

US EPA ARCHIVE DOCUMENT

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MODEL OUTLINE/GUIDANCE FOR THE DEVELOPMENT OF THE PROGRAM DESCRIPTION

April 3, 1998

OVERVIEW

This Model Program Description (PD) Outline/Guidance document is designed to provide guidance to States for the preparation of a Program Description. In accordance with 40 CFR 271.6, the specific requirements included in the document are taken from the outline provided in the State Authorization Manual (SAM), Chapter Three, Program Revision Application. The format of this Model PD Outline/Guidance document is based on a draft Program Description recently submitted by a State, as modified by EPA.

As stated in the State Authorization Manual (SAM), the Program Description describes how a State intends to implement the provisions for which it is seeking authorization. The PD must be a stand-alone document which, in narrative and chart form, describes clearly for the general public, public interest groups, regulated community, and other interested parties how the hazardous waste program in the State will be carried out. This includes (1) the duties of each agency, program and section responsible for the State's hazardous waste program; (2) the organization and communication among programmatic units, as well as linkages; (3) the interaction of the state statutes, regulations and authorities; and (4) how the program revision will be integrated with the authorized program activities. The State should also include in the PD special State initiatives such as waste minimization, environmental justice and regulatory schedules.

This Guidance document directs the State to include information for its program on the whole, including the existing program for which the State has received authorization and the program revisions. The Program Description should be written in terms of the existing authorized program, what changes will be made as a result of authorization for the additional program areas, and how the State will handle the additional requirements. The State should update all areas of the Program Description which have changed since the last authorization, whether or not those changes were Federally initiated by revisions in the RCRA regulations, or State initiated and unrelated to any changes in the Federal program. In addition, the State should include language expressing that the Program Description has been prepared in accordance with the requirements of 40 CFR 271.6.

The use of acronyms should be avoided as much as possible. Furthermore, the PD should be written in such a way that it flows logically in an order understandable to the public. To this end, the Model PD Outline/Guidance document presents the major sections which must be included in the Program Description, including SECTION I -- INTRODUCTION through SECTION VIII--COPIES OF STATE FORMS AND COORDINATION WITH OTHER AGENCIES. SECTION IX -- APPENDICES, may be used to include supporting documents for the PD. The State is encouraged to include the specific subheadings identified in bold type face in the Outline. Also, the State can add additional subsections, as appropriate, to describe its program. Under each Section, specific guidance on the type of information to be included in the PD is provided. Where feasible, examples of suggested language are also provided.

General guidance is provided in the Attachment for 19 specific program areas such as the land disposal restrictions, radioactive mixed waste, and corrective action.

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SECTION I

INTRODUCTION

Guidance:

In this Section, the State should (1) describe the relationship of the PD document to any PD previously submitted as part of the State's application for authorization; (2) identify the areas for which the State is seeking authorization; and (3) describe the general organization of the Program Description. Specific guidance for each of the above topics is as follows:

1. *Relationship of this document with the Program Description (PD) previously submitted as part of the State's application for authorization*

The State has the option of modifying its existing Program Description on file with EPA in one of three ways:

- a. The State may submit an addendum to the initial Program Description. If the State chooses to submit an addendum, the State should clearly identify it as such. The State should identify the appropriate sections of the existing Program Description to be deleted, modified, and/or expanded.
- b. The State may submit updated page inserts to update specific portions of the original Program Description. All new pages should be clearly marked with a revision date and page numbers should correspond to the original text with alpha designations used where necessary (e.g., 11, 11-a, 11-b). The changed portions of the updated page should be clearly marked. The State may use a copy of the original page with new language in bold face type, and deleted language stricken out, if appropriate. The State should also submit a clean copy of the modified Program Description, in addition to the redlined/strike out version.
- c. The State may submit a new Program Description. This method is suggested for revisions that require extensive changes to numerous elements of the Program Description. The new Program Description will replace the most recent authorized Program Description.

2. *Identification of areas for which the State is seeking authorization*

This section should clearly describe areas of the hazardous waste program for which the State seeks authorization.

3. Organization of PD

The Introduction Section should end with a description of how the PD is organized, starting with a brief description of Section II -- Scope, Structure, Coverage and Processes, through Section VIII--Copies of State Forms, and Section IX -- Appendices, if applicable.

Example:

The following text, based on a PD recently submitted by a State, provides an example of an introduction to the Program Description:

“The [State X] Department of . . . is the agency responsible for administering all solid and hazardous waste regulations for the State of [State X]. This document provides a description of the hazardous waste regulatory program administered by the Department. It replaces the Program Description (PD) previously submitted as a part of the State's application for base program authorization.

This Program Description reflects the evolution of the State's program since the base program was authorized, and also summarizes how the Federal regulatory requirements for the base program and Non-HSWA Clusters I through VI are implemented by the State. This Program Description has been prepared in accordance with the requirements of 40 CFR §271.6.

The report is organized as follows:

Section II describes the scope, structure, coverage, and process of the hazardous waste program and includes a discussion of the legislative and regulatory provisions the State administers as well as a discussion of the differences between the Federal and State's laws and regulations. Section III provides a description of State agency(ies) responsible for administering the program with the aid of an organizational chart. The specific divisions which comprise the agency(ies) are discussed and their individual responsibilities are examined. This section also includes a discussion of the responsibilities and procedures for coordination among various State agencies and EPA. Checklists are included to provide information on both HSWA and non-HSWA activities to provide a concise, definitive statement of which program areas the State has (or is seeking) authorization, as well as the program areas for which EPA remains responsible.

Section IV deals with staffing and funding procedures and identifies hazardous waste staff and funding resources required to carry out the activities that are the subject of this program revision. This section distinguishes between new resources and existing resources being assigned to the new responsibilities. The impact on the existing authorized program of adding the additional program areas is also examined. Section V

describes the State procedures that will be used to implement the program revision. Section VI examines the State's compliance tracking and enforcement processes and resources. Section VII indicates the estimated regulated activities as of the date of the Program Description, and Section VIII is set aside for copies of State forms and provides a discussion of coordination with other agencies."

Note that the State may want to use more specific language such as the names of its agency(ies) responsible for administering the program.

SECTION II

PROGRAM SCOPE, STRUCTURE, COVERAGE, AND PROCESSES (40 CFR 271.6(a))

A. Scope and Coverage of Program Revision

Guidance:

1. *Narrative description of the scope and coverage of the program.*

This introductory text should outline in narrative form the hazardous waste program. If the program description is written to replace a former program description the text should outline the entire program described in this document, including program areas that were previously authorized. If the PD is written as an addendum to a previous document, this text should reflect only those program areas for which the State is seeking authorization.

2. *Identification of exact rules/clusters for which the State is seeking authorization*

The State should identify what clusters and rules the described hazardous waste program encompasses. In addition, the State must clearly explain whether the revision application addresses a complete cluster or only certain provisions of a cluster. For example, a State that has been authorized for the Base program and is submitting a new Program Description as part of its revision package may use the following language:

“The regulatory program described in this document reflects the base program for which the State is already authorized and the regulations in Non-HSWA Clusters I through VI for which the State is seeking authorization. In Non-HSWA Cluster I, the State is seeking authorization for all checklists, except Revision Checklist 15. In Non-HSWA Clusters II-VI, the State is seeking authorization for all requirements.”

If the State is seeking authorization for State-initiated changes that do not correspond to a particular cluster, the State should identify those changes in this section.

3. *Reference to Revision Checklists attached to PD or otherwise included in the revision package*

It is suggested that the State include completed Revision Checklists as an appendix to its Program Description. Since the Program Description should describe areas in which the State's program differs from the Federal program, the inclusion of the Revision Checklists will help to fulfill this requirement. The checklists will demonstrate that the State regulations are equivalent with the Federal program for the rules for which the State is seeking authorization. If the State has included the

Revision Checklists elsewhere in its program revision package, (e.g., as an appendix to its Attorney General's Statement), the Program Description should reference this location in the package. The State should include a table similar to Table 1 (included at the end of this section) to show how the State's regulations generally correspond to the Federal regulations. The Table may have to be modified depending upon the program areas covered by the Program Description and the structure of the State's regulations. The State can also include a "rule analysis" if one has been completed for its State legislature to show the impacts the new rule will have on the State.

In addition, the State should clearly express that its program provides adequate enforcement relative to the Federal program. This should be demonstrated in Sections V and VI of this Program Description. The State should refer the reader to the Section II.B for specific discussion of those program areas where the State program is more stringent or broader in scope.

4. *Public notices, public hearing of program revision*

The State should include a description of the public participation procedures the State followed as part of the program approval process. The description should include public notice and public hearing procedures. These procedures should be consistent with 40 CFR 271.20.

B. Differences Between Federal and State Regulations

Guidance:

In this subsection, the State should discuss differences in coverage between the State and Federal programs. Areas in which the State is more stringent, broader in scope, and equivalent should be clearly identified, as explained in the guidance that follows.

1. *Areas where the State program is more stringent*

The State should identify notable areas where the State program is more stringent than the Federal program. The Program Description need only identify those areas that have a notable impact on the hazardous waste program such as increasing the burden on the agency(ies) administering the program. The Program Description need only briefly describe the differences. The State can refer the reader to the Attorney General's Statement for detailed discussion of the significance of these differences.

2. *Areas where the State program is broader in scope*

The State should use the same approach for this section as used for the discussion of areas where the State's program is more stringent. Examples of areas in which the State may be broader in scope include the types of facilities covered; state-only wastes; and differences in definitions, such as "facility", "release", and "hazardous waste".

3. *Areas where the State program differs from the Federal program*

The State should discuss any areas where the State program uses a different regulatory approach from the Federal program. The State should explain why these program areas are equivalent despite differences from the Federal program.

