting and enforcement processes is the sole responsibility of the regulatory agency, facility owners or operators are responsible for conducting a number of activities. In addition, facilities resources and staff can provide for public participation activities that go beyond the regulatory requirements.

Public Interest Groups - Community groups, civic organizations, environmental groups, religious and educational organizations may all provide public participation activities that supplement the requirements. The agency may consider teaming with a local public interest group to provide opportunities for the public to learn more about the permitting process or technical issues. Public interest groups may be able to provide resources or personnel to help maintain repositories or to provide informational newsletters. The agency may also consider contacting an impartial civic organization (e.g., the League of Women Voters) to mediate at public meetings or other functions.

Contractors - Public participation contractors who work for your agency can provide support by conducting some of the more time-consuming activities, such as community interviews or logistics for public meetings.

If There's No One Who Can Help - You may be the only person available to conduct public participation activities, in which case you need to estimate your level of effort carefully so that you can choose the activities that will give you and members of the public the most benefit. You need to consider your schedule as well, and plan activities so that they complement your technical schedule and leave time for appropriate public participation.

Additional Sources of Assistance

Information Resources - Each EPA Regional office should have informational materials available to help plan public participation strategies and assist in assessing a community's needs and in implementing responsive activities. PICs should be able to guide you to specific manuals, guidance documents, and memoranda that elaborate on regulations and principles of public participation and give helpful tips on implementing successful programs. For example, the three-volume *RCRA Public Involvement Reference Catalog* (September

1990) is a repository of materials from which readers can gather ideas and information concerning the RCRA program and RCRA public participation. You may also want to research materials from other EPA programs, such as Superfund, or outside sources to gather ideas that may be useful in dealing with particular permitting situations.

Training - Training is generally available for staff in a variety of areas, including public participation, community relations, risk communication, and community outreach. If training specific to the RCRA program is not available, you can easily adapt community outreach activities used in other programs to your RCRA situation. The techniques and methods used for RCRA public participation programs -- such as public meetings, fact sheets, and information repositories -- are also used in other programs.

Other Materials - There also are ready-made resources available for you to use in your program. EPA has developed fact sheet templates for RCRA actions, storyboards that describe the permitting process, and other information materials to save you time in developing public involvement information. The Regional PIC can provide more information on these materials.

MEMORANDUM

SUBJECT: Implementation of the RCRA Expanded Public Participation Rule

FROM: Elliott Laws, Assistant Administrator

TO: Regional Administrators
Regions I - X

The Agency will soon take a major step forward in its effort to promote public involvement and environmental justice by promulgating the “RCRA Expanded Public Participation Rule.”

The final rule will improve the RCRA permitting process by: (1) providing earlier opportunities for public involvement in the process and (2) expanding public access to information throughout the permitting process and the operational lives of facilities. The rule's requirements include: a facility-led pre-application meeting; agency notice at application submittal; agency notice of impending trial burns; and a provision for information repositories.

Immediate Implementation

While the effective date of the rule will not arrive until six months after promulgation, I am recommending that all EPA Regions start meeting the goals of the final rule as soon as possible. The Regions, in turn, should encourage the States and individual RCRA facilities to meet these goals even as States are pursuing authorization for components (e.g., this rule, BIF permitting, and corrective action) of the RCRA program.

Early implementation of the final rule will allow the public to benefit immediately from the rule's new and important procedures. This early implementation will be useful for the entire program and help the Agency fulfill its commitment to meaningful public involvement in RCRA permitting.

I would like to express my appreciation to the Regions for working to achieve these goals since the Agency proposed the rule in June 1994. We are encouraged by the positive reception these new standards have received, and look forward to full implementation.

Guidance on Equitable and Flexible Public Participation

The development of the final rule involved a balance between broader, more equitable public participation and flexibility for individual permit writers, facilities, and communities to adopt the most appropriate, site-specific approaches. Some of the principles underlying the final rule would have been difficult to prescribe through regulation. We decided that, instead of trying to achieve these goals through regulatory language, the public interest would be served best by encouraging permitting agencies and permit applicants to adopt these principles through guidance.

Consistent with this approach, you should abide by the following principles in your permitting efforts:

- Using all reasonable means to ensure that all segments of the population have an equal opportunity to participate in the permitting process and have equal access to information in the process. These means may include, but are not limited to, multilingual notices and fact sheets, as well as translators, in areas where the affected community contains significant numbers of people who do not speak English as a first language;
- Addressing environmental justice concerns, in part, by expanding access to information (particularly in a multilingual format) and opportunities for public input (through tools such as information repositories); and
- Going beyond the regulatory requirements, where appropriate, to provide for a level of public involvement that is commensurate with public interest in the permitting issue.

I also encourage State permitting agencies and permit applicants to adopt these principles in their dealings with the RCRA program. These policies will improve the RCRA permitting program and promote the Agency's commitments in the area of equitable public participation.

We are providing further guidance for implementing the final rule and this policy directive in our update of the 1993 RCRA Public Involvement Manual (EPA530-R-93-006, September 1993). We anticipate issuing the new guidance document in Spring 1996. The revised manual will provide guidance to regulated facilities and affected communities, as well as permitting agencies.

