

US EPA ARCHIVE DOCUMENT

**COMMENT-RESPONSE DOCUMENT OF PUBLIC COMMENTS ON
WASTE ANALYSIS PLAN (WAP) GUIDANCE**

**Office of Resource Conservation and Recovery
U.S. Environmental Protection Agency**

April 10, 2014

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I. Background and Purpose of Document

I.1 Background

The U.S. Environmental Protection Agency (EPA) has been collaborating with a Work Group of EPA and state personnel to review, modify and update the EPA guidance, "Waste Analysis at Facilities that Generate, Treat, Store and Dispose of Hazardous Waste: A Guidance Manual" (also called the "WAP guidance"). The manual, developed in 1994, is used to provide guidance on how to develop and implement a Waste Analysis Plan (WAP) suitable for managing hazardous wastes in accordance with the Resource Conservation and Recovery Act (RCRA), assist federal and state permit writers in evaluating submitted WAPs, and assist enforcement personnel in determining whether a facility is in compliance with their testing requirements.

After completing its revisions in January 2013, EPA sent the revised guidance around for public comment through e-mails to operating TSDFs, state/regional permit writers, various trade associations and environmental groups, and through the EJ list serv. The guidance was also noticed on the ORCR web site at <http://www.epa.gov/epawaste/hazard/refdocs.htm#notice>.

In total, EPA received 27 submissions on the revised WAP guidance during the public comment period, which ended June 14, 2013. These submissions (e.g., letters, emails) offered more than 400 suggestions, concerns and other comments on the guidance.

EPA thanks commenters for their input. The Agency has carefully examined all of the comments and grouped them into categories (substantive vs. non-substantive, within vs. outside the scope of this effort) for purposes of further review and revision of the guidance, as follows:

- **Category 1. Substantive comments that warrant additional consideration and, if appropriate, incorporation into the guidance.** This category includes comments that offer corrections and other improvements to the guidance's discussion of EPA regulations, guidance and other compliance-related issues. Each comment in this category is found in Attachment 1, "Category 1: Substantive Comments, Within Scope." In addition, Section II of this document summarizes these comments and provides Agency responses.
- **Category 2. Non-substantive comments that warrant incorporation in the guidance.** This category includes straight-forward improvements to the guidance, including corrections to clerical errors, re-phrasing of sentences to improve clarity, and suggestions to improve document formatting and appearance. These comments have been incorporated into the guidance and can be found in Attachment 2, "Category 2: Non-Substantive Comments, Within Scope."
- **Category 3. Substantive and non-substantive comments that do not warrant further consideration or incorporation into the guidance.** Although EPA appreciates commenters' input, it has deemed these comments to be outside the scope of its current

efforts to revise the guidance and will take no further action on them. These comments are found in Attachment 3, "Category 3: Substantive and Non-Substantive Comments, Outside of Scope."

I.2 Purpose of Document

This document presents a summary of the Category 1 comments, organized by issue. In each summary, we indicate the number of organizations whose comments are reflected in it. We also identify the organizations. To do so, we assigned each organization a unique commenter number. We then prepared the summaries and inserted commenter numbers into each summary to identify the organizations whose comments are reflected in it. A table at the end of this document provides the name of each organization that commented on the notice and its commenter number. This document also provides the Agency's response to each comment. The responses clarify how the comments were addressed in revising the guidance. See Attachments 1-3 for the individual comments in Categories 1-3.

II. Comment Summaries and Responses

II.1 Does Part 2 of the Guidance Clearly Distinguish Between Mandatory Versus Recommended Elements of a WAP?

Comment: We heard from six who commenters expressed concern that some of the elements recommended by the guidance for inclusion in the WAP go beyond core WAP functions. Some elements recommended in the WAP are included elsewhere in the permit (e.g., discrepancy reporting); hence, there is potential duplication of efforts. In addition, the regulations are sufficiently prescriptive and no further elaboration in the WAP is needed. Examples of unnecessary elements in a WAP include facility/process information (e.g., description of the facility and units are described elsewhere in permit), manifest discrepancy and rejection policy (no need for them, since the regulations are prescriptive), and recordkeeping (Commenter Nos. 3, 4, 7, 8, 25, 27).