Table 1

**General Correspondence Between State Regulations
and Federal Regulations**

EPA REGULATION Code of Federal Regulations (CFR)	STATE REGULATION	DESCRIPTION
PART 260		Hazardous Waste Management System: General
PART 261		Identification and Listing of Hazardous Waste
PART 262		Standards Applicable to Generators of Hazardous Waste
PART 263		Standards Applicable to Transporters of Hazardous Waste
PART 264		Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
PART 265		Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
PART 266		Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities
PART 268		Land Disposal Restrictions
PARTS 270/124		The Hazardous Waste Permit Program
PART 273		Standards for Universal Waste Management
PART 279		Standards for the Management of Used Oil

SECTION III

STATE AGENCY RESPONSIBILITIES (40 CFR 271.6(b))

A. Organization and Structure of the Hazardous Waste Program

Guidance:

1. *Identification of State agency(ies) responsible for administering program*

This Section of the Program Description should include information on the State agency(ies) responsible for administering both the previously authorized program and the program revisions. When the State has more than one agency responsible for administering its hazardous waste program, the Program Description should identify a lead agency. The lead agency will be the State agency having sole responsibility for communications between the State and EPA. All transfers of information should be routed through the lead agency so as to avoid confusion.

a. *State agency(ies) responsible for administering previously authorized program*

The State should identify the agency(ies) that administer(s) the previously authorized program. In the case of multiple agencies, the lead agency must be clearly identified. If the Program Description is being drafted as an addendum to a former Program Description, the State does not need to address this section unless, of course, the agency(ies) that administer(s) the program has (have) been restructured or changed.

b. *State agency(ies) responsible for administering program revisions*

Whether the State is drafting this Program Description as a replacement document or as an addendum, it must identify which State agency(ies) will administer the program revisions, even if it means identifying the same agency(ies) that administer(s) the previously authorized program.

2. *Structure of State agency(ies)*

The State should describe the structure of its agency(ies). An organizational chart should be included that demonstrates the structure of each agency, including the hierarchy of the agency(ies) and the division of responsibilities within the agency(ies). The division of responsibilities among agencies should also be included.

a. *Divisions, program areas and subunits within the agency(ies)*

The State should include, under separate subsections, a written description of the organization and responsibilities of each division, program area or subunit within State agency(ies) responsible for the hazardous waste program. If appropriate, organizational charts that show the details of the subunits should also be included.

b. *Division of responsibilities among State agencies*

If more than one State agency is responsible for administering the hazardous waste program, the State should also address the division of responsibilities among the agencies. The State should demonstrate that each agency has statewide jurisdiction over a class of activities. Statewide jurisdiction is a requirement for authorization of a program area. For example, the State agency in charge of highways may be responsible for regulating the transportation of hazardous waste on State roads and highways, while the State's environmental protection agency maintains authority over regulation of all other aspects of hazardous waste management and transportation.

B. Procedures for Coordination Among Agencies (if applicable)

Guidance:

The Program Description should describe how the various agencies will coordinate with each other. For instance, if more than one agency must enforce the use of the manifest system, depending upon the location of the waste, the Program Description should reflect how the agencies will communicate with each other and share information for enforcement purposes.

C. Descriptions of Relevant MOUs Between Agencies (if applicable)

Guidance:

When a State has more than one agency responsible for administering the hazardous waste program, the agencies should develop a Memorandum of Understanding that outlines exactly which responsibilities each agency has and how the agencies intend to coordinate their activities. This section should describe the MOUs that exist between State agencies.

D. Division of Responsibility Between the State and EPA

Guidance:

The Program Description should contain a clear statement of State or Federal lead on permitting and enforcement for each HSWA requirement. Even though the State has received authorization for portions of its hazardous waste program, EPA retains authority to enforce requirements promulgated pursuant to the Hazardous and Solid Waste Amendments of 1984 for which the State has not received authorization.

A clear statement of whether State or Federal government has the lead on permitting and

enforcement for each HSWA requirement will help to define the State's hazardous waste program. If the State has entered into any work share agreements with the EPA for portions of its program, these should be referenced in this section. This subsection should also include a discussion on program areas for which EPA remains responsible because they are not delegable to States.

SECTION IV

STAFFING AND FUNDING RESOURCES (40 CFR 271.6(b)(1)-(3))

Guidance:

When a State has more than one agency responsible for administering its hazardous waste program, the staffing and funding resources for all agencies should be included in this section. It is recommended that the State present this information for each agency independently. For example, if a State's environmental protection agency and transportation agency are both responsible for the program, then the discussion would focus on the environmental protection agency and subsequently on the transportation agency. If the State administers a program broader in scope than the Federal program the State should indicate the resources that are dedicated to the Federally required portion of the program.

For each subsection or topic under this Section of the Program Description, the State should include information for all agencies. For example, under Description of Staffing, information should be provided for each agency. Similarly, under Staffing and Funding, the information should be presented by agency, division or group. It also may be helpful to break agencies down into subcategories based on the type of responsibilities the various parts of an agency may have. The State may have a permitting division that operates separately from its enforcement section within the same State agency.

A. Description of Staffing of Agency(ies)

Guidance:

1. *Number of staff*

This number should include all existing staff as well as staff added to implement additional program areas for which the State is seeking authorization. In cases where the staff also have responsibilities outside the hazardous waste program the State should indicate the FTE (full time equivalent) devoted to the hazardous waste program.

2. *Occupations*

The State should provide some indication of what type of technical expertise or educational background each staff member has. The discussion does not need to describe individuals, but should address the type of employee that typically fills each

position. For instance, the permitting section of a State agency would probably contain some engineers, while the groundwater monitoring section would probably contain some geologists.

3. *General duties*

The State does not need to include a job description for each of its employees. It is enough for the State to briefly indicate what types of activities for which each staff position will be responsible (e.g., inspections, permit writing, or secretarial duties).

B. Overall Changes in Existing Resources for Previously Authorized Program

Guidance:

The State should include a discussion of how the existing program's resources have changed since the submission of its last Program Description. This discussion should include information pertaining to items 1 through 3 below.

1. *Changes in staffing, internal reorganizations, and shifts in priorities*

The State should address any changes in staffing, changes in organization of responsibilities, or changes in priorities. Changes in staffing may include changes in the number, occupations, or general duties of agency staff. Note that the structural organization of State agency(ies) should have been discussed in Section II. The State need only explain how the new structure is different from that outlined in the previous Program Description.

2. *Changes in size of the regulated community since previous authorization*

Since the State's previous authorization, the size of the regulated community may have changed. This subsection should describe any changes in the number of generators, transporter, or TSD facilities.

3. *Program changes that have significant impact on State's efficiency and existing program resources*

This subsection should expand the discussion of changes in existing resources in order to describe how such changes have impacted the program. For example, a decrease in the number of staff conducting inspections may make compliance monitoring efforts less efficient.

C. Itemization of Estimated Costs and Sources of Funding for Revision

Guidance:

As stated in the SAM, this subsection of the PD must include information regarding personnel and funding (i.e., estimated program and technical support costs, as well as the source and

amounts of funding available) for each agency involved in the State's hazardous waste program. In order to provide a comprehensive picture of the resources available to conduct the activities proposed in the State's application, EPA requires that the State provide information projected for at least two years following the approval of the State's revision.

1. *Personnel*

For each agency and subunit within an agency, the Program Description should identify the number and expertise of employees that will be devoted to the program areas for which the State is seeking authorization. The State should distinguish between new personnel and existing personnel being assigned to the new responsibilities. The impact of the changes in personnel on the existing authorized program should also be discussed.

2. *Funding*

a. *Estimated program and technical support costs*

The State should outline the costs specifically associated with the State's program revision, including the cost of technical and administrative support.

b. *Sources and amounts of available funding*

This section should outline the funding specifically associated with the State's program revision. The funding information should include expected Federal grant money. As with personnel, the State should distinguish between new funding and existing funding that will be used for additional program revision and explain the impact of the funding on the existing authorized program. This section should indicate any restrictions or limitations on funding.

SECTION V

STATE PROCEDURES, PERMITTING PROGRAM AND COORDINATION WITH OTHER AGENCIES AND PERMITTING (40 CFR 271.6(c) & (f))

Guidance:

This section of the Program Description should include at least the information described in the subsections outlined below. The State should also include procedures for State-only requirements, such as the certification of transporters, that are broader in scope than the Federal program.

A. Regulatory Development

Guidance:

The State should outline the steps involved in developing its hazardous waste regulations. The interaction of the State statutes, regulations and other authorities should be included. The discussion should include drafting of regulations, review of draft regulations by other State bodies, final drafting, publication of proposed rule, public comment and hearing, publication of final rule, and determination of effective date. The State is encouraged to include a Table or flowchart showing the timeline for regulatory development.

B. Notification

Guidance:

In this subsection the State should identify exactly who is subject to the notification requirements of its hazardous waste program. The State should also identify the forms used for notification of hazardous waste activity, and the agency(ies) in charge of handling notification. Copies of the forms can be included in Section VIII. The Program Description should explain how notification relates to the assignment of ID Numbers and how notification data is handled internally.

C. Manifest Tracking System

Guidance:

The State should describe its manifest tracking system. Specifically, the State should define the scope of its manifest requirements and identify the information required to be included in the manifest document. The Program Description should also state how many copies are required under State law, and how the copies should be distributed. The State should describe the agency's procedures for handling manifests, including receipt, processing, and

review of the manifest forms. The Program Description should also outline the use of unmanifested waste reports. Copies of the manifest forms should be included in Section VIII.

D. Coordination of Information Regarding Interstate and International Shipments

Guidance:

The Program Description should discuss the procedures for making information available to the Federal program and other States. The description should also cover how the State processes incoming information from the Federal program and other States regarding interstate and international shipments.

E. Permitting

Guidance:

In its introduction to the permitting procedures, the State should describe the different types of permits issued as part of its hazardous waste program and the entities that are required to obtain a permit. The Program Description should also refer the reader to any forms involved in the permitting process that are included in Section VIII .

1. Permit application

The Program Description should include a description of any pre-application requirements such as notification and preliminary dialogue between the potential permittee and the State's permitting agency. If the State issues guidance to assist with the application process, these documents should be described and/or included as an appendix to the Program Description.

The section should include a description of any forms used in the application process and outline the requirements for the content of a permit application. Copies of the application forms should be included in Section VIII.

2. Permit application review process

The State should describe the procedures for review of the application. The description should include any site visits that are conducted in conjunction with the review process. The State should also include the time line for permit application reviews and who participates in the review process.

3. Permit application completeness review

The Program Description should identify the procedures followed when it is determined during the application review process that an application is incomplete. Procedures, including notice to the applicant of application deficiency and

requirements for the applicant to respond to the notice, should be addressed. The State should also describe the procedures that will be followed when the applicant fails to address issues outlined in the notice.