If you need any additional information about the rule, the policies in this memorandum, or the upcoming guidance manual please contact Patricia Buzzell of my staff at (703) 308-8632.

cc: Michael Shapiro
Linda Garczynski, OSPS
Matt Hale
Frank McAlister
Patricia Buzzell
Fred Chanania
Paul Bangser, OGC
Hazardous Waste Management Division Directors, Regions I - X
Hazardous Waste Management Division Branch Chiefs, Regions I - X
RCRA Public Involvement Network
Lance Miller, Permits Improvement Team

**APPENDIX 0 -- OVERVIEW OF PUBLIC PARTICIPATION IN THE
ENTIRE RCRA PROGRAM (EXCERPT FROM 1990
RCRA ORIENTATION MANUAL)**

SECTION VII

PUBLIC PARTICIPATION

OVERVIEW

GENERAL EPA PUBLIC PARTICIPATION REQUIREMENTS

- **FREEDOM OF INFORMATION ACT**

RCRA PUBLIC PARTICIPATION REQUIREMENTS

- **STATUTORY REQUIREMENTS**
- **PROGRAM IMPLEMENTATION**
- **ENFORCEMENT**
- **REGULATIONS**
- **CONFIDENTIAL BUSINESS INFORMATION**
- **GUIDANCE**

OUTREACH AND PUBLIC ASSISTANCE

- **RCRA/SUPERFUND HOTLINE**
- **OFFICE OF OMBUDSMAN**

SUMMARY

SECTION VII PUBLIC PARTICIPATION



OVERVIEW

The right of the public to participate in government decisions is basic to our democratic system. In few places is this right exercised more than in the area of hazardous waste management. The public is deeply concerned about, and often fretful of, the potential impacts of hazardous waste on their health and safety. In recognition of their rights and interest in hazardous waste management, and in a conscious attempt to include them in the decision-making process, the government gives the public numerous opportunities to get involved in all phases of the RCRA program.

The overall goal of public participation is to build trust and credibility, and to keep emotions, human energy, and conflicts focused on substantive issues and solutions. Public participation provides an opportunity for all interested parties to become informed and involved, and to influence program development and implementation. Further, EPA managers have found that active public participation provides a forum to identify and address concerns thus reducing conflict.

This chapter details the public participation framework established for EPA and, where applicable, specifically for RCRA. It includes descriptions of the statutory and regulatory requirements and a summary of guidance materials that address public participation.

GENERAL EPA PUBLIC PARTICIPATION REQUIREMENTS

In consideration of the importance of citizen involvement, Congress established public participation requirements that apply to all environmental programs administered by EPA. They are outlined in the Administrative Procedures Act ((aAPA) 5 U.S.C. Sections 551-559) and include:

Providing information and soliciting comments on all proposed and final Agency actions, e.g., the development of regulations

Incorporating public comments into the decision-making process, and

Establishing an appeals process for certain Agency decisions.

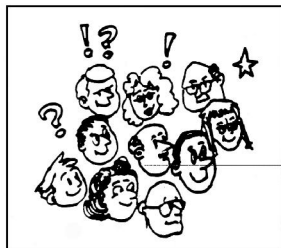
State employees should consult State administrative regulations for further guidance on public participation requirements. The participation requirements in the Federal APA assure the public a voice in EPA decision making.

Freedom of Information Act

The Freedom of Information Act (FOIA) -- which serves as the government's primary mechanism for handling information requests -- guarantees that the public will have access to government records, including those of the EPA. Specifically, it requires each Federal agency to establish procedures for handling FOIA requests regarding government statutes, regulations, standards, permit conditions, requirements, orders, or policies.

EPA, therefore, has pursued a policy of fully disclosing its records to the public, consistent with the rights of persons entitled to confidential business information (CBI), and the need for EPA to promote frank internal policy deliberations. EPA will disclose information to any requester to the fullest extent possible without unjustifiable expense or unnecessary delay.

FOIA requests are written for records held by or believed to be held by EPA. FOIA requests must reasonably describe the records in a manner that will permit proper identification of government documents or records. Although requestors do not need to name the specific documents in question, they must provide a clear description of the information they seek. The FOIA refers to all written requests, regardless of whether the requester refers to the FOIA or not. Any existing form of information may be covered, but the FOIA does not require the creation of new records. A FOIA request can be made by any person, corporation, or organization.



RCRA PUBLIC PARTICIPATION REQUIREMENTS

However, because the issues surrounding hazardous waste management often arouse intense public sentiments, the public participation framework developed under RCRA further expands citizen opportunity for involvement well beyond Agency-wide requirements. This framework has three parts:

- Statutory requirements
- Regulatory requirements, and
- Guidance.

Statutory Requirements

When it implements the RCRA program within a State, EPA gives the public access to facility and site information relating to permitting, compliance, enforcement, and inspections. RCRA Section 3006 requires authorized States to make this information available to the public in a manner substantially similar in method and degree to EPA-implemented RCRA programs. In certain cases, however, the information may be confidential and unavailable to the public, e.g., when company trade secrets are involved. The following section discusses the specific requirements for dealing with confidential business information which are principally regulatory requirements.

Program Implementation

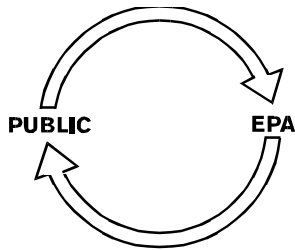
Section 3006 of RCRA requires that public comments be solicited before:

A State submits an application for Subtitle C final authorization

EPA decides to grant or deny a State authorization

EPA withdraws a State's authorization, and

EPA suspends or revokes a hazardous waste facility permit.



Enforcement

Section 7002 of RCRA gives fairly broad legal authority to ensure that the entire RCRA program is properly implemented. It allows a citizen to bring a civil suit against any person or government agency alleged to be in violation of any permit, standard, regulation, condition, requirement, or order that has become effective under the Act.

HSWA expanded citizen rights to bring suit against RCRA violators by allowing private individuals to initiate suits against any past or present generator, transporter, owner, or operator of a facility who has contributed to or is contributing to a condition that may present an imminent and substantial endangerment to human health and the environment.