Response: EPA intends to review the sections of the guidance that address the scope and organization of the WAP to ensure that the guidance clearly specifies which elements are specified in regulation and which elements are recommended but not required. To achieve that goal, EPA will:

- Put icons next to each recommended item in the example table of contents call out box in Section 2.1.
- Place a call out box in the opening paragraphs of Sections 2.2, 2.3, 2.5.5, 2.5.6, 2.6.1, 2.7, 2.9, 2.10, 2.11, 2.12, and 2.13 that indicates that the content within the sections are recommended for inclusion into a WAP and not required by 264.13 and 265.13.

Comment: We heard from one commenter who stated that EPA should emphasize the benefits of supplementing WAPs with other detailed documents (e.g., supplementary documents, such as

Sampling Manuals or Standard Operating Procedures (SOPs), which are avenues that are more appropriate for addressing many of the topics discussed in the guidance) (Commenter No. 27) .

Response: EPA will add text in Section 2.1 to emphasize the benefit of supplementing the WAP with other documents such as sampling manuals and SOPs.

Comment: We heard from one commenter who stated that, in Section 2.1, “Content & Organization of the WAP”, bullet 1.B should be deleted. It is not clear how a WAP can address “each permit condition” in advance of the permit being issued. In addition, generators treating their own wastes would not have permit conditions (Commenter No. 27).

Response: EPA will delete bullet 1.B and revise bullet 1.A as follows: “Identify requirements/permit conditions for preparing and implementing a WAP at your facility.” This should address the commenter’s concern.

II.2 Does the Guidance Describe RCRA Sampling Frequency and Procedures Adequately?

Comment: We heard from one commenter who asked EPA to consider revising Section 2.4 to advocate for full characterization of first time wastes received from an off-site generator facility (Commenter No. 12). This characterization information should be received by the TSDF during the pre-acceptance sampling and analysis process mentioned in Part 1, Section 1.2.1, Pre-Acceptance Sampling and Analysis, to facilitate appropriate management at the TSDF.

Response: EPA notes that the guidance already calls for a full characterization of first time wastes, in accordance with 264/265.13(a). However, EPA is not prepared to advocate mandatory sampling/analysis of every waste stream during pre-acceptance.

Comment: We heard from five commenters who asked EPA to reconsider the text box on Page 2-16, Section 2.4 that indicates that regulatory agencies may collect a single sample to determine if hazardous waste determinations are correct (Commenter Nos. 1, 4, 7, 13, 27).

Response: EPA will clarify that regulatory sample collection to verify compliance with “do not exceed” standards may initially consist of one sample. Examples of “do not exceed” standards are the treatment standards under the Land Disposal Restrictions (LDR) Program, which prohibit the land disposal of hazardous waste that does not meet applicable treatment standards, as specified. Under the LDR Program, if a grab sample reveals that one (or more) LDR treatment standards are exceeded, the waste cannot be disposed of on the land until the applicable standards are met. The second paragraph of the text box on Page 2-16 will be modified as follows:

“When the objective for an enforcement official is to evaluate a waste handler’s compliance with a “do not exceed” standard, the enforcement official will likely initially collect one targeted sample based on professional judgment, as all the official needs to determine if a waste is hazardous is a single exceedance of a standard. The waste handler, however, may

wants to ensure that waste concentrations are low enough so that it would be highly unlikely that any **undivided** sample of the waste would exceed a **“do not exceed”** the regulatory standard.”

Comment: We heard from five commenters who noted that guidance to conduct analyses for three separate production batches as found in Section 2.5.1 is inappropriate and not consistent with industry practices (Commenter Nos. 7, 9, 23, 25, 27).