4. Draft permit

This subsection should cover the parts of a draft permit, including the information each part may contain. Then the State should go into detail on the development of the draft permit. The Program Description should identify who writes the permit. It should also cover any review procedures; for example, does the Enforcement Division or the Attorney General review the draft permit prior to making the draft permit available to the public. The State should also describe any additional documents prepared with the draft permit, such as a fact sheet.

5. Public participation

The Program Description should describe the public participation procedures involved in the permitting process. The State should summarize the requirements under its administrative procedure act and any specific requirements of its hazardous waste program. The types of procedures that should be included in the Public Participation subsection are as follows:

- A. The information and/or documents made available for public review
- B. Publication of notice
- C. Submission of public comments
- D. Response to public comments
- E. Opportunity for public hearing
- F. Public hearing procedures (for all types of hearings/meetings available)
- G. Identification of agency contact person
- H. Time frames for public participation
- I. Finalization of permit

Note that the State should present this information in a logical order, such as chronological order, depending upon the State's particular procedures.

6. Permit modification, renewal, revocation and reissuance, and termination

The State should describe the classification of permit modifications, and the procedures that are used for each type of modification. The Program Description should outline how State modification classifications correspond to Federal modification classifications. The State should also describe procedures for permit renewal, revocation and reissuance, and termination.

7. Interaction with enforcement personnel

Permitting personnel and enforcement personnel may have to interact regularly and share information. The Program Description should outline the procedures for such

interaction among personnel. The permitting authority will have to provide enforcement personnel with information regarding permits so that the enforcement division is able to identify facilities operating without a permit. The permitting staff should also assist enforcement personnel with interpretation of permit conditions and regulatory requirements. Enforcement personnel should notify the permitting authority of changes in facility operation that may require permit modifications and ambiguous situations that require clarification.

8. Routine review of facility operation

The State should provide information about procedures for routine review of closure cost estimates, verification of financial assurance mechanisms, and review of annual facility reports of hazardous waste activities.

9. Reports and information required from the State

The State should briefly describe the reports and information it is required to submit to EPA and the frequency of submissions.

10. Other types of permits

If the State is implementing other types of permitting (e.g., Subpart X permits for miscellaneous units), the Program Description should describe the procedures for their development and issuance. Any work sharing between the State and EPA should also be discussed in those situations where the State feels it needs some initial technical assistance.

11. Joint permitting

If the State is involved in joint permitting activities with EPA, the procedures involved need to be described.

F. Interim Facility Status

Guidance:

The State should include its interim status procedures, including procedures for the determination of qualifications for interim status and the loss of interim status.

G. Biennial Reports

Guidance:

The State should include procedures for biennial reporting. This description should cover the submission, content, and processing of such reports as well as refer the reader to Section VIII for a copy of the form used.

H. Enforcement-General Inspections

Guidance:

The State should describe its procedures for general inspections. Inspection procedures include determination of which facilities to inspect and which agency or subunit is responsible for the inspections. The description should cover the way in which the inspection is conducted, including the types and frequency of inspections, and how the information acquired is processed internally, including the procedures for documenting RCRA violations. The State should also describe any training its inspectors are required to receive.

I. Groundwater Monitoring Inspections

Guidance:

The State should describe its procedures for groundwater monitoring inspections. Inspection procedures should include determination of which facilities to inspect and which subunit within the agency is responsible for the inspections. The description should cover the way in which the inspection is conducted, including the specific activities covered, and how the information acquired is processed internally. The State should also describe any training its inspectors are required to receive.

J. Waste Minimization/ Pollution Prevention Program

Guidance:

The Program Description should cover the types of activities that form the State's waste minimization/pollution prevention program, including any outreach or training the State provides as part of that program. It should also identify the subunits within the agency(ies) responsible for the various programs.

K. Availability of Information Procedures

Guidance:

The State should describe how the public may obtain information and how the regulated community may request that certain types of information remain confidential. This section should include how requests are processed by the State.

L. Appeal Procedures

Guidance:

The Program Description should outline the procedures for appealing State actions. For instance, this section should describe how a member of the regulated community may obtain administrative or judicial review of permit decisions or enforcement actions.

SECTION VI

COMPLIANCE TRACKING AND ENFORCEMENT (40 CFR 271.6(e))

Guidance:

The State's Program Description must demonstrate how the State's compliance monitoring and enforcement program will operate to ensure compliance with standards and permits by all hazardous waste management facilities, generators, and transporters. If the State was previously authorized, this section should be used by the State to describe the impact of any revision that will affect the compliance monitoring and enforcement program for which the State is already authorized. Attachment A to this Model Outline/Guidance document provides general guidance for specific program areas and how these program areas may impact the Program Description.

A. Identification of Members of the Regulated Community

Guidance:

1. *Identification of revisions that have the potential to significantly increase the size of the RCRA universe*

Examples of program revisions that may have significant impacts on the RCRA universe: small quantity generators; dioxin listing; producers, marketers, blenders and burners of hazardous waste and used oil fuels; and newly listed or characteristic wastes.

2. *Strategies and methods for identifying new members of the regulated community*

The State should discuss the implementation of notification activities and how it plans to handle identification and follow-up on non-notifiers.

B. Inspections and Analysis Workload

Guidance:

1. *Types of inspections needed to monitor compliance with new program activities*

This section should summarize the different types of inspections the State plans to use to monitor compliance with new program activities. The description should include the technical aspects of these inspections and the procedures for conducting them.

2. *Additional sampling and analysis needed to monitor compliance with new program*

activities

The State should summarize the additional sampling and analysis it intends to employ as part of compliance monitoring for new program activities. The description should include the procedures for conducting sampling and analysis.

3. *Impact on compliance monitoring of existing program*

The State should include a description of the impact new compliance monitoring activities will have on the existing hazardous waste program. For instance, the Program Description should state whether the new activities will be combined with existing activities or handled separately. The State should determine if there will be any decrease in compliance monitoring of existing program areas because of the additional activities. The Program Description should state how the new activities will be combined with existing inspection efforts (i.e., describe how the new activities will be implemented in conjunction with existing efforts). The State should also include a description of State inspection priorities after integration with existing program priorities (these are negotiated annually between the State and EPA as part of the grant process).

C. Data Management

Guidance:

The Program Description should outline how the program revision will impact data management. Specifically, the State should address whether or not the new activities will require expanded information management systems. The State should identify the requirements that necessitate tracking systems to support program management, and describe the tracking systems to be used. If the revision affects the manifest tracking system, this section should reflect any changes related to the new program activities.

D. Compliance Monitoring Resources

Guidance:

1. *Additional resources required to implement compliance monitoring of new program activities*

a. *Increased technical expertise*

The State should outline the need for increased technical expertise and how it intends to acquire the additional expertise. For example, the State may be training existing staff, hiring new staff that already have such expertise, or contracting with outside entities to provide such expertise.

b. *Additional laboratory support*

This information is critical for added program areas such as hazardous waste fuels, LDR, and corrective action programs. The Program Description should address how the State intends to acquire the additional laboratory support.

2. *Level and mix of resources that the State has available to handle new responsibilities*

This subsection of the Program Description should contain explicit information as to the types of resources that will be allotted to the new program areas. The State should make it clear whether these resources are new or existing. The discussion should include the following elements as appropriate:

a. *Plans for training staff*

The Program Description should describe the content and intensity of the training and which members of the staff shall receive the training.

b. *Plans for hiring additional staff*

The Program Description should describe the skill area of personnel being sought.

c. *Agreements with other State agencies*

If the State plans to utilize alternate agencies, the Program Description should include the interagency agreements that are the basis for such arrangements.

d. *State plans to use contractor assistance*

The Program Description should outline the scope of contractor assistance and the methods for coordinating agency and contractor responsibilities.

E. Enforcement Process

1. Enforcement procedures

Guidance:

This section should outline the procedures followed by the State in enforcing its regulations and permit conditions. The discussion should include all steps of the process, starting from the identification of a violation, and should take into account different types of enforcement actions (e.g., administrative, civil, or criminal proceedings). The State may wish to separate the enforcement procedures into two stages: the formal investigation and the actual enforcement action (e.g., filing of criminal charges). The State should also describe any enforcement policies concerning these procedures.

2. Enforcement of Corrective Action Conditions Outlined in Operating and Post-Closure Permits

Guidance:

The State should discuss the procedures followed by the State in specifically enforcing corrective action conditions. The discussion should include both assessment of compliance with consent agreements or orders, and permit conditions outlined in operating and post-closure permits.

3. Penalties and violations

Guidance:

The Program Description should include a discussion of the types of violations and their associated penalties. Describe any legal limitations in imposing penalties and/or other sanctions.

4. Time frames for enforcement actions

Guidance:

The State should include any statute of limitations for enforcement actions as well as any other time limitations affecting the way enforcement activities are conducted.

5. Enforcement resources

Guidance:

The State should specify the resources available for enforcement activities. The Program Description may refer the reader to Section III if that section describes enforcement resources separately. Note that the discussion should make a distinction for resources devoted to new program areas.

6. Enforcement agreements

Guidance:

The State should describe the implementation of any enforcement policies agreed to in the MOA.

SECTION VII

ESTIMATED REGULATED ACTIVITIES
(40 CFR 271.6(g))

Guidance:

This section should make a distinction between existing regulated activities and newly regulated activities. The State must provide the best numerical estimates based on existing data. A table should be used to convey this information, along with a brief narrative explanation of the estimates. The following types of activities should be included:

- A. Generators
- B. Transporters
- C. On- and Off-site treatment, storage, and disposal facilities
- D. Type and quantity of hazardous wastes generated within the State; transported in and out of the State; stored, treated, or disposed on-site or off-site within the State.

SECTION VIII
COPIES OF STATE FORMS
(40 CFR 271.6(d))

Guidance:

The State should include copies of significantly modified forms and any new forms developed for implementation of this program revision, including:

- A. Notification forms
- B. Part A/Part B applications
- C. Reporting
- D. Manifest
- E. Any other relevant forms

Note that this list is not comprehensive. All State forms should be included whether or not there is an analogous form used in the Federal program. If the forms used by the State are identical to the Federal forms, the State need only refer the reader to those Federal forms.

SECTION IX

APPENDICES

If applicable, the State should include any additional relevant supporting documents as an appendix.