However, the right of citizens to bring suits under Section 7002 is limited in certain situations. No suit may be brought if EPA or a State is already taking enforcement action against the alleged violator. HSWA further limits the reach of such suits by prohibiting them from impeding permit issuance or facility siting. Finally, citizens are prohibited from suing transporters for problems that arise following the delivery of hazardous waste.

Regulations

The RCRA regulations under 40 CFR Part 25 focus on:

Ensuring that the public understands the RCRA program and any proposed changes to it

Responding to public concerns and including the public in the decision-making process

Developing a close link among EPA, States, and the public, and

Providing opportunities for public participation beyond what is required, whenever feasible.

To achieve these regulatory goals, agencies implementing RCRA are required to:

Provide free copies of reports upon request

Alert interested and affected parties of upcoming public hearings, and

Establish EPA-funded advisory groups when an issue warrants sustained input from a core group of citizens.

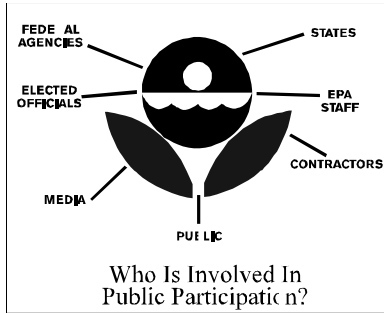
In addition to the 40 CFR Part 25 regulations, EPA's permitting regulations (40 CFR Part 124) also address public participation. They require the permitting agency to:

Notify the public of the intent to issue or deny a permit

Provide the public 45 days to comment on the permit application

Consider public comments regarding permit violations, and

Notify the public of proposed major modifications to an



operating permit.

In addition, 40 CFR Parts 264 and 265 require public notice and comments on RCRA closure plans.

Confidential Business Information

In the course of administering EPA programs, agency officials have access to material containing CBI, e.g. trade secrets and proprietary information. Because EPA must protect the rights of those who submit privileged information, employees are required to take all reasonable measures to prevent unauthorized disclosure of CBI. Regulations regarding confidentiality are contained in 40 CFR Part 2, Subpart B. These apply to RCRA as well as other EPA programs.

These regulations identify the proper procedures businesses must employ to claim confidentiality. In addition, these regulations establish the guidelines EPA must use to determine the validity of the claim, and impose rules for handling CBI.

When EPA notifies a business that it must submit confidential information for review, EPA also must notify the business of its right to assert a claim of confidentiality. Businesses responding to EPA's queries must clearly identify all confidential documents, materials, and information. EPA then determines the validity of the CBI claim. Businesses can claim information as confidential if it meets certain criteria, e.g., it has been previously protected as confidential, or it is not reasonably obtainable by others.

Employees authorized to use CBI are responsible for the control of such information and they may discuss CBI only with other authorized persons. Any violations should be reported immediately. In addition, employees must not discuss CBI over the telephone and when holding confidential information, they must store the confidential materials in an approved container when not in use. Finally, when working with representatives of businesses that have submitted CBI, employees must verify the representatives' identities before discussing any of the confidential information.

Guidance

To supplement its statutory and regulatory requirements, EPA developed guidance documents regarding public participation in RCRA permitting. The guidance stresses the importance of:

Identifying public concerns early in the permitting process

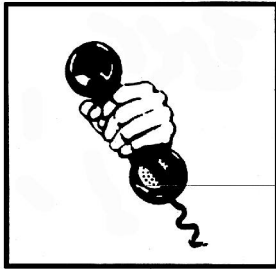
Encouraging the exchange of information among EPA, the State, the permittee, and the community

Creating open and equal access to the permitting process, and

Anticipating conflicts and providing an efficient method of resolution.

In some cases, EPA or the State may develop a Public Involvement Plan. This plan outlines the steps and actions EPA will take to communicate with the public during the facility permitting process.

OUTREACH AND PUBLIC ASSISTANCE



A number of opportunities exist for the public to obtain RCRA program information and assistance, including fact sheets and pamphlets. Two particularly noteworthy programs include:

The RCRA/Superfund Hotline
The Office of Ombudsman.

RCRA/Superfund Hotline

Hazardous waste regulations often seem complex even to those familiar with EPA's programs. To assist the public in understanding the RCRA and Superfund programs, EPA created the RCRA/Superfund Hotline. Anyone may call the Hotline staff and ask them questions related to the RCRA and Superfund programs. The Hotline is staffed by professionals who are completely familiar with the latest issues and regulations affecting EPA's hazardous waste programs. The Hotline is open Monday through Friday from 8:30 AM to 7:30 PM, and may be contacted at either (202) 382-3000, or toll free (800) 424-9346.

Office of Ombudsman

In order to create a central clearinghouse for public concerns on matters relating to the implementation and enforcement of RCRA, EPA established the Office of Ombudsman and appointed a Hazardous Waste Ombudsman in Headquarters and each Region. The Ombudsman's primary responsibility is to respond to questions and complaints regarding EPA's hazardous waste program. In addition, the Ombudsman makes recommendations to the Administrator based on inquiries received. The Headquarters Ombudsman may be reached at:

Office of Ombudsman
U.S. Environmental Protection
Agency
Office of Solid Waste and
Emergency Response
Mail Code OS-130
401 M Street, SE
Washington, DC 20460
(202) 475-9361

To assist citizens with the RCRA program, EPA created a number of public outreach programs, the most noteworthy of these are the RCRA/Superfund Hotline and the Office of the Ombudsman.

SUMMARY

The public participation framework developed under RCRA expands citizen opportunity for involvement well beyond Agency-wide requirements (outlined in the Administrative Procedures Act and Freedom of Information Act). This framework consists of:

- Statutory requirements
- Regulations
- Guidance.

RCRA-mandated programs integrate public comment into many decisions, including State authorization and facility permitting.