Response: In response to these comments, EPA will modify the language in section 2.5.1 to remove the sentence: “It may be a good idea to analyze three separate production batches during initial characterization of a new waste to get a better sense of waste variability” and replace the sentence with one that indicates that the number of samples to collect should be determined through a sound statistical bases and with a thorough understanding of the potentials for variability in the waste stream.

Comment: We heard from six commenters who requested that EPA clarify or correct the approaches for collecting grab and composite samples in section 2.5.1 (Commenter Nos. 4, 12, 13, 23, 25, 27).

Response: In response to these comments, EPA will modify section 2.5.1 to reflect standard practice as reflected in SW-846 guidance with regards to grab and composite samples based on the analytes of interest and the waste matrices. EPA will also find the regulatory citation regarding the collection of grab versus composite samples for LDR determinations.

Comment: We heard from two commenters who suggested deleting the following words for clarity in Sections 2.5.1 and 2.8: “the generator has been notified by an off-site TSDF that”, since notification of the generator is not a factor in whether an analysis should be repeated (Commenter Nos. 4, 13).

Response: EPA will revise Sections 2.5.1 and 2.8 as follows:

- The Second bullets on page 2-30 and page 2-54 will be replaced with the following text: “When the results of the TSDF's fingerprinting does not match the waste on the accompanying manifest or shipping paper (the generator may be requested to re-evaluate the waste) [40 CFR §264.13(a)(3)(ii)].”

Comment: We heard from one commenter who asked EPA to revise the guidance on page 1-14 so that it does not refer to annual reevaluation of waste profiles. The unique nature of the waste and the low risk of there being any variation in the waste over time are examples of what should influence frequency (Commenter No. 25).

Response: EPA will modify the fourth bullet in the text box on page 1-14 of the guidance to read as follows: “Sending waste profiles to all generators periodically or as required by state regulation for their review, update and certification that they are up to date.”

Comment: We heard from two commenters who noted that the guidance with regards to sampling frequency appeared to be inflexible or appeared to focus on sampling strategies for large TSDF facilities and large quantity generators (Commenter Nos. 7, 8).

Response: EPA reviewed the guidance but does not see examples where the frequency appears inflexible or focused on large TSDFs.

Comment: We heard from two commenters who suggested that EPA should use language from the regulatory requirements in 40 CFR § 264.13 as opposed to attempting to restate the requirements (Commenter Nos. 10, 27). Specifically, the section on Sampling Frequencies (Page 2-30) restates the regulatory requirements in 40 CFR §264.13 by indicating that a waste analysis must be repeated “when the generator has been notified by an off-site TSDF” that the waste received does not match the manifest description, in which case “the generator may be requested to re-evaluate the waste.” However, the cited regulation §264.13(a)(3)(ii) allows the waste analysis to be repeated by either the generator or the off-site TSDF, and in fact many TSDFs provide this re-analysis service to their customers. Additionally, the same section requires the TSDF to include in its WAP a “schedule for re-evaluating the waste on a regular basis,” however; Section 264.13(b)(4) requires that the WAP specify “the frequency with which the initial analysis of the waste will be reviewed or repeated.” The regulation allows the TSDF to “review” the initial analysis periodically and determine that the analysis is still accurate and does not need to be repeated. The manual, however, uses the word “re-evaluated,” which in context seems to mean a repeated analysis, leading to unnecessary testing costs and restricting the TSDFs good judgment.

Response: EPA will use the language from 40 CFR § 264.13 as opposed to attempting to restate the requirements.

Comment: We heard from two commenters who suggested that the guidance should more directly reflect the sampling strategies and sampling frequencies discussed in SW-846 (Commenter Nos. 25, 27).

Response: EPA has reviewed the guidance in light of this comment, but notes that SW-846 does not address sampling frequency. EPA believes the guidance adequately discusses the sampling frequencies in the regulations.

II.3 Does the Guidance Discuss and Distinguish Between Generator and TSDF Requirements Sufficiently?