**ATTACHMENT
TO THE
MODEL OUTLINE/GUIDANCE FOR
THE DEVELOPMENT OF A PROGRAM DESCRIPTION**

GENERAL GUIDANCE FOR SPECIFIC PROGRAM AREAS

Overview

This Attachment is to be used in conjunction with the Program Description Model/Guidance to assist States in the development of their Program Descriptions. The document contains information about specific program areas for which a State may seek authorization. Note that this attachment provides guidance for these program areas as they existed on July 1, 1997. The information provided here is subject to change by subsequent program revisions that have occurred since that time.

Background information, based on EPA fact sheets and other guidance, is provided for each of the program areas included in this attachment. The background information contains a brief description of the program area and a history of the development of the program area (e.g., what revision checklists affected the program area). This information is then followed by general guidance for that particular program. The general guidance identifies the type of information that will have to be included in the Program Description submitted by the State.

Note that the information provided in this Attachment is a supplement to the guidance information provided in the Model PD Outline/Guidance. It does not provide a comprehensive listing of all information a State must include because each State may have different issues it needs to address in its Program Description which are specific to its program. However, it does provide a starting point for development of the Program Description for a specific program area.

Guidance information is provided for the following program areas:

- Availability of Information
- Radioactive Mixed Wastes
- Dioxin Waste Listing and Management Standards (Waste Listings in General)
- Corrective Action
- Small Quantity Generators
- Land Disposal Restrictions
- Imports and Exports of Hazardous Waste
- Miscellaneous Units
- Treatability Studies Sample Exemptions
- Bevill Exclusion for Mining Wastes
- Testing and Monitoring Activities
- Toxicity Characteristics (TC) Revisions
- Organic Air Emissions for Process Vents and Equipment Leaks
- Wood Preserving Listings
- Boilers and Industrial Furnaces (BIFs)
- Recycled Used Oil Management Standards
- Universal Waste Rule
- RCRA Expanded Public Participation
- Organic Air Emissions Standards for Tanks, Containers and Surface Impoundments

Availability of Information

Background Information:

Section 3006(f) of the Hazardous Waste Amendments of 1984 provides that:

No State program may be authorized by the Administrator under this section unless (1) such program provides for the public availability of information obtained by the State regarding facilities and sites for treatment, storage and disposal of hazardous waste; and (2) such information is available to the public in substantially the same manner, and to the same degree, as would be the case if the Administrator was carrying out the provisions of this subtitle in such State.

The so called “Availability of Information” provisions are considered an essential element of any hazardous waste program. As such, States must provide for public availability of information in accordance with two standards:

- S** Information must be made available “in substantially the same manner” as EPA makes information available; and
- S** Information must be made available “to the same degree” as EPA makes information available.

The first standard refers to the procedures used in disclosing or withholding information under the Freedom of Information Act (FOIA). The use of the word “substantially” provides a certain amount of flexibility when comparing the State and Federal programs. EPA has reviewed its public information provisions and extracted those procedural regulations which are essential. The State need only adopt those procedural requirements to satisfy this first standard.

The second standard refers to the type and quantity of information available. Since the word “substantially” is not used, there is less flexibility when comparing the substantive requirements of the State and Federal programs. As such, the same information that would be available from EPA must be made available by the State.

The State is not required to protect confidential business information. If the State chooses to extend protection to such information, it must be done in a manner consistent with the public’s right to information. In other words, the State may not protect information which EPA would be required to disclose.

Since EPA has oversight responsibility over State hazardous waste programs, States are required to keep a log of denials of requests, or a file containing copies of the denial letters sent to requestors, which will be made available to EPA during State review.

Note that the State Authorization Manual (SAM) contains guidance for State’s seeking authorization for Availability of Information in Appendix N. This guidance includes (1) an August 22, 1986 Memorandum from J. Winston Porter, Assistant Administrator, titled “Effect on State Authorization of HSWA Section 3006(f): Availability of Information”

(OSWER Directive #9541.00-1) and (2) the AI Checklist which a State should submit as part of its authorization package. The checklist clearly indicates the required elements of a State's Availability of Information program.

General Guidance:

The Model PD Outline/Guidance briefly mentions the necessity of including Availability of Information procedures in Section V K. Generally, the Program Description should include a description of how the public may obtain information from the State and how the regulated community may request that certain information remain confidential. The Program Description should also reference remarks of the Attorney General included in the AG Statement.

Radioactive Mixed Waste

Background Information:

RCRA jurisdiction extends to any hazardous waste when mixed with any type of radioactive waste. EPA and States authorized for mixed waste regulate only the hazardous component of mixed waste. In practical terms, the hazardous waste and radioactive components of mixed waste usually cannot be separated. Thus, the design of facilities, drafting of operating requirements for permits or licenses, and the development of cleanup solutions must be done in a manner that adequately addresses the hazards posed by both the radioactive and hazardous components of the waste. Permitting of mixed waste facilities poses issues about radiological exposures associated with waste characterization, facility inspection, and compatibility of design and operating requirements.

In order to receive authorization for this program area, the State must demonstrate that it has the necessary authority to regulate the hazardous components of mixed waste regardless of further subclassification of the radioactive component as high-level, low-level, transuranic, or other. See Appendix N to the State Authorization Manual (SAM) for additional guidance and the revision checklist for radioactive mixed waste. Note that the checklist specifically outlines the information that must be included in the State's Program Description.

General Guidance:

- The State should demonstrate that it can apply the RCRA regulations to the hazardous component of mixed waste. If the State has named any more stringent provisions of its regulations, the Program Description must identify those more stringent provisions that may be difficult to implement in conjunction with the Atomic Energy Act. The State should articulate how it intends to address such situations.
- The regulation of mixed waste will require additional expertise by permitting, compliance monitoring, and enforcement staff. Knowledge of radiation is essential to effectively implement the dual regulatory program. Therefore, the State should describe how it intends to either employ or have access to staff with health physics and other radiological training.
- The Program Description should identify State procedures for obtaining security clearances (granted by the Department of Energy) to avoid potential problems gaining complete access to facilities handling mixed radioactive wastes. The State should identify staff who have applied for and/or received security clearance.
- The Program Description should describe coordination of State agencies and the Federal government in developing mixed waste permits. For example, coordination with either NRC or the NRC Agreement State agency will be necessary in most cases. Permitting staff will need to ensure that radiological considerations are understood and appropriately taken into account when reviewing permit applications and developing permit conditions.

- The PD should describe the procedures for exchanging information with other relevant agencies. Inspections and cleanup activities should be coordinated among the responsible agencies. Sampling and analysis activities should be conducted in accordance with NRC requirements
- The State should describe the procedures for consultations which occur with NRC, the Agreement State Agency, or DOE when there is inconsistency alleged under RCRA § 1006(a).
- The mixed waste program has the potential to significantly increase the hazardous waste universe. Therefore, the Program Description should discuss the State's procedures for notification or for otherwise identifying mixed waste handlers.
- The rule may increase inspection and analysis workloads. The Program Description should explain how the additional workload will be coordinated with the existing workload. The State should also identify inspection priorities.
- The Program Description should describe the resources needed to implement compliance monitoring activities related to the mixed waste. The resources may include increased technical expertise or additional laboratory support. The State should identify the level and mix of resources that the State has available to handle the increased workload.
- The State should detail how data resulting from mixed waste activities will be integrated into the State's data management systems.
- The State should include a description of how it intends to enforce RCRA standards at mixed waste facilities. The PD should identify resources available for such enforcement activities.

Dioxin Waste Listing and Management Standards

(Waste Listings in General)

Background Information:

This portion of the attachment is specifically written to provide guidance for State authorization of the Dioxin Waste Listing. However, a State may use this guidance as a general representation of the impact of a new waste listing on the Program Description. The State should note, however, that the Dioxin Rule also established specific management standards which other waste listings may not include.

On January 14, 1985 (50 FR 1978; Revision Checklist 14), EPA amended the regulations for hazardous waste management, by listing as hazardous wastes certain wastes containing particular chlorinated dioxins, -dibenzofurans, and -phenols, and by specifying management standards for these wastes. The general effect of the rule is to subject dioxin-containing wastes to the hazardous waste regulations issued under RCRA.

General Guidance:

- ‘ A State seeking authorization for the new listing needs to revise its Program Description to include the following types of information:
 - Permit applications from newly regulated facilities and permit modifications from existing permitted facilities may increase the workload of permitting staff. Therefore, the Program Description should identify changes in staff, resources, and/or procedures related to the new listing.
 - As with any new listing, the State must address how the implementation of the listing will increase the RCRA universe. The new listing will expand the volume of wastes managed in accordance with Subtitle C. The State should identify strategies and methods for identifying new members of the regulated community.
 - The rule may increase inspection and analysis workloads. The Program Description should explain how the additional workload will be coordinated with the existing workload. The State should also identify inspection priorities.
 - The Program Description should describe the resources needed to implement compliance monitoring activities related to the new listing. The resources may include increased technical expertise or additional laboratory support. The State should identify the level and mix of available State resources for handling the increased workload.
 - The State should detail how data resulting from the new listing will be integrated into the State’s data management systems.

- The State should include a description of how it intends to enforce the new listing and identify resources available for such enforcement activities.
- ‘ The State should also address the implementation of management standards which are specific to dioxin wastes. Specifically, the Program Description should discuss the additional workload involved with inspections and analysis, compliance monitoring, and enforcement of such standards.

Corrective Action

Background Information:

RCRA corrective action requires owners or operators of hazardous waste treatment, storage, and disposal facilities (TSDFs) to clean up environmental contamination resulting from releases of hazardous wastes or hazardous constituents from all solid waste management units. Section 3004(u) of RCRA provides EPA with authority to design and implement the corrective action program. Specifically, it requires that any operating or post-closure permit issued under § 3005(c) to a hazardous waste TSDF must address corrective action for releases of hazardous waste or hazardous constituents from solid waste management units at the facility, regardless of when the waste was placed in the unit. Section 3004(v) authorizes EPA to require corrective action beyond the facility boundary, if appropriate. Section 3008(h) gives EPA authority to issue orders requiring corrective action or other response whenever there is or has been a release of hazardous waste or constituents from an interim status facility. The Federal authority under § 3008(h) is not delegable to the States; a State must have its own authority that is analogous to RCRA § 3008(h).

These statutory provisions related to corrective action have been codified in the rules addressed by Revision Checklists 17L, 17 O, 44 A, 44 B, and 44 C. Revision Checklist 61 revised 40 CFR 270.72(b)(5) by removing the reconstruction limit for changes necessary to comply with corrective action orders at interim status facilities. Revision Checklist 121 introduced regulatory provisions which address two units that are used for remedial purposes under RCRA corrective action authorities: corrective action management units (CAMUs), and temporary units (TUs).