EPA adheres to legal requirements for the access to and release of information. In order to protect rights of private industry, EPA also has set standards for the use of privileged company data. EPA strictly regulates CBI by carefully limiting employee access to such information, by strictly controlling the use and storage of such information, and by verifying corporate identify before discussing such information.

**APPENDIX P -- PUBLIC PARTICIPATION IN ENFORCEMENT AND
COMPLIANCE**



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460**

May 5, 1987

**OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE**

MEMORANDUM

SUBJECT: Guidance for Public Involvement in RCRA
Section 3008(h) Actions

FROM: J. Winston Porter
Assistant Administrator

TO: ADDRESSEES

EPA is committed to providing meaningful opportunity to the public to be informed of and participate in decisions that affect them and their community. This memorandum provides guidance on public involvement actions taken under Section 3008(h) of the Resource Conservation and Recovery Act (RCRA).

It is highly likely that corrective action activities, which differ from normal operations at a facility, will generate public concern. The nature of the problem and the visibility of corrective action activities are two reasons for EPA to involve the public during the corrective action process. If the public is informed early, and allowed to be involved in the decision-making, it is less likely that there will be opposition to the decisions that are made. Also, valuable information can be obtained from concerned citizens who may know the site and facility's history.

Section 3008(h), the interim status corrective action authority, allows EPA to take enforcement action to require clean-up at a RCRA interim status facility when the Agency has information that there has been a release of hazardous waste or hazardous constituents. We anticipate that the cleanup program under Section 3008(h) will frequently be implemented with two orders. The first order would require the owner or operator to conduct a study to characterize the nature and extent of contamination, and to develop a remedy or alternative remedies as needed. Once a remedy has been selected, a second order would require design, construction, and implementation of that remedy.

MINIMUM PUBLIC INVOLVEMENT REQUIREMENTS

Although there will be many situations where much additional public involvement will be necessary, I would like to emphasize that there are minimum requirements for all 3008(h) orders, whether on consent or unilateral. Following the respondent's submission of its report on the RCRA Facility Investigation and Corrective Measures Study, the Agency will develop a proposed plan for corrective measures, or make the decision that no corrective measures are necessary. The Agency shall then (1) publish a notice and brief analysis of the proposed plan for corrective measures, or of its decision that no corrective measures are necessary, and make such information available to the public, and (2) provide a reasonable opportunity (ordinarily 30-45 days) for submission of written comments and, if the Regional Administrator deems it appropriate, a public meeting on the plan. If the Regional Administrator denies a request for a public meeting, he shall explain his decision in writing.

The Agency shall, as necessary, modify its proposed plan for corrective measures on the basis of written and oral comments received. Prior to issuance of the initial order for corrective measures the Agency shall prepare a responsiveness summary indicating whether and why it has accepted or rejected any significant comments. Following finalization of the order for corrective measures but before implementation of corrective measures, notice of the final plan for corrective measures shall be published and the plan shall be made available to the public.

Where, in the interest of protecting human health and the environment, it is important that interim corrective measures be implemented quickly, the public will have no advance opportunity for written or oral comments. Here, EPA will simply provide substantially contemporaneous notice to the public of interim measures being implemented.

EXPANDED PUBLIC INVOLVEMENT MAY BE NECESSARY

The degree of public involvement in a corrective action program will be determined by the amount of public interest in the site, the actual or potential hazard to human health or the environment and the type of clean-up action that will be undertaken. In general, if the Agency has identified releases and determined that they require investigation, the public should be informed that studies are underway. The Region may also want to hold additional public meetings if there is a lot of interest in the facility. The public should be made aware of significant

technical issues at the site. There will be occasions where affected citizens can make valuable contributions to remedy selection through participation in technical discussions with owners or operators and government representatives.

We strongly urge the use of a public involvement plan for sites in which there is likely to be significant public interest. At appropriate points during the process, fact sheets can be developed that should both inform the public and allay fears that could surface if no substantive knowledge were made available. A public involvement plan tailored to each site can also be very helpful. You may refer to Community Relations in Superfund: A Handbook March 1986, and Public Involvement Guidance in the Permitting Program, March 1986, Directive 9500.01, for further information on public involvement techniques and process. The regional RCRA public involvement coordinator can also offer valuable information and assistance.

There are limitations on the release or discussion of certain information during the §3008(h) enforcement process. This is especially true during negotiations. The confidentiality of statements made during the course of negotiations must be maintained. Our goal during negotiations is to encourage frank discussion of all issues, and try to resolve differences. Public disclosure of this information would jeopardize the success of the negotiations. Disclosures of strengths and weaknesses of a case, information that is privileged and protected under the law, enforcement strategy and timing would also jeopardize the government's enforcement position. If a case is referred to the Department of Justice to initiate litigation, further constraints may be placed upon public involvement. In this situation, the scope of public involvement should be discussed with the lead DOJ attorney.

Coordination among EPA and/or State personnel is very important. At some sites, RCRA Permits and Enforcement Personnel and Superfund will be involved, and a coordinated approach will serve the Agency and the public best. In order to establish a network whereby information can be exchanged, I would like each region to appoint a coordinator for public involvement in §3008(h) orders. This person may be from either your public involvement or enforcement staffs. Please call Jackie Tenusak of my staff at FTS 475-8729 with the name of your contact.

Thank you for your attention to this matter. Please do not hesitate to call me, or any of our public involvement staff, if you have questions.