Comment: We heard from a number of commenters who asked for EPA to provide greater clarity in the guidance between the generator and TSDF requirements for waste characterization. They

noted that the revised guidance as written is intended to apply to both generators as well as owners/operators of TSDFs; however, the regulatory requirements for waste analysis under RCRA vary significantly for generators and TSDF owners/operators and this is not always clear in the guidance. They offered several options:

- Issue a separate guidance document for generators or create a separate section or attachment on generators (Commenter Nos. 3, 4, 14, 18, 21)
- Revise the guidance title to be more clearly applicable to TSDFs (Commenter No. 4)
- Clarify that generator-only sites are not required to have a WAP (Commenter Nos. 4, 8, 14)
- Clarify in all of the section headings as well as the body of the text whether the guidance is intended to apply to hazardous waste generators, TSDF owners/operators, or both (Commenter Nos. 7, 14, 23, 27)

Response: EPA will make the following revisions:

- In the section 1.1, add a call out box clearly stating that generators are not required to prepare WAPs for waste determinations except when they treat waste for LDR purposes (268.7 (a)(5)).
- Add a call out box on page 1-2 that reiterates the generator requirements of 268.7(a)(5) for a WAP.
- Include additional language in section 1.1 that delineates the respective responsibilities of generators and TSDFs for properly understanding their wastes.

Comment: We heard from six commenters who addressed concerns that the guidance did not clearly identify the requirements that waste generators have in making waste determinations and what is expected of TSDFs in verifying that the generators properly characterized their wastes prior to shipping the wastes to the TSDF (Commenter Nos. 14, 21, 23, 25, 26, 27).

Response: EPA will review the guidance to ensure that the waste determination requirements are clearly spelled out for generators and the TSDFs. The following specific edits will be made:

- Text will be added to section 1.1.1 clarifying that the generator is responsible for making hazardous waste determinations and that generators may be asked by the TSDF to supply waste descriptions, such as part of the pre-acceptance process.
- Text will be added to Section 1.1.2 clarifying that the TSDF may use generator-supplied information to aid in its understanding of the waste it receives and manages. However, the TSDF is ultimately responsible for understanding its wastes to ensure compliance with its permit/regulations and manage the wastes in a safe and protective manner. If the TSDF relies on generator-supplied information, it is important to review this information to ensure its adequacy (e.g., by performing fingerprint analyses to determine if a shipment matches the manifest).
- The text box in section 1.1.1.1 will be clarified to indicate that if treatment creates new waste characteristics that the treatment is considered a generator.

- Figure 2-8 will be modified to reflect that the TSDF is responsible for wastes and if applicable should have appropriate analytical information when a generator certifies waste.

Comment: We heard from one commenter who expressed concern that the guidance suggests including detailed process descriptions in WAPs, as this is not currently performed in industry, with the possible exception of certain K-listed wastes. The commenter was concerned that detailed process descriptions would serve no viable purpose to the TSDF. (Commenter No. 8)

Response: EPA believes this information is important for WAPs and has not modified this text. EPA has modified the text in Section 2.2.2 to clarify that a WAP may need to describe the procedures and protocols for identifying wastes received from off-site sources.

Comment: We heard from one commenter who expressed concerns in Section 1.2.1 of the proposed guidance that the TSDF would be required to analyze all Appendix VIII constituents for each waste stream (Commenter No. 14).

Response: EPA will clarify that TSDFs will not be required to analyze for all Appendix VIII constituents for each waste stream. EPA will revise the guidance to state that, “although key parameters can be used to obtain a representation of waste composition quickly, owner/operators should be aware that EPA will generally measure compliance with the hazardous waste regulations based on a detailed chemical and physical analysis of a representative sample of the waste(s) in question.”