General guidance:

- Note that States must receive authorization for mixed waste prior to or concurrent with authorization for corrective action. The Program Description should certify or indicate that the State has met this co-requisite to authorization for corrective action.
- States need to update the procedures section to address the corrective action program. Permitting procedures will need to be updated to reflect the development of corrective action measures in permits. Enforcement procedures should reflect the various actions the State may use to compel corrective action measures.
- The corrective action program may increase inspection and analysis workloads. The Program Description should discuss how the new inspection and analysis activities will be combined with existing efforts. Inspections for compliance with the corrective action measures in permits should be included in the list of State inspection priorities negotiated between the State and EPA.

- The State should identify how it intends to handle the additional burdens on technical staff. The Program Description should identify any additional resources required to implement compliance monitoring activities including increased technical expertise or laboratory support. The discussion should describe the level and mix of available State resources for handling the new responsibilities associated with corrective action.
- The Program Description should detail how the State intends to integrate corrective action data into the State's data management systems.
- The State should include a description of how it intends to enforce the corrective action measures and should identify the resources available for such enforcement activities.

Small Quantity Generators (100kg to 1000kg/mo.)

Background Information:

Revision Checklist 23 (51 FR 10146; March 24, 1986) addresses regulations applicable to generators of between 100 kg and 1000 kg of hazardous waste in a calendar month. The small quantity generator regulatory program is an effort to balance the statutory mandate to protect human health and the environment with the statutory directive to keep burdensome regulation of small businesses to a minimum. The rule subjects generators of 100 to 1000 kg/mo to regulation under Parts 262, 263, 264, 265, and 266 by removing these generators from the conditional exclusion provisions of 40 CFR 261.5. The rule also includes several modifications to the Part 262 requirements applicable to small quantity generators. These generators will not be required to submit biennial reports or file exception reports if a copy of the manifest is not returned by the destination facility. In addition, the rule contains modifications to the accumulation provisions of § 262.34 exempting these generators from the requirements to prepare a formal contingency plan and conduct formal personnel training. The rule contains an exemption from all manifest requirements for wastes reclaimed under certain contractual arrangements. The rule also exempts small quantity generators from the 50' buffer zone requirements for container storage of ignitable or reactive wastes during periods of on-site accumulation.

General Guidance:

- ‘ A State seeking authorization for this program area needs to revise its Program Description to include the following types of information:
 - The State should identify the procedural requirements that are applicable to small quantity generators. For instance, in the description of biennial reporting in the procedures section of the Program Description, the State should indicate that small quantity generators are not required to submit biennial reports.
 - The Program Description will need to address how the State plans to identify which generators fall into the category of small quantity generators.
 - Small quantity generators that were not previously subject to the requirements of Part 262, 263, 264, 265, and 266 will now be subject to those standards. There may be corresponding increase in inspection and analysis workload. The discussion in the Program Description should describe how these new activities will be combined with existing generator and TSD inspection efforts. The inspection of conditionally exempt small quantity generators should be included in the list of State inspection priorities negotiated between the State and EPA.

- The State should identify how it intends to handle the additional burdens on technical staff. The Program Description should identify any additional resources required to implement compliance monitoring activities including increased technical expertise or laboratory support. The discussion of small quantity generators should describe the level and mix of resources that the State has available to handle the new responsibilities associated with this program area.
- The State should detail how this revision will impact its data management systems.

Land Disposal Restrictions

Background Information:

This program area restricts the land disposal of hazardous waste beyond specified dates unless the waste is treated to the treatment standard or disposed of in a unit that meets certain technological standards. The land disposal restrictions have been promulgated in groups related to types of wastes. The groups include: 1) solvents and dioxin; 2) California list wastes; 3) First, Second, and Third Third wastes; and 4) newly listed wastes (hazardous wastes that were listed or identified after November 8, 1984). The land disposal restrictions for newly listed wastes have been promulgated in four phases beginning with the August 18, 1992, final rule (57 FR 37194; Revision Checklist 109).

There are three types of treatment standards for restricted wastes: 1) a concentration level to be achieved prior to disposal; 2) a specified technology to be used prior to disposal; or 3) a deactivation designation that requires that the hazardous characteristic be removed prior to disposal. The program also provides alternate treatment standards for wastes that cannot be treated to meet the LDR treatment standards.

The Revision Checklists for this program area are as follows:

CL 34	(51 FR 40572)	Framework for the LDRs
	(52 FR 21010)	LDRs for Solvents and Dioxins
		Correction (Rule 34.1)
CL 39	(52 FR 25760)	Modification to the Framework
		LDRs for California List Wastes
	(52 FR 41295)	Correction (Rule 39.1)
CL 50	(53 FR 31138)	LDRs for First Third Scheduled Wastes
	(54 FR 8264)	Correction (Rule 50.1)
CL 62	(54 FR 18836)	Amendment to Treatment Standards for First Third Wastes
CL 63	(54 FR 26594)	LDRs for Second Third Scheduled Wastes
CL 66	(54 FR 36967)	Correction to the First Third Scheduled Wastes
	(55 FR 23935)	Correction to the First Third Scheduled Wastes (Rule 66.1)
CL 78	(55 FR 22520)	LDRs for Third Third Scheduled Wastes
CL 83	(56 FR 3864)	Technical Amendment to LDRs for Third Third Scheduled Wastes
CL 95	(56 FR 41164)	Land Disposal Restrictions for Electric Arc Furnace Dust
CL 102	(57 FR 8086)	Second Correction to LDRs for Third Third Scheduled Wastes
CL 103	(57 FR 20766)	Hazardous Debris Case-by-Case Capacity Variance
CL 106	(57 FR 28628)	Lead-Bearing Hazardous Materials Case-by-Case Capacity Variance
CL 109	(57 FR 37194)	Alternative Treatment Standards for Organic and Metal Wastes
		LDRs for Newly Listed Wastes and Hazardous Debris (Phase I)
CL 116	(57 FR 47772)	Hazardous Soil Case-by-Case Capacity Variance

CL 123	(58 FR 28506)	Renewal of Hazardous Waste Debris Case-by-Case Capacity Variance
CL 124	(58 FR 29860)	LDRs for Ignitable and Corrosive Wastes
CL 136	(59 FR 43496)	Removal of Conditional Exemption for Certain Slag Residues
CL 137	(59 FR 47982)	Universal Treatment Standards
		LDRs Phase II – Organic Toxicity Characteristic and Newly Listed Wastes
	(60 FR 242)	Technical Amendments (Rule 137.1)
CL151	(61 FR 15566)	LDRs Phase III – Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners
	(61 FR 15660)	Partial Withdrawal and Amendment (Rule 151.1)
	(61 FR 19117)	Correction (Rule 151.2)
	(61 FR 33680)	Technical Correction (Rule 151.3)
	(61 FR 36419)	Correction (Rule 151.4)
	(61 FR 43924)	Emergency Revision of LDRs Phase III Treatment Standards (Rule 151.5)
	(62 FR 7502)	Technical Amendment (Rule 151.6)
CL 155	(62 FR 1992)	LDRs Phase III – K088 Capacity Variance Extension
CL 157	(62 FR 25998)	LDRs Phase IV – Wood Preserving Wastes
CL 159	(62 FR 32974)	Revision of LDRs for Carbamate Wastes
CL 160	(62 FR 37694)	LDRs Phase III – K088 Capacity Variance Extension
CL 161	(62 FR 45568)	Second Revision of LDRs for Carbamate Wastes

General Guidance:

- ‘ A State seeking authorization for the Land Disposal Restrictions program needs to revise its Program Description to include the following types of information:
 - The need to test waste to determine if it meets the applicable treatment standards will increase the inspection workload. Also, the need to implement new testing procedures may increase the analysis workload. The Program Description should discuss how the new inspection and analysis activities will be combined with existing efforts. Inspections for compliance with the treatment standards should be included in the list of State inspection priorities negotiated between the State and EPA.
 - The State should identify how it intends to handle the additional burdens on technical staff. The Program Description should identify any additional resources required to implement compliance monitoring activities, including increased technical expertise or laboratory support. The discussion of the Land Disposal Restrictions program should include the level and mix of available State resources for handling the new compliance monitoring responsibilities associated with this program area.
 - The Program Description should detail how the State intends to integrate Land Disposal Restrictions program data into the State’s data management systems.
 - The State should include a description of how it intends to enforce the Land Disposal Restrictions and should identify the resources available for such enforcement activities.

- ‘ Note that because the Land Disposal Restrictions program has been promulgated in portions, the State will have to update its PD whenever it is seeking authorization for land disposal restrictions applicable to a particular group of wastes. Of course the State must always address any changes that have occurred in its existing program.

Imports and Exports of Hazardous Waste

Background Information:

On August 8, 1986, EPA promulgated a final rule (51 FR 28664; Revision Checklist 31) which established regulations that prohibit the export of hazardous waste unless certain requirements are met. The requirements include: advance written notification to EPA of the plan to export hazardous waste; prior written consent to such plan by the receiving country; attachment of a copy of the receiving country's written consent to the manifest accompanying each waste shipment; and conformance of the shipment to such consent. Note that States may not assume the authority to receive notifications of intent to export. In addition, States cannot be authorized to transmit such information to foreign countries through the Department of State or to transmit Acknowledgments of Consent to the exporter. With the exception of these functions, States should include other export requirements included in that rule.

Note that this rule should be implemented based on the authorized State universe of hazardous wastes. This includes those wastes in the Federal universe for which the State was authorized at the time it first received final authorization and any wastes subsequently identified or listed by EPA for which the State has received authorization for a program revision. The State universe of hazardous wastes also encompasses those HSWA wastes for which the State has not received authorization; however, non-HSWA wastes are not subject to the export requirements until such time as the State receives authorization for such listings.

On April 12, 1996, EPA promulgated a final rule (61 FR 16290; Revision Checklist 152) which identifies wastes, under RCRA, that are subject to a graduated system (green, amber, red) of procedural and substantive controls when they move across national borders within the Organization for Economic Cooperation and Development (OECD) for recovery. The requirements only apply to U.S. exporters and importers of RCRA hazardous wastes destined for recovery in OECD countries (except for Canada and Mexico; waste shipments to and from these countries continue to move under the current bilateral agreements and regulations). Those U.S. exporters and importers transacting hazardous waste movements outside the scope of this rule remain subject to the existing export and import regulations of 40 CFR Part 262, Subparts E and F. The rule does not increase the scope of wastes subject to U.S. export and import controls; it does, however, modify the procedural controls governing their export and import when shipped for recovery among OECD countries.