ADDRESSEES

Regional Hazardous Waste Management Division Directors,
Regions I-X

RCRA Enforcement Section Chiefs
Regions I-X

RCRA Enforcement Branch Chiefs
Regions I-X

Public Involvement/Community Relations Coordinators
Regions I-X

cc: Pamela Garrow, OWPE
Olga Corey, OWPE
Vanessa Musgrave, OSW
Melissa Friedland, OERR

United States
Environmental Protection
Agency

Office of
Enforcement
(LE-133)

March 1990



The Public's Role In Environmental Enforcement



1. Introduction

What can the public do to stop pollution? This question is asked EPA every day by citizens who have seen a pollution problem in their community and want to solve it.

This leaflet presents the first basic steps any member of the public can take to help correct a pollution problem. It describes approaches that can help the reader deal with the type of violations most often encountered by the public. Unfortunately, space does not permit coverage of every possible rare case situation.

Section 2 tells you how to determine whether enforcement techniques can help in dealing with your particular pollution problem, and how to make observations that can be used effectively. It describes the basic steps you can use in any pollution case.

Sections 3 through 6 address the violations most often encountered by the public in the major categories of water pollution, air pollution, hazardous waste pollution, and toxic substances pollution. It describes some specialized steps that may be useful for each of those environmental media.

2. The First Steps

The two most important things to do when you see a potential pollution problem are: (1) make careful observations of the problem and (2) report it to the proper authorities.

You should fully record your observations. Write down when you observed the problem (both date and time), where you observed the pollution, and how you came to notice the pollution. If the pollution problem has occurred more than once or is continuing, write that down. If possible, try to identify the person or source responsible. If it is a truck dumping wastewater or garbage, write down the license plate of the truck, the type of truck if possible, and note any signs or emblems on the truck. If you have noticed a particular type of smell, write down your best description of the smell or odor. If the pollution is visible and you have a camera, take a picture. If possible, you may want a friend, neighbor, or family member to confirm your observations.

Once you have carefully observed the problem and written down your observations, you should call the appropriate local or state authorities to inform them of your observations. Look in your local telephone book in the government pages for the county or city office that might handle the problem. Typically, such offices will be listed as environmental, public health, public works, water pollution, air pollution, or hazardous waste agencies. If you cannot find a county or city office, look for a state government environmental office. It may require a few calls to find the correct offices, but hang in there!

Once you reach the appropriate office, give the official all the

information on what you observed and ask him or her to look into the problem. You should ask the official whether the problem you have identified is likely to be illegal, how common it is, and how and when the office will investigate. Make sure you get the person's name and telephone number. If the person does not call back or respond promptly, call the person back and ask what is going on.

If the city or county environmental agency does not respond adequately to your telephone call, you may call back and ask to speak to the official supervisor or boss. If the supervisor is not available, get his or her name and address. You may then write this person a letter describing the problem you have observed and explaining your dissatisfaction with the office's response to it. Or you could contact the appropriate state environmental office directly, by telephone or letter. If you cannot get an adequate response from local or state environmental offices, or you cannot find a local or state office to call, you may call the U.S. EPA regional office that covers your area. A listing of all the U.S. EPA regional offices, with telephone numbers, is in the last section of this booklet.

If the pollution problem persists and the local, state, and regional U.S. EPA offices appear unwilling or unable to help, you may contact U.S. EPA headquarters in Washington, DC. If you do not believe the government agencies have adequately responded to the pollution problem, and you believe the pollution is illegal and the problem appears to be continuing, you may have certain individual rights under the citizen suit provisions of the various federal environmental laws that you can assert to remedy the

pollution problem yourself. You may wish to contact your own attorney or a public interest environmental group. A listing of national and state environmental groups is contained in the *Conservation Directory*, published annually by the National Wildlife Federation, Washington, D.C., and available in many public libraries. If you win such a lawsuit, the polluter will likely be required to correct the problem causing the pollution, pay penalties to the United States for violating the law, and pay your attorney's fees.

Finally, if you are told that the pollution problem you have observed is legal, but you believe it should not be legal, you are free to suggest changes in the law by writing to your U.S. Senator or Representative in Washington, D.C. or to your state governor or state legislators to inform them of the problem. Local libraries should have the names and addresses of these elected officials.

3. How to Identify And Respond to A Water Pollution Problem

Periodically, people may become concerned that pollution of a river, stream, lake, or ocean is occurring. This concern may be caused by the sight of an oil sheen on the surface of a river, stream, or lake. It might be caused by their observing a discoloration of the water in a stream or a pipe discharging apparently noxious liquids into a water body. Concern might also arise because an unusual odor is emanating from a body of water, or a bulldozer is seen filling in a marsh or wetland.

While some water pollution is an unfortunate consequence of modern industrial life, there are national, state and local laws that limited the amount and kinds of water pollution allowed, and in some cases these laws completely prohibit certain types of water pollution. Sometimes it will be easy for a citizen to identify water pollution that is a violation of the law, and sometimes it will be difficult to identify the water pollution problem without sophisticated equipment.

Here are a few general types of water pollution problems a citizen might observe:

Rivers and Lakes - A citizen might observe wastewater flowing out of a pipe directly into a stream, river, lake, or even an ocean. Persons are only allowed to discharge wastewater into a water body if they have received a National Pollutant Discharge Elimination System ("NPDES") permit and they are complying with the requirements of that permit. NPDES permits limit the amount of pollutants which persons are allowed to discharge.

Unfortunately, it is often difficult to tell with the naked eye if a person is complying with the terms of a NPDES permit. However, some reliable indicators of violations are a discharge that level visible oil or grease on the water, a discharge that has a distinct color or odor, or one that contains a lot of foam and solids. Further, if there are dead fish in the vicinity of the discharge, this is a strong indicator of a water pollution violation.

Citizens should be aware that all persons who discharge wastewater to U.S. waters must report their discharges. These monthly reports (commonly called Discharge Monitoring Reports, or "DMRs") indicate the amount of pollutants being discharged and whether the discharger has complied with its permit during the course of the month. These reports (DMRs) are available to the public through state environmental offices or EPA regional offices.