Comment: We heard from one commenter who asked for EPA to clarify that primary responsibility for waste characterization is, or starts with, the generator. The commenter stated that the generator has both the process and operational knowledge necessary to accomplish this key task. TSDFs are required to confirm that waste streams received conform to the information provided by the generator on the manifest or pre-acceptance paperwork and then to perform the necessary analyses associated with proper handling, treatment and disposal. It is critical that this two-step concept is reflected in both Part One and Part Two of the draft WAP guidance (Commenter No. 27).

Response: As stated above, EPA will revise the guidance as follows:

- Text will be added to section 1.1.1 clarifying that the generator is responsible for making hazardous waste determinations and that generators may be asked by the TSDF to supply waste descriptions, such as part of the pre-acceptance process.
- Text will be added to Section 1.1.2 clarifying that the TSDF may use generator-supplied information to aid in its understanding of the waste it receives and manages. However, the TSDF is ultimately responsible for understanding its wastes to ensure compliance with its permit/regulations and manage the wastes in a safe and protective manner. If the TSDF relies on generator-supplied information, it is important to review this information to ensure its adequacy (e.g., by performing fingerprint analyses to determine if a shipment matches the manifest).

Comment: We heard from one commenter who asked EPA to explain that analysis for the purposes of land disposal restrictions requirements only applies if the hazardous waste will be land disposed. If no land disposal of the hazardous waste occurs, then the LDR do not apply. The commenter also asked EPA to explain that the WAP is not required by a generator per the LDR rules unless the hazardous waste is being treated to meet LDR standards (Commenter No. 4).

Response: EPA believes the manual explains the purpose of the LDR program, including the prohibition of land disposal of wastes that do not meet the treatment standards. See Appendix B, Regulatory Summary, which describes the program. In addition, EPA will clarify that generators are required to prepare WAPs only if the generator is treating its own wastes to meet LDRs.

Comment: We heard from one commenter who noted that the guidance needs to better explain that listed hazardous wastes also need to be evaluated to determine if they exhibit a hazardous waste characteristic for which they were not listed and/or that is not included in the LDR treatment for the listed waste (Commenter No. 4).

Response: EPA will add a callout box in Section 1.1.1 that gives an example of how waste codes for both listed and characteristic wastes must be added to an LDR notice.

Comment: We heard from one commenter who asked why, in Section 2.0, “Key Initial Considerations for the Facility”, third bullet, EPA suggests that “all wastes” be subject to waste analysis “to the same level” as hazardous wastes. The applicability of waste analysis to nonhazardous waste is very narrow, i.e. nonhazardous wastes being received in land disposal units subsequent to the last receipt of hazardous wastes per 40 CFR 264.113(d). This is not a “key initial consideration” for most TSD facilities (Commenter No. 14).

Response: EPA believes this is an important consideration for a number of facilities. EPA will revise the statement to recommend preparing procedures for subjecting all wastes (solid and hazardous) to an appropriate level of analysis. For example, an incoming hazardous waste shipment may be incorrectly evaluated or reported by the shipper as non-hazardous. The receiving TSD facility should have measures in the WAP to detect and properly evaluate such shipments.

II.4 Does the Guidance Describe the Relationship between CAA FAP and RCRA WAP Requirements Accurately?

Comment: We heard from two commenters (trade associations) who stated that RCRA WAP requirements and Clean Air Act (CAA) feedstream analysis plan (FAP) requirements are mutually exclusive (Commenter Nos. 6, 7). These commenters asserted that the WAP guidance erroneously states or implies that the RCRA and/or CAA regulations provide for integration of the WAP and FAP. One of these commenters noted that, for most hazardous waste combustors, the WAP no longer governs what and how they feed waste to the unit; that function is now covered under a FAP. The other commenter, while acknowledging the potential for overlap in their content, stated that there is no regulatory requirement for obligatory FAP elements to be included in a WAP. The commenter

pointed out several instances in Sections 2.4.4 and 2.9.2 of the WAP guidance where EPA either implies that certain FAP requirements should be included in the WAP or states that they must be included; the commenter believes these statements could cause confusion. The commenter stated that its member companies have successfully permitted WAPs that cover solely the RCRA requirements and FAPs that cover solely the CAA requirements, with only general references to each other included in both documents.