The Revision Checklist 152 requirements are administered by EPA, and not the States. Therefore EPA will not authorize States for Checklist 152. However, EPA strongly encourages States to incorporate these requirements into their regulations for the convenience of the regulated community and for completeness, particularly where a State has already incorporated the Revision Checklist 31 provisions into its regulations.

General Guidance:

- ‘ Since the exportation of hazardous waste is regulated at the Federal level, the Program Description should reflect coordination of information regarding international shipments in Section V D of the model Program Description. The State should discuss the procedures for making information available to the Federal program. The description should also cover how the State processes incoming information from the Federal program.
- ‘ Note that EPA guidance explains that a State that chooses to adopt the Revision Checklist 152 provisions does not need to modify its Program Description. The State need only submit a completed checklist and provide a copy of the applicable State regulations for the Revision Checklist 152 changes. This will allow the EPA to keep track of which States have adopted this checklist. If adoption of these standards has any impact on the existing Program Description, specifically regarding Section V D, then the State would have to modify the Program Description to reflect any changes.

Miscellaneous Units

Background Information:

EPA has promulgated standards for specific types of treatment, storage, and disposal units, including containers, tanks, surface impoundments, waste piles, land treatment units, landfills, incinerators, underground injection wells, and research, development, and demonstration facilities. However, since some hazardous waste management technologies are not covered by the existing permitting standards, owners and operators of facilities utilizing them cannot obtain the RCRA permits necessary to operate them. To fill this gap, EPA promulgated the December 10, 1987 final rule (52 FR 46946; Revision Checklist 45). It includes a new set of standards under Subpart X of Part 264. The standards are applicable to owners and operators of new and existing hazardous waste management units not covered under the existing regulations. This enables the permitting authority to issue permits to miscellaneous waste management units. A Program Description should be submitted for authorization of this program area.

EPA promulgated a technical correction to the original miscellaneous units rule on January 9, 1989 (54 FR 615; Revision Checklist 59). If a State has received authorization for Revision Checklist 45, it may not need to update its Program Description for Revision Checklist 59. The technical correction does not have a significant impact on the program. However, the State still must address any changes that have occurred in its existing program.

General Guidance:

- The State will need to address any changes in staff, resources, and/or procedures regarding permitting that stem from the addition of this program area. There will be additional burdens on permitting staff.
- The Program Description should identify strategies and methods for identifying members of the regulated community that use miscellaneous units.
- The addition of this broad category of treatment, storage, and disposal units is likely to increase inspection and analysis workload. The Program Description should describe how these activities will be combined with existing generator and TSD inspection efforts. The inspection of miscellaneous units should be included in the list of State inspection priorities negotiated between the State and EPA.
- The State should identify any additional resources required to implement compliance monitoring activities including increased technical expertise of laboratory support needed to monitor miscellaneous units. The discussion should describe the level and mix of available State resources for handling the new responsibilities associated with the program area.
- The Program Description should detail how these units will be integrated into the State's data management system.

- The State should include a description of how it intends to enforce the requirements for miscellaneous units. It should also identify resources available for such enforcement activities.

Treatability Studies Sample Exemption

Background Information:

On July 19, 1988 (53 FR 27290; Revision Checklist 49), EPA promulgated the Treatability Studies Sample Exemption rule which conditionally exempts from Subtitle C regulation, waste samples used in small-scale treatability studies. The rule was promulgated in recognition of the inhibiting effect of the stringent Subtitle C requirements on the development of new treatment capacity and the minimal public health and environmental risks involved in conducting small scale treatability studies. Consequently, generators of the waste samples and owners or operators of laboratories or testing facilities conducting such treatability studies would be exempt from the hazardous waste regulations, including the permitting requirements, when certain conditions are met.

On February 18, 1994 (59 FR 8362; Revision Checklist 129), EPA revised the existing rule. The principal change was to increase the quantity and time limits for major classes of contaminated media used in treatability studies without triggering the Subtitle C requirements. The rule added a new case-by-case variance for treatability studies involving bioremediation. It also modified the existing case-by-case variance provision at 40 CFR 261.4(e)(3) increasing it from 500 kg to 5000 kg for media contaminated with non-acute hazardous waste and from 250 kg to 2500 kg for media contaminated with acute hazardous waste. The revised rule is based in part on the recognition that larger quantities of contaminated media are often needed for treatability testing by technology developers. Larger-scale testing would also greatly increase confidence with which remedial action decision-makers make remedy selection, thus improving CERCLA response activities and RCRA corrective action.

General Guidance:

- ‘ A State seeking authorization for this program area needs to revise its Program Description to include the following types of information:
 - The Program Description will need to address how the State plans to identify waste samples used in treatability studies which qualify for this exemption.
 - There may be an increase in inspection and analysis workload. The State will need to conduct inspections to determine if all necessary conditions have been met. The discussion in the Program Description should describe how these new activities will be combined with existing generator and TSD inspection efforts. The inspection of treatability studies should be included in the list of State inspection priorities negotiated between the State and EPA.
 - The State should identify how it intends to handle the additional burdens on technical staff. The Program Description should identify any additional resources required to implement compliance monitoring activities including increased technical expertise or laboratory support. The discussion of treatability studies should describe the level and mix of available State resources for handling the new responsibilities associated with this program area.

- The State should detail how this revision will impact its data management systems.
- Since the exemption is conditional, the Program Description should describe enforcement efforts related to this program area.

Bevill Exclusion for Mining Wastes

Background Information:

Revision Checklist 53 (53 FR 35412; Sept. 13, 1988) adds six wastes to the list of hazardous wastes from specific sources: K064, K065, K066, K088, K090, and K091. Prior to this rule, these six wastes were excluded from regulation under the mining waste exclusion in 40 CFR 261.4(b)(7). This rule also changed the definition of “processing of ores and minerals” in order to further clarify that these six wastes do not meet the definition.

Revision Checklist 65 (54 FR 36592; Sept. 1, 1989) narrows the mining waste exclusion even further as it applies to mineral processing wastes. The final rule established final criteria which identify Bevill-excluded mineral processing wastes. Five wastes were retained within the Bevill exclusion; and twenty wastes were conditionally retained until such time as necessary data is available to make a final determination.

Revision Checklist 71 (55 FR 2322; Jan. 23, 1990) removes five of the 20 conditionally retained mineral processing wastes from the exemption from hazardous waste regulations. The remaining 15 mining wastes are retained within the exclusion along with the other five wastes that were retained by Revision Checklist 65. The rule also includes technical corrections to the definitions of “beneficiation” and “designated facility”. The rule also provides that EPA will submit a report to Congress. After the submission to this report, EPA will make a final determination on the regulatory status of the 20 wastes.

Revision Checklist 90 (56 FR 27300; June 13, 1991) presents the Agency’s final regulatory determination for the 20 mineral processing wastes. EPA concluded that regulation under Subtitle C of RCRA is inappropriate for all 20 of the special wastes. There was no change in regulatory status for any wastes in this rule.

Note that the listing of five wastes in the September 13, 1988 final rule (Revision Checklist 53) were remanded in American Mining Congress v. EPA, 907 F.2d 1179 (D.C. Cir. 1990). The five wastes at issue are K064, K065, K066, K090, and K091. EPA has not yet taken final agency action to address the remand. At the time of the remand, most of the wastes remained subject to Subtitle C regulation because they exhibited the toxicity characteristic (TC). The TC was subsequently remanded as it applies to mining wastes in Edison Electric Inst. v. EPA, 2 F.3d 438 (D.C. Cir. 1993). Therefore, under the Federal program, these five waste streams are not subject to regulation. As such, EPA does not require States to adopt the listings of these five wastes. Also, the remand of the TC as it applies to mining wastes would not necessarily affect the application of the TC in authorized States. The impact of the remand would be an issue to be resolved under State law. Accordingly, States may be more stringent and/or broader in scope to the extent that these five wastes are regulated under the State’s hazardous waste program.

General Guidance:

- ‘ The thrust of this program area is to narrow an exclusion from hazardous waste regulation. The impact of this program area on a State’s hazardous waste program is not unlike the impact of a new hazardous waste listing since the result is the addition of newly regulated wastes. A State seeking authorization for this program revision needs to revise its Program Description to include the following types of information:
 - The rule may increase the workload of permitting staff as a result of permit applications from newly regulated facilities and permit modifications from existing permitted facilities. The Program Description should identify changes in staff, resources, and/or procedures related to the newly regulated wastes..
 - As with any new listing, the State must address how the implementation of this revision will increase the RCRA universe. The newly regulated wastes will expand the number of facilities managed in accordance with Subtitle C. The State should identify strategies and methods for identifying new members of the regulated community.
 - The rule may increase inspection and analysis workloads. The Program Description should explain how the additional workload will be coordinated with the existing workload. The State should also identify inspection priorities.
 - The Program Description should describe the resources needed to implement compliance monitoring activities related to the new wastes. The resources may include increased technical expertise or additional laboratory support. The State should identify the level and mix of available State resources for handling the increased workload.
 - The State should detail how data resulting from the program revision will be integrated into the State’s data management systems.
 - The State should include a description of how it intends to enforce the hazardous waste requirements as they apply to handlers of these wastes. The State should also identify resources available for such enforcement activities.
- ‘ Note that the Program Description is required to include a description of State provisions which are more stringent or broader in scope than the Federal requirements. Therefore, if the State regulates the five wastes that are the subject of the Federal court remand discussed in the background information, it should indicate whether it is more stringent and/or broader in scope.