Wetlands or Marshes - Under the Federal Clean Water Act, persons are only allowed to fill wetlands (commonly known as marshes or swamps) pursuant to the terms of a special discharge permit, commonly called a Section 404 permit. "Filling a wetland" generally means that a person is placing fill or dredge material (like dirt or concrete) into the wetland in order to dry it out so that something can be built on the wetland. The Section 404 wetlands program is jointly administered by the U.S. Army Corps of Engineers and EPA. In general, the United States is committed to preserving its wetlands (sometimes called the "no-net loss" program) because of the valuable role wetlands play in our environment. In brief, wetlands provide a habitat for many forms of fish, wildlife, and

migratory birds; they help control flooding and erosion; and they filter out harmful chemicals that might otherwise enter nearby water bodies.

In general, there is usually no way to know if a wetland is being filled legally or illegally without knowing whether the person has a Section 404 permit and knowing the terms of that permit. However, if you notice fill activity going on in a suspicious manner, e.g., late at night, this may suggest that the wetland is being filled illegally. If you see a wetland being filled and are curious whether there is a permit authorizing such filling, you may call the local Army Corps of Engineers' office or the EPA regional offices in your state. If possible, you should tell the Army Corps or EPA the location of the wetland being filled, what kind of filling activity you noticed, and who is doing the filling.

Drinking Water - The Nation's drinking water is protected through the Federal Safety Drinking Water Act. Under this law, suppliers of drinking water are required to ensure that their water complies with federal standards (known as maximum contaminant levels, or "MCLs" for various pollutants and chemicals, such as coliform bacteria. If drinking water suppliers exceed a federal standard, they are required to immediately notify their users and implement measures to correct the problem. While you may not be able to tell if your drinking water is meeting all federal standards without testing equipment, if you notice any unusual smell, taste, or color in your water, you should immediately notify the person who supplies your water and the appropriate state agency.

In many of the circumstances

when citizens become aware of a water pollution problem, there are actions that they can take to begin the process of correcting the problem and forcing the violator to comply with the law. The first step is always to make careful observations of the pollution event that you are observing. It is best to make a written record of the time and place of the sighting. As many details as possible should be recorded concerning the nature of the pollution, for instance its color, smell, location, and its "oiliness". It is extremely important, if possible, that the source of the pollution be identified, including the name and address of the perpetrator. If the pollution is visible and you have a camera, you may take a picture. If possible, you may want a friend, neighbor, or family member to confirm your observations.

Once you have carefully observed the problem and written down your observations, you should call the appropriate local or state authorities to inform them of your observations. Look in your local telephone book in the government pages for the county or city office that might handle the problem. Typically, such offices will be listed as environmental, public health, public works, or water pollution agencies. If you cannot find a county or city office, look for a state government environmental office.

As the next step, a determination must be made as to the legality of the discharge. If the discharge is, in fact, illegal, the perpetrator must be confronted, the discharging of pollutants or the filling of the wetland must be halted, and, if feasible, the environmental damage caused by the perpetrator's actions must be

corrected. Confrontation of the polluter is most practically achieved by contacting the local, state, or federal environmental protection agency. In general, the state environmental agency is responsible for making a preliminary assessment of the legality of the pollution event observed, for investigating the event, and, if necessary, for initiating an enforcement action to bring the polluter into compliance with the law. The citizen may also contact the U.S. EPA regional office that covers your state for assistance. A listing of all the U.S. EPA regional offices, with telephone numbers, is listed at the end of this booklet.

If the pollution problem persists and the local, state, and regional U.S. EPA offices appear unwilling or unable to help, you may contact U.S. EPA headquarters in Washington, D.C.

Lastly, if you do not believe the federal, state, or local governments have adequately responded to the pollution problem, and you believe the pollution is illegal and appears to be continuing, you may have certain individual rights under the citizen suit provisions of the various federal environmental laws that you can assert to remedy the pollution problem yourself. The Federal Clean Water Act provides that a citizen adversely affected by water pollution may bring a lawsuit on behalf of the United States to correct the problem. If you want to do this, you will probably need a lawyer to make an assessment of the illegality of the pollution event and your chances of succeeding in a lawsuit. There are a number of public interest organizations who can be contacted that are in the business of bringing this kind of lawsuit. (A listing of national and state

environmental groups is contained in the *Conservation Directory*, 1987, 32nd Edition, published by the National Wildlife Federation, Washington, DC) If you win such a lawsuit, the polluter will likely be required to correct the problem causing the pollution, pay penalties to the United States for violating the law, and pay your attorney's fees.

Finally, if you have obtained "insider" information that water pollution is occurring, the Clean Water Act protects you from recrimination if the polluter is your employer. Your employer may not fire you or otherwise discriminate against you based on your "blowing the whistle".

To repeat, there are two ways to proceed if you suspect that water pollution is occurring: either contact your state EPA or the U.S. EPA to disclose your information and/or initiate your own citizen's lawsuit.

4. Air Pollution

Smoke or Odor - There are several air pollution situations a citizen might observe. You might observe visible emissions of air pollutants, such as black clouds of smoke, coming from a source such as a factory or power plant. You might also notice a discharge of air pollution because you can smell a strong odor. In either of these situations, these discharges may or may not be a violation of the Clean Air Act.

The Clean Air Act does allow some pollution discharges. The goal of the Clean Air Act is to keep the overall concentration of the major air pollutants at a level that will protect the public health. States then decide how they are going to meet these air pollution goals. A state may decide not to regulate a particular category of air pollution sources at all and to concentrate its efforts elsewhere in meeting its goals. Regulated sources may have permits from the state allowing them to discharge a certain level of pollution.