Response: EPA agrees that Sections 2.4.4 and 2.9.2 may have been interpreted such that the RCRA and CAA regulations provided for integration of the WAP and FAP. Each section has been revised to convey that there are separate waste and feedstream analysis requirements applicable to combustors under the different statutory programs. We do note, however, that there may be instances where the RCRA WAP and CAA FAP requirements could be combined into one document, or the RCRA WAP may retain certain combustor feedstream requirements.

The sections now explain the differences between the RCRA WAP and CAA FAP; however, they emphasize that the requirements under each plan are closely related and should be coordinated to the extent possible. In addition, we discuss why it is prudent to coordinate the plans so that requirements under each program are not overlooked. General references included in one plan (i.e., RCRA WAP) in regard to the other plan (i.e., CAA FAP) can be appropriate as long as each plan contains the details specified by the applicable regulatory requirements.

Overall, the key concept to be communicated is that the RCRA WAP and CAA FAP should complement one another to ensure safe handling of the waste and the efficient operation of the combustor.

Comment: We heard from one commenter (trade association) expressing additional concerns about the guidance's discussion about combustion (Commenter No. 7). The commenter noted that, in Section 2.9.2, EPA uses the term "trial burn"; however, the air emissions from most hazardous waste combustors are now covered under Subpart EEE of 40 CFR Part 63 and not under RCRA. As such, these facilities no longer run trial burns but comprehensive performance tests. While their functionalities are essentially the same, the commenter asked that the guidance should reflect currently used terms. In addition, the commenter expressed concern about the guidance's recommendations regarding the sampling/analysis of incoming shipments and batches to be burned. The commenter noted the extended timeframes for analyzing certain parameters and stated that waste profile sheets, safety data sheets and generator knowledge are adequate for certain parameters. In addition, if the facility has shown compliance with the required destruction and removal efficiency (DRE) for Class 1 principal organic hazardous constituents (POHCs), there is no need for an exhaustive organic analysis looking for something more difficult to burn. The commenter also believes the guidance is too restrictive by implying that analysis is mandatory (e.g., certain waste streams should not be sampled) and that every batch must be analyzed.

Response: EPA agrees that the WAP guidance should reflect currently used terms in regard to combustors. Section 2.9.2 was inadvertently omitted during the EPA's revision efforts. Both combustion sections of the guidance (Sections 2.4.4 and 2.9.2) have been revised to include current terminology.

EPA also agrees that much of the discussion regarding sampling and analysis procedures in Section 2.9.2 may not be entirely accurate and/or overly restrictive. Again, this section has been updated to reflect current requirements and industry practices. The CAA FAP regulatory language is provided for reference, as well as a discussion on feedstream sampling frequency that acknowledges characterization protocols are site-specific and waste-specific.

In response to the implication that every batch fed to the combustor must be analyzed, this has been revised to clarify that periodic sampling is required for all feedstreams to ensure that the analysis is accurate and up to date, but that the actual frequency will be site-specific. Further, discussion on characterization of feedstreams is included to highlight when feedstreams may need to be sampled and analyzed more frequently at some combustion facilities versus others. In addition, situations when use of generator or process knowledge is desirable and/or practical versus direct sampling and analysis are included in recognition of site-specific factors.

II.5 Does the Guidance Clearly Distinguish Between Mandatory versus Recommended WAP/Waste Analysis Procedures?

Comment: We heard from 11 commenters who asked EPA to modify the guidance to clearly distinguish regulatory requirements from recommended best management practices. For the required elements, EPA should cite the regulations so that the reader knows where those elements are covered in the guidance document. Among the topics that are addressed by commenters include WAP elements, generator standards, Data Quality Objectives, recordkeeping, facility description, sampling frequency, waste acceptance, and fingerprint analyses. In addition, the guidance recommends elements that exceed the regulatory requirements and fails to clarify which elements are regulatory requirements applicable to all facilities required to have a WAP, and which are regulatory requirements that apply to only certain TSDFs (Commenter Nos. 3, 4, 8, 10, 14, 19, 21, 23, 25, 26, 27).