Testing and Monitoring Activities

Background Information:

In 40 CFR 260.11(a), the Federal regulations incorporate by reference several publications which contain various testing and monitoring methods that are used throughout the hazardous waste program. As these publications have been modified or updated, EPA has promulgated rules to make the appropriate changes to this incorporation by reference so as to incorporate the updated version. Note also that this list has been updated to reflect additional publications which are incorporated by reference as part of major program revisions. Some of the checklists that have affected the testing and monitoring activities are as follows:

CL 67	(54 FR 40260)	Testing and Monitoring Activities
CL 73	(55 FR 8948)	Testing and Monitoring Activities; Technical Corrections
CL 126	(58 FR 46040)	Testing and Monitoring Activities
	(59 FR 47980)	
CL 139	(60 FR 3089)	Testing and Monitoring Activities Amendment I
CL 141	(60 FR 17001)	Testing and Monitoring Activities Amendment II
CL 158	(62 FR 32452)	Testing and Monitoring Activities Amendment III

General Guidance:

A State should update its Program Description if the changes to the testing and monitoring activities have an impact on the existing language of the Program Description. For example, if the State has included a specific reference to a particular testing method in its discussion of compliance monitoring efforts, then the Program Description should be updated to reflect the updated version of the method used if it has been affected by a program revision. Whether or not the Program Description will have to be updated must be determined on a case-by-case basis. If the particular method is an integral part of the State's permitting, inspection, or enforcement activities, then it is likely that a change in the method used will need to be noted in the text of the appropriate section of the Program Description.

Toxicity Characteristic (TC) Revisions

Background Information:

Revision Checklist 74 (55 FR 11798; March 29, 1990) adds 25 organic chemicals to the existing list of constituents that may cause a waste to exhibit the characteristics of toxicity. The Checklist also establishes regulatory levels for the new organic chemicals listed. It replaces the Extraction Procedure (EP) with the Toxicity Characteristic Leaching Procedure (TCLP) to measure leaching potential. This rule could bring a significant volume of additional waste water, solid waste, and sludge under the control of RCRA hazardous waste regulations. It also could bring a large number of waste generators under Subtitle C regulation for the first time, and many treatment, storage, and disposal facilities may require new or modified permits to handle TC waste.

The Toxicity Characteristic Rule has been revised by 5 subsequent revision checklists. EPA suggests that a State seek authorization for all the related TC checklists at one time. The State must submit a Program Description for such a revision.

The Revision Checklists that have revised the TC program are as follows:

CL 80	(55 FR 40834) (56 FR 3978) (56 FR 13406)	Toxicity Characteristic; Hydrocarbon Recovery Operations
CL 84	(56 FR 5910)	Toxicity Characteristic; Chlorofluorocarbon Refrigerants
CL 108	(57 FR 30657)	Toxicity Characteristic Revisions
CL 117 B	(57 FR 23062)	Toxicity Characteristic Amendment
CL 119	(57 FR 55114)	TCLP Correction

General Guidance:

- ‘ A State seeking authorization for TC needs to revise its Program Description to include the following types of information:
 - The State will need to address any changes in staff, resources, and/or procedures regarding permitting that stem from the addition of this program area. There will be additional burdens on permitting staff.
 - Because this revision adds new wastes to the RCRA universe, the State will need to identify strategies and methods for identifying new members of the regulated community.
 - The increase in the number of regulated wastes is likely to increase the inspection workload. The need to implement new testing procedures may increase the analytical workload as well. The discussion in the Program Description should describe how these new activities will be combined with existing inspection efforts.
 - The State should identify how it intends to handle the additional burdens on technical staff. The Program Description should identify any additional resources required to

implement compliance monitoring activities, including increased technical expertise or laboratory support. The discussion of TC should include the level and mix of available State resources for handling the new responsibilities associated with this program area.

- The Program Description should detail how the TC revision will impact the State's data management systems.
 - The State should include a description of how it intends to handle increased enforcement activity required by the addition of new wastes to the RCRA universe.
- ‘ If a State has already submitted an updated Program Description for the Toxicity Characteristic Rule, it may not need to update its Program Description for authorization of the subsequent revisions to the initial rule. Whether or not the Program Description needs to be updated depends on the extent of the revision. Of course the State still must address any changes that have occurred in its existing program.

Organic Air Emissions for Process Vents and Equipment Leaks

Background Information:

The rule addressed by Revision Checklist 79 (55 FR 25454; June 21, 1990) is the first phase of a regulatory effort to control organic air emissions at hazardous waste treatment, storage, and disposal facilities. The rule establishes final standards which limit organic emissions from (1) process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, and air or steam stripping operations that manage hazardous wastes with 10 parts per million by weight or greater total organics concentrations; and (2) leaks from equipment that contains or contacts hazardous waste streams with 10 percent by weight or greater total organics. The State will need to update its Program Description when seeking authorization for this rule.

On April 26, 1991, EPA promulgated a technical amendment to the June 21, 1990 rule at 56 FR 19290. (Revision Checklist 87) If a State has received authorization for Revision Checklist 79, it may not need to update its Program Description for Revision Checklist 87. The technical amendment does not have a significant impact on the program. However, the State still must address any changes that have occurred in its existing program.

General Guidance:

- ‘ A State seeking authorization for the Subparts AA and BB standards needs to revise its Program Description to include the following types of information:
 - The need to test organic air emissions may increase inspection and analysis workloads. The Program Description should discuss how the new inspection and analysis activities will be combined with existing efforts. Also, inspections for compliance with the organic air emissions standards should be included in the list of State inspection priorities negotiated between the State and EPA.
 - The State should identify how it intends to handle the additional burdens on technical staff. The Program Description should identify any additional resources required to implement compliance monitoring activities, including increased technical expertise or laboratory support. The discussion should describe the level and mix of available State resources for handling the additional responsibilities associated with the new standards.
 - The Program Description should detail how the State intends to integrate organic air emissions data into the State's data management systems.
 - The State should include a description of how it intends to enforce the organic air emissions standards. The State should also identify the resources available for such enforcement activities.

Wood Preserving Listings

Background Information:

The December 6, 1990, final rule (55 FR 50450; Revision Checklist 82) lists as hazardous three categories of wastes from wood preserving operation, designated as F032, F034, and F035. These listings include waste water, process residuals, preservative drippage, and spent formulations from wood preserving processes at facilities that use or have previously used chlorophenolic formulations, facilities that use creosote formulations, and facilities that use inorganic preservative containing arsenic or chromium. The rule also includes permitting and interim status standards for drip pads used to assist in the collection of treated wood drippage that include requirements for design and operation, inspections, and closure. A technical correction was promulgated on July 1, 1991 (56 FR 30192; Revision Checklist 92).

EPA subsequently issued two administrative stays affecting these listings on June 13, 1991 (56 FR 27332; Revision Checklist 91) and on February 18, 1992 (57 FR 5859; Revision Checklist 101). These administrative stays were both terminated by Revision Checklist 120 (57 FR 61492; December 24, 1992) which also included amendments to the listings and associated technical requirements.

EPA strongly suggests that a State seek authorization for all the related wood preserving listings checklists at one time. The State must submit a Program Description for such a revision.

General Guidance:

- ‘ A State seeking authorization for the new listings needs to revise its Program Description to include the following types of information:
 - The rule may increase the workload of permitting staff as a result of permit applications from newly regulated facilities and permit modifications from existing permitted facilities. The Program Description should identify changes in staff, resources, and/or procedures related to the new listings.
 - As with any new listing, the State must address how the implementation of the listings will increase the RCRA universe. The new listings will expand the volume of wastes that must be managed in accordance with Subtitle C. The State should identify strategies and methods for identifying new members of the regulated community.
 - The rule may increase inspection and analysis workloads. The Program Description should explain how the additional workload will be coordinated with the existing workload. The State should also identify inspection priorities.
 - The Program Description should describe the resources needed to implement compliance monitoring activities related to the new listings. The resources may include increased technical expertise or additional laboratory support. The State should identify the level and mix available State of resources for handling the increased workload.

- The State should detail how data resulting from the new listing will be integrated into the State's data management systems.
 - The State should include a description of how it intends to enforce the new listings and identify resources available for such enforcement activities.
- ‘ If a State has already submitted an updated Program Description for the wood preserving listings, it may not need to update its Program Description for authorization of the subsequent revisions to the initial rule. Whether or not the Program Description needs to be updated depends on the extent of the revision. Technical corrections and administrative stays do not usually have a significant impact on the program. Of course the State still must address any changes that have occurred in its existing program

Boilers and Industrial Furnaces (BIFs)

Background Information:

This BIFs program expands controls on hazardous waste combustion to regulate air emissions from the burning of hazardous waste in boilers and industrial furnaces. Prior to the BIF program, such burning was exempt from regulation. The BIF rules control emissions of toxic organic compounds, toxic metals, hydrogen chloride, chlorine gas, and particulate matter from boilers and industrial furnaces burning hazardous waste. In addition, the rules subject owners and operators of these devices to the general facility standards applicable to hazardous waste treatment, storage, and disposal facilities. Further, the rules subject hazardous waste storage units at regulated burner facilities to part 264 permit standards. Prior to the BIF rules, burner storage operations at existing facilities were subject only to interim status standards under part 265.

The initial BIF rule was promulgated February 21, 1991 (56 FR 7134; Revision Checklist 85). That rule has been revised by nine subsequent revision checklists. EPA suggests that a State seek authorization for all the related BIF checklists at one time. The State must submit a Program Description for such a revision.

The Revision Checklists that have revised the BIFs program are as follows:

CL 94	(56 FR 32688)	Corrections and Technical Amendments
CL 96	(56 FR 42504)	Technical Amendments
CL 98	(56 FR 43754)	Administrative Stay of Applicability and Amendment
CL 105	(57 FR 27880)	Coke By-Products Exclusion
CL 110	(57 FR 37284)	Coke By-Products Wastes Listings
CL 111	(57 FR 38558)	Technical Clarification Amendments and Corrections
CL 114	(57 FR 44999)	Technical Amendments and Corrections
CL 125	(58 FR 38816)	Adoption of New and Refined Modeling Techniques
CL 127	(58 FR 59598)	Revision of the Beville Exemption

Note that Revision Checklists 105 and 110 address the listing of coke by-products. Although the State may not need to update its Program Description to reflect revisions to the BIFs program by these checklists, the listing of additional hazardous wastes would still require the State to update its Program Description. See the guidance for "Other Listings".

General Guidance:

- ‘ A State seeking authorization for BIFs needs to revise its Program Description to include the following types of information:
 - The State will need to address any changes in staff, resources, and/or procedures regarding permitting that stem from the addition of this program area. There will be additional burdens on permitting staff.
 - Because boilers and industrial furnaces were exempt from regulation prior to the

promulgation of these standards, the State will need to address how the implementation of BIFs will increase the RCRA universe. The State should identify strategies and methods for identifying new members of the regulated community.