The best course of action for a citizen to take in these two situations is first to try to determine the exact source of the pollution. If it is a visible discharge, take a photograph. Also, note the exact time, day and location you observe the pollution.

Then notify your local or state air pollution or environmental agency of your observations. They should be able to determine if the source you observed is regulated, and if so, whether the discharge of pollution you observed is legal. EPA usually defers to the state for enforcement. Only in limited, appropriate circumstances does EPA intervene to take enforcement action. However, if

you have difficulty in getting a response from your state or local agency, contact the nearest regional office of EPA and report your observations.

Asbestos - Another situation a citizen might encounter involves construction work. Many old buildings contain the hazardous material, asbestos. Asbestos is extremely harmful to human health inhaled or ingested. When buildings containing asbestos are renovated or demolished, the asbestos is broken up and can become airborne and, therefore, a health hazard.

EPA regulations require all parties associated with renovations and demolitions involving asbestos to notify EPA of the work and follow certain work practice requirements aimed at eliminating or at least minimizing the amount of airborne asbestos. These requirements largely consist of wetting the asbestos at all stages of the process so that it does not become airborne. The regulations also require the asbestos to be stored and disposed of in a particular manner.

There are several ways a citizen might help identify a violation of the asbestos regulations. If you pass a construction site, you may notice large amounts of white dust coming from the site or scattered around the site. These could be violations if the debris in question contains asbestos. One way a citizen could verify that asbestos is involved is looking for a brand-name label stamped on insulation that is still intact.

Otherwise, trained inspectors will have to take samples and laboratory analysis of the debris must be done to verify that it contains asbestos.

The most effective action to take is to notify the nearest EPA regional office about the site.

EPA personnel can then check their records to see if they have received notice of the demolition or renovation, and can do an inspection if it seems likely that asbestos is involved.

Auto Warranties - The Clean Air Act requires that motor vehicles sold in the United States meet prescribed emissions standards. In order to ensure that vehicle emissions remain low for the useful life of the vehicle, manufacturers are required to provide broad emission warranty coverage for vehicles that are less than five years old and have been operated for less than 50,000 miles. This warranty applies to defects in any part whose primary purpose is to control emissions, such as the catalytic converter, and in any part that has an effect on emissions, such as the carburetor (except parts that have annual replacement intervals, such as spark plugs). Manufacturers must make emissions warranty repairs free of charge for any labor or parts. If you believe you are entitled to an emissions warranty repair, contact the person identified by the manufacturer in your owner's manual or warranty booklet.

If you are not satisfied with the manufacturer's response to your emissions warranty claim, you may contact EPA for assistance by writing: Field Operations and Support Division (EN-397F), U.S. Environmental Protection Agency, Washington, DC 20480.

Removing Emission Control Devices - The Clean Air Act also seeks to prevent automotive pollution by prohibiting the removal or rendering inoperative of emission-control devices by new and used car dealers, repair shops and fleet operators. In addition, gasoline retailers are prohibited from introducing leaded gasoline into motor

vehicles which require unleaded gasoline, and gasoline that is sold as unleaded must not contain excess lead or alcohol. If you know of a violation of the anti-tampering or motor vehicle fuel rules, please contact EPA by writing to the address listed above.

The Clean Air Act also has a provision allowing citizens to sue any person alleged to be in violation of an emission standard under the Clean Air Act (42 U.S.C. section 7604).

5. Hazardous Waste

Abandoned Sites, Barrels, etc.

When citizens see leaking barrels (or barrels that look like they might leak), pits or lagoons on abandoned property, they should avoid contact with the materials, but note as thoroughly as possible their number, size, and condition (e.g., corroded, open, cracked) and the material leaking (e.g., color, texture, odor) and report these to the local fire department or the hazardous waste hotline (800-424-8802 or 202-367-2675).

If possible, take a photograph of the area, but do not get too close to the materials. If the substances are hazardous, the statute most likely involved is the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or the Superfund Law), and EPA or the state should take the lead. Under CERCLA, citizens have the opportunity to, and are encouraged to, involve themselves in the community relations program which includes citizen participation in the selection of a remedial action.

A citizen may file suit against any person, including the United States, who is alleged to be in violation of any standard, regulation, condition, requirement or order that has become effective under CERCLA, provided that the citizen gives the violator, EPA, and the state sixty days 'notice of the intent' to sue. A citizen suit cannot be brought, however, if the United States is diligently prosecuting an action under CERCLA.

Hazardous Waste Facilities

When citizens encounter leaks, discharges or other suspect

emissions from a hazardous waste treatment, storage or disposal (TSD) facility, they should contact their state hazardous waste office or the local EPA Regional office to determine if the facility has a Resource Conservation and Recovery Act (RCRA) permit or has been granted interim status to operate while it applies for a RCRA permit. Any citizen may obtain copies of a TSD facility's permit and monitoring reports, which would document any violations, from the state agency or EPA Regional office.

A citizen may bring a civil judicial enforcement action against a RCRA violator provided he gives the violator, EPA, and the state sixty days notice of the intent to sue, during which time the state or EPA may pursue an enforcement action. With certain limitations, a citizen may also bring an action against any person who has contributed to or who is contributing to the past or present handling of any solid waste, including hazardous waste, that may present an imminent and substantial endangerment to human health or to the environment.

Transportation Spills

If you see a spill from a truck, train, barge or other vehicle, you should report it immediately to the local fire and police. If it is possible to read any labels on the vehicle, without getting too close, then you should report this information as well.

If you see a spill from a barge, ship, or other vessel into navigable waters or the ocean, such as an oil spill from a tanker, you should report the spill and location to the United States Guard, or call the hazardous waste hotline (1-800-424-8802) or (202) 267-2675).