Response: EPA intends to distinguish between mandatory and recommended elements of a WAP as follows:

- Clarify elements of the WAP that are recommended versus mandatory. See responses in Section 1 of this document for additional information.
- Add a disclaimer inside the front cover that the document is guidance and does not present new requirements outside of the CFR (Gail Hansen will obtain appropriate disclaimer text. The disclaimer text will read:

“This guidance represents EPA’s current thinking on this topic. It does not create or confer any rights for or on any person or operate to bind the public. You can use an alternative approach if the approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach (you are not required to do so), you may contact the EPA staff responsible for implementing this guidance. If you cannot identify the appropriate EPA staff, call the appropriate number listed on the title page of this guidance.”

- When a concept in the guidance is required per the CFR, the citation will be provided in the text to include CFR part and subparts.

II.6 Is the Guidance's Discussion of Statistical Uncertainty in Section 2.7 Consistent with SW-846?

Comment: We heard from ten commenters who indicated that the use of the 95% confidence limit for uncertainty in Section 2.7 is not consistent with guidance in SW-846 (Commenter Nos. 3, 4, 5, 7, 13, 16, 17, 21, 23, 27).

Response: EPA will modify Section 2.7 to reflect the 90% upper confidence limit as discussed in SW-846.

II.7 Does Section 2.3 of the Guidance Discuss Data Quality Objectives (DQO) Adequately?

Comment: We heard from nine commenters who disagreed with language in sections 1.2, 2.3, and 2.4 that indicated that a single exceedance of a sample above hazardous waste determination limits would render the waste stream as hazardous. Commenters indicated that a single exceedance policy would contradict guidance in SW-846 and contradict standard industry practice to use a statistically appropriate representative sampling of the waste to make hazardous waste determinations (Commenter Nos. 1, 3, 7, 8, 9, 10, 16, 21, 27).

Response: EPA will modify the example scenario to clearly specify that the example is for an LDR determination. A single exceedance under the LDR program would constitute a failure under the LDR treatment standards.

Comment : We heard from two commenters who noted that the Step 4 call-out box states: "The action level for lead in TCLP leachate under RCRA is 5.0 mg/L." They suggested it be changed to: "The action level for lead in TCLP leachate under RCRA's LDRs is 0.75 mg/L." This will make it consistent with previous steps of the process, which deal with waste treatment. In addition, Part 268 (Land Disposal Restrictions) sets forth a TCLP-Pb treatment standard of 0.75 mg/L for nonwastewaters. The 5.0 mg/L TCLP limit given in DQO Step 4 is just the threshold for a waste to be a D008 hazardous waste. (Commenter Nos. 4, 13)

Response: EPA will modify the action level to the RCRA LDR limit of 0.75 mg/L because the scenario is describing an LDR determination.

Comment: We heard from two commenters who stated that the example decision rule statement in the call-out box in Step 5 is inconsistent with DQO Step 1's example statement of the problem: The example problem is whether the waste needs to be treated before disposal, but the decision being made from the data is whether the waste is hazardous or not. Those are two very different issues (Commenter Nos. 4, 13).

Response: EPA will modify the call out box in Step 5 and the remainder of the DQO example to consistently refer to the example problem as an LDR determination.

Comment: We heard from one commenter who noted that Section 2.3, DQO Step 1 provided guidance regarding the budget and schedule of recommended guidance that appeared to be outside the scope of the guidance (Commenter No. 7).

Response: The last sentence of the DQO Step 1 discussion in Section 2.3 will be deleted.

II.8 Does the Guidance Describe Fingerprint Analyses in Section 1.2 Sufficiently?