- The increase in the number of regulated facilities is likely to increase the inspection workload as well. The need to test emissions from boilers and industrial furnaces may increase the analytical workload. The discussion in the Program Description should describe how these new activities will be combined with existing generator and TSD inspection efforts. The inspection of BIF facilities should be included in the list of State inspection priorities negotiated between the State and EPA.
 - The State should identify how it intends to handle the additional burdens on technical staff. The Program Description should identify any additional resources required to implement compliance monitoring activities including increased technical expertise or laboratory support. The discussion of BIFs should describe the level and mix of available State resources for handling the new responsibilities associated with this program area.
 - The Program Description should detail how the BIFs program will be integrated into the State's data management systems.
 - The State should include a description of how it intends to enforce the BIF requirements. The State should also identify resources available for such enforcement activities.
- ‘ If a State has already submitted an updated Program Description for BIFs, it may not need to update its Program Description for authorization of subsequent revisions to the initial rule. Whether or not the Program Description needs to be updated depends on the extent of the revision. Technical corrections and administrative stays do not usually have a significant impact on the program. Of course the State still must address any changes that have occurred in its existing program.

Recycled Used Oil Management Standards

Background Information:

This program revision introduces management standards for recycled used oil. The standards are intended to protect human health and the environment while promoting recovery. The management standards address potentially unsafe practices associated with improper storage of used oil, road oiling, and contamination of used oil from hazardous waste. Recycled used oil is not a listed hazardous waste. The Revision Checklists that have addressed this program area include:

CL 112	(57 FR 41566)	Recycled Used Oil Management Standards
CL 122	(58 FR 26420)	Technical Amendments and Corrections
	(58 FR 33341)	Correction
CL 130	(59 FR 10550)	Clarification and Expansion of Exemption

EPA strongly suggests that a State seek authorization for all the related recycled used oil checklists at one time. The State must submit a Program Description for such a revision.

General Guidance:

- ‘ A State seeking authorization for the Recycled Used Oil program needs to revise its Program Description to include the following types of information:
 - In the procedures section, the State should discuss the enforcement procedures specific to the Recycled Used Oil standards (e.g., description of criminal penalties).
 - Because recycled used oil is not a hazardous waste, the State will need to address how the implementation of this program area will increase the regulated universe. The State should identify strategies and methods for identifying new members of the regulated community.
 - The increase in the number of regulated facilities is likely to increase the inspection workload. Also, the need to test used oil for determining its specificity will increase the analysis workload. The discussion in the Program Description should describe how these new activities will be combined with existing generator and TSD inspection efforts. The inspection of recycled used oil facilities should be included in the list of State inspection priorities negotiated between the State and EPA.
 - The State should identify how it intends to handle the additional burdens on technical staff. The Program Description should identify any additional resources required to implement compliance monitoring activities, including increased technical expertise or laboratory support. The discussion of recycled used oil should describe the level and mix of resources that the State has available to handle the new responsibilities associated with this program area.
 - The Program Description should detail how the new program area will be integrated into

the State's data management systems.

- The State should include a description of how it intends to enforce the recycled used oil standards. The State should also identify resources available for such enforcement activities.
- ‘ If a State has already submitted an updated Program Description for the recycled used oil program, it may not need to update its Program Description for authorization of subsequent revisions to the initial rule. Whether or not the Program Description needs to be updated depends on the extent of the revision. Technical corrections and administrative stays do not usually have a significant impact on the program. Of course the State still must address any changes that have occurred in its existing program.

Universal Waste Rule

Background Information:

The May 11, 1995, final rule (60 FR 25492; Revision Checklist 142) streamlined hazardous waste management regulations governing the collection and management of certain widely generated wastes known as “universal wastes”. There are three types of universal wastes included in the Federal program: hazardous waste batteries, certain hazardous waste pesticides, and mercury-containing thermostats. The universal waste rule also includes a petition process for adding other similar wastes in the future. Note that the State may include additional wastes in its program while seeking authorization for the petition process. The Universal Waste Rule is optional because it reduces certain RCRA Subtitle C regulatory requirements for these wastes.

The revision checklist for this rule has been divided into 5 parts as follows:

CL 142A	General Provisions
CL 142B	Specific Provisions for Batteries
CL 142C	Specific Provisions for Pesticides
CL 142D	Specific Provisions for Thermostats
CL 142E	Provisions for Petitions to Add a New Universal Waste

General Guidance:

- ‘ A State seeking authorization for this program area needs to revise its Program Description to include the following types of information:
 - In Section II of its Program Description, the State should specify which portions of the universal waste rule for which it is seeking authorization.
 - The State should update its procedures section to reflect the petition process for adding other wastes to its program. If the State is seeking authorization for the universal waste rule while including other types of wastes not included in the Federal program, the Program Description should describe the procedures the State used to add the additional wastes to its universal waste program.
 - The Program Description will need to address how the State plans to identify which generators, transporters, and/or facilities are subject to these less stringent requirements.
 - The deregulation caused by this rule may lead to an increase in collection and recycling activities because households and small businesses produce much of these wastes. Their deregulation will lead to an increase in the amount of waste entering hazardous waste recycling and disposal facilities rather than municipal solid waste landfills and incinerators. The increase in the amount of waste may cause an increase in compliance monitoring or enforcement activities in the State’s program which should be discussed by the Program Description.

RCRA Expanded Public Participation

Background Information:

Revision Checklist 148 (60 FR 63417; June 11, 1996) addresses new regulations under RCRA that will improve the process for permitting facilities that store, treat, or dispose of hazardous wastes. The new regulations provide opportunities for public involvement earlier in the permitting process and expand public access to information throughout the permitting process and the operational lives of facilities. This rule requires a prospective applicant to hold an informal public meeting before submitting an application for a RCRA permit and to advertise this meeting in the newspaper, through broadcast media, and a sign posted at or near the property. The rule directs the permitting authority to mail a notice to interested persons when the facility submits its application. The agency may, in its discretion, require a facility owner or operator to set up an information repository that will hold all information and documents the permitting agency deems necessary. Finally, the rule requires combustion facilities to notify the public before they hold a trial burn.

General Guidance:

Section V E 5 of the Program Description must be revised to include these additional procedures. The description of the expanded public participation procedures must be extensive enough to account for all the new requirements in Revision Checklist 148. Note that the State may want to reference the location of the regulations containing these procedural requirements for the benefit of the public and the regulated community.

Organic Air Emission Standards for Tanks, Containers, and Surface Impoundments¹

Background Information:

The rules addressed by Revision Checklist 154 complete the second phase of EPA's regulatory development to promulgate RCRA air standards that control organic emissions. On December 6, 1994, EPA promulgated a final rule (59 FR 62896; Rule 154.1) that includes air standards to further reduce organic emissions from tanks, surface impoundments, containers and miscellaneous units operated at hazardous waste treatment, storage, and disposal facilities (TSDFs). In addition, the December 6, 1994 final rule establishes a new EPA reference test method (Method 25E) to determine the organic vapor pressure of a waste. The rule added air emission control requirements for hazardous waste generators accumulating waste on-site in RCRA permit-exempt tanks and containers as per the requirements at 262.34. The initial effective date for the subpart CC standards was June 5, 1995.

On May 19, 1995, EPA published a notice of postponed effective date (60 FR 26828; Rule 154.2). The effective date of the December 6, 1994 final rule was postponed until December 6, 1995.

On September 29, 1995, EPA issued a stay for air standards applicable to TSDFs, subject to certain conditions (60 FR 50426; Rule 154.3). The stay is applicable to tanks and containers used for the management of certain hazardous wastes generated by organic peroxide manufacturing processes. Certain organic peroxide manufacturing wastes are inherently unstable and cannot safely be confined in closed units or systems. EPA believes that the administrative stay for this waste is needed, because the promulgated regulations could (in limited circumstances) make it more dangerous to manage the waste. Therefore, this stay is not optional.

On November 13, 1995, EPA further postponed the effective date of the subpart CC requirements (60 FR 56952; Rule 154.4). The effective date of December 6, 1995, was postponed until June 6, 1996.

On February 9, 1996, EPA published a final rule (61 FR 4903; Rule 154.5) that included clarifying amendments to the regulatory text of the final standards and corrections of typographical and grammatical errors. The rule also clarified certain language in the preamble to the December 6, 1994 final rule.

The June 5, 1996, Federal Register article (61 FR 28508; Rule 154.6) postponed the effective date of the December 6, 1994 final rule for a third time. The effective date was postponed until

¹On December 8, 1997 EPA published a final rule (62 FR 64636-64671; Checklist 163) which is contained in RCRA Cluster VIII. The rule makes clarifying amendments to subpart CC standards and provides clarification of certain preamble language that was contained in previous documents. If the State adopts the December 8, 1997 amendments to the subpart CC rules, these amendments should also be discussed in the Program Description.

October 6, 1996.

On November 25, 1996, EPA promulgate a final rule (61 FR 59932; Rule 154) to amend and clarify the regulatory text of the final standards and to clarify certain language in the preamble to the December 6, 1994 final rule. The rule provided additional options for compliance that give owners and operators increased flexibility in meeting the requirements. The generator requirements introduced by Rule 154.1 were removed by the November 25, 1996 final rule. In addition, the rule suspended the applicability and implementation of subpart CC of Parts 264 and 265 from October 6, 1996, to December 6, 1996.

EPA strongly suggests that a State seek authorization for all the Revision Checklist 154 rules at one time due to the significant changes made to the initial rule. The State must submit a Program Description for such a revision.

General Guidance:

- ‘ A State seeking authorization for the Subpart CC standards needs to revise its Program Description to include the following types of information:
 - The need to test organic air emissions may increase inspection and analysis workloads. The Program Description should discuss how the new inspection and analysis activities will be combined with existing efforts. Inspections for compliance with the organic air emissions standards should be included in the list of State inspection priorities negotiated between the State and EPA.
 - The State should identify how it intends to handle the additional burdens on technical staff. The Program Description should identify any additional resources required to implement compliance monitoring activities including increased technical expertise or laboratory support. The discussion should describe the level and mix of available State resources for handling the new responsibilities associated with the Subpart CC standards.
 - The Program Description should detail how the State intends to integrate organic air emissions data into the State’s data management systems.
 - The State should include a description of how it intends to enforce the organic air emissions standards. The State should also identify the resources available for such enforcement activities.