Citizens who provide information leading to the arrest and conviction of persons who commit certain criminal violations under CERCLA may be eligible for a reward of up to \$10,000. These awards are often offered in connection with a violator's failure to make a required report on a release of a hazardous substance or the destruction or concealment of required records.

6. Pesticides and Toxic Substances

When citizens encounter instances of pollution involving pesticides or toxic substances, the law that was actually violated will most often be the Clean Water Act, the Clean Air Act, or the Resource Conservation and Recovery Act. Most violations of the Toxic Substance Control Act or the Federal Insecticide, Fungicide and Rodenticide Act will be discovered only by persons with special training or with access to information that is not generally available to the public.

TSCA

Violations of the Toxic Substances Control Act (TSCA) that the public might observe include:

- Demolition of a building containing asbestos without proper measures to keep the asbestos contained.
- Improper storage or disposal of transformers containing PCBs (polychlorinated biphenyls).
- Improper storage of asbestos.

If you think you are seeing such a violation, you should contact: Office of Compliance Monitoring (EN-342), U.S. Environmental Protection Agency, Washington, D.C. 20460, or call the National Response Center for Oil and Hazardous Material Spills at (800-424-8802).

Citizens suits are authorized under TSCA (15 U.S.C. section 2619). Citizens may sue violators of provisions concerning PCBs, asbestos, required testing of chemical substances, notification to EPA

before manufacturing or importing new chemicals, or beginning a significant new use of chemicals.

FIFRA

Citizens may encounter violations of the provisions of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) that govern the use of pesticides. FIFRA requires that pesticides be used by the public only as specified on the label. Many pesticides are labeled for use only by specially licensed applicators. Others have been banned from almost all uses, except for particular uses where no other pesticide **[remainder of text missing]**.

Violations of FIFRA that citizens may observe include:

- Sale or use of banned pesticides that are not registered with EPA. These would lack the EPA registration number that must appear on every pesticide label.
- Use of pesticides in a manner inconsistent with the directions on the label.
- Application of restricted-use pesticides by unlicensed applicators.
- False or misleading labeling or advertisement of pesticides.

If you think you are seeing such a violation, you should contact: Office of Compliance Monitoring (EN-342), U.S. Environmental Protection Agency, Washington, DC 20460, or call the National Response Center for Oil and Hazardous Material Spills at (800) 424-8802.

There is no citizen suit authority under FIFRA.

EPCRA

The Emergency Planning and Community Right-to-Know Law (EPCRA) requires a wide range of businesses that manufacture, import, process, use or store chemicals to report certain information to federal, state and local governments. For example, these businesses are required to report annual estimates of the amounts and types of toxic chemicals they released or disposed of during each calendar year. The data must be reported to EPA and to state agencies, and they are available to the public through an EPA compilation called the Toxics Release Inventory. The data in this inventory may be used by the public to examine the practices of particular manufacturers.

If you believe that a business that was subject to the EPCRA requirement failed to report to the Toxics Release Inventory, you should contact: Office of Compliance Monitoring (EN-342), U.S. Environmental Protection Agency, Washington, DC 20460. A business' failure to report toxic releases may also be challenged through a citizen suit under 42 U.S.C. section 11046(a)(1).

7. For Further Information

State and local governments have responsibility for enforcing most environmental laws in the area where you live. You can locate them through your telephone directory. In most communities, the responsible agency is the city or county health department. At the state level, there is usually an environmental agency that carries out the pollution-control laws, while an agriculture agency often handles regulation of pesticides.

EPA operates primarily through ten regional offices, which will help answer your questions if your state or local agencies have been unable to do so. Each region has a staff specializing in each of the environmental programs discussed in this publication. To locate a person who can help you, call the public affairs office in your EPA regional office.

These offices and the states they cover are:

Region 1:	Boston (617) 835-3424	CT, MA, ME NH, RI, VT
Region 2:	New York City (212) 264-2515	NY, NJ, PR, VI
Region 3:	Philadelphia (215) 597-9370	DE , DC, MD, PA, VA
Region 4:	Atlanta (404) 257-3004	AL, FL, GA, KY, MS, NC, SC, TN
Region 5:	Chicago (312) 353-2073	IL, IN, MI, MN, OH, WI
Region 6:	Dallas (214) 255-2200	AR, LA, NM, OK, TX
Region 7:	Kansas City (913) 757-2803	IS, KS, MO, NE
Region 8:	Denver (303) 564-7666	CO, MT, AND, SD, UT, WY
Region 9:	San Francisco (415) 484-1050	CA, HI, NV, Guam, American Samoa
Region 10:	Seattle (206) 399-1466	AK, ID, OR, WA

APPENDIX T -- GLOSSARY OF ACRONYMS

ANPR	Advance Notice of Proposed Rulemaking
CAG	Community Advisory Group
CAMU	Corrective Action Management Unit
CBEP	Community Based Environmental Protection
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CFR	Code of Federal Regulations
CMI	Corrective Measures Implementation
CMS	Corrective Measures Study
EPA	Environmental Protection Agency
EPCRA	Emergency Planning and Community Right-to-Know Act
FR	Federal Register
HQ	EPA Headquarters
HSWA	Hazardous and Solid Waste Amendments
LEPC	Local Emergency Planning Committee
NOD	Notice of Deficiency
OSW	EPA Office of Solid Waste
OSWER	EPA Office of Solid Waste and Emergency Response
RCRA	Resource Conservation and Recovery Act
RFA	RCRA Facility Assessment
RFI	RCRA Facility Investigation
SWDA	Solid Waste Disposal Act
SWMU	Solid Waste Management Unit
TAG	Technical Assistance Grant
TRI	Toxics Release Inventory
TSD	Treatment, Storage, and Disposal Facility