Comment: We heard from one commenter who asked EPA to modify the text box on page 1-14 to address the form that the waste will be shipped in (i.e., type of packaging or container and how waste is packaged within each container). For example, most incinerators have limits on specific constituents per pound of waste, but for wastes like lab packs, have limits on bottles sizes as well as the number in each pack (Commenter No. 7).

Response: EPA will add the following sentence in section 1.2.1 to address the commenter's concern: "For certain types of wastes, verifying the packaging form and packaging content of the waste would also be an important waste acceptance activity."

Comment: We heard from one commenter who pointed out that, on page 1-14, EPA should include typical chemical fingerprint analyses that are conducted for verification analysis for wastes received from off-site facilities. It would also be helpful to include methods used for fingerprint analysis since these are not typical SW-846 methods (Commenter No. 23).

Response: EPA will not take any action based on this comment because the WAP samples in Part Four provide examples of fingerprint analyses.

Comment: We heard from one commenter who asked EPA to delete or replace all references to "color" as part of fingerprinting, etc. since color is not a reliable indicator of waste stream composition. See p.1-15, end of top paragraph and in first full paragraph, and p.2-16, first full paragraph, first sentence (Commenter No. 9).

Response: EPA will not take any action based on this comment, as color, when used as one of several fingerprint tests, can contribute useful information useful about certain wastes.

Comment: We heard from one commenter who asked EPA to replace the example on page 1-15 of using ± 2 pH units as a reason for rejecting or re-qualifying a waste. A pH change from when the waste was originally tested to when it arrived doesn't make it unacceptable if TSD is already permitted for D002 waste (Commenter No. 7).

Response: EPA will modify its statement to clarify that if the pH of an incoming shipment falls outside the prescribed range, the value would be considered a non-conformance that should be evaluated and may be subsequently rejected or re-qualified as appropriate.

Comment: We heard from one commenter who asked EPA to add "BTU/#" as a routine screening indicator on p.1-15, first full paragraph, last sentence, and p.2-16, first full paragraph, first sentence (Commenter No. 9).

Response: EPA will add BTU/# as an example on page 1-15.

Comment: We heard from one commenter who stated that, in the call-out box on page 1-15, it is not necessary or safe to open and inspect certain reactive or carcinogenic chemicals in lab packs due to safety concerns. Lab packs that are packaged by field services employees may not need to be opened and inspected at the same interval as lab packs packaged by third-party or generator personnel. The percentage of lab packs that are opened and inspected should be determined by the TSDf (Commenter No. 25).

Response: EPA will modify the call out box on page 1-15 to indicate that lab packs may be opened if it is "safe to do so."

Table of Organizations Commenting on Guidance Document

No.	Organization Name
1	American Chemistry Council (ACC)
2	American Council for Independent Laboratories (ACIL)
3	American Petroleum Institute (API)
4	ASTSWMO
5	Bell South
6	Cement Kiln Recycling Coalition (CKRC)
7	Coalition for Responsible Waste Incineration (CRWI)
8	DOW Chemical Company
9	Environmental Geo-Technologies (EGT)
10	Environmental Technology Council (ETC)
11	Fort Stewart, Hunter Army Airfield
12	MI DEQ
13	NY DEC
14	Pacific Northwest National Lab (PNNL)
15	Private Citizen – Cook
16	Private Citizen – Friedman
17	Private Citizen - Lindquist
18	Syngenta Crop Protection, LLC
19	Tennessee DEC
20	Tennessee Valley Authority (TVA)
21	US Ecology
22	US EPA/Reg 5
23	US EPA/Reg 10
24	Utah DEQ, Division of Solid and Hazardous Waste
25	Veolia Environmental Services
26	Washington State Department of Ecology (ECY)
27	Waste Management (WM)

Attachment 1— Category 1: Substantive Comments, Within Scope

Attachment 2 — Category 2: Non-Substantive Comments, Within Scope

Attachment 3 — Category 3: Substantive and Non-Substantive Comments, Outside of Scope