

US EPA ARCHIVE DOCUMENT

**PENNSYLVANIA'S
PROGRAM DESCRIPTION
FOR AUTHORIZATION
OF
CHANGES TO THE FEDERAL RCRA
PROGRAM THROUGH
JULY 6, 1999**

August 2000

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	Hazardous Waste Inspection Report Generators--Small Quantity Generators	2500-FM-LRWM0276a	5/99
	Hazardous Waste Inspection Report Generators--Small Quantity Generators Facility Specifics: Containers	2500-FM-LRWM0276b	5/99
	Hazardous Waste Inspection Report Generators--Small Quantity Generators Facility Specifics: Tanks	2500-FM-LRWM0276c	5/99
	Hazardous Waste Inspection Report Generators--Small Quantity Generators Facility Specifics: Containment Buildings and Drip Pads	2500-FM-LRWM0276d	5/99
	Hazardous Waste Inspection Report: Transporters--Part A	2510-FM-LRWM0301 Part A	5/99
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	Hazardous Waste Inspection Report: TSD Facilities--Part A	2500-FM-LRWM0302 Part A	5/99
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	Hazardous Waste Inspection Report: TSD Facilities--Storage (Containers)	2510-FM-LRWM0309	5/99
	Hazardous Waste Inspection Report: TSD Facilities--Waste Piles Part B	2510-FM-LRWM0308	5/99
	Hazardous Waste Inspection Report: TSD Facilities--Hazardous Waste Permit by Rule Facility	2510-FM-LRWM0137	5/99
	Hazardous Waste Inspection Report: TSD Facilities--Incinerators	2510-FM-LRWM0304	6/99

A. Inspection Forms (continued)

	Treatment		
	Hazardous Waste Inspection Report: TSD Facilities--Storage (Tanks)	2510-FM-LRWM0311 Part A	5/99
	Hazardous Waste Inspection Report Conditionally Exempt Small Quantity Generators	2500-FM-LRWM0275	5/99
Form 55D	Instructions and Form for Treatment, Storage or Disposal Facility--Quarterly Operations and Fee Report	2560-FM-LRWM0055D	9/95
Form 55E	Instructions and Form for Treatment, Storage or Disposal Facility--Quarterly Manifest Summary Reports	2560-FM-LRWM0055E	9/95
Form 55 G	Instructions and Form for Hazardous Waste Transporters--Quarterly Operations and Fee Report	2560-FM-LRWM0055G	8/95
Form 55H	Instructions and Form for Hazardous Waste Transporters--Quarterly Manifest Summary Reports	2560-FM-LRWM0055H	9/95
	6 Part Uniform Hazardous Waste Manifest	2500-FM-LRWM0051	7/99

B. Permitting and Licensing Forms

Part A	Hazardous Waste Permit Application	2510-PM-LRWM0054	11/99
Form HW-B	Professional Certification	2510-FM-LRWM0227	8/99
Form HW-C	Instructions for Form HW-C Compliance History	2540-FM-LRWM0058	8/99
Form HW-C1	Compliance History Certification	2540-PM-LRWM0351	8/99
Form HW-E	Contractual Consent of Landowner	2510-FM-LRWM0229	8/99
Module 9	Environmental Siting Criteria/Environmental Assessment Process Review Checklist for Hazardous Waste Management Facilities		9/99
	Instructions for Completing the Hazardous Waste Treatment, Storage and Disposal Permit Application (Part B Permit Application)	2510-PM-LRWM0004	10/99
	Checklist for the Review of Part B Permit		10/99

B. Permitting and Licensing Forms (continued)

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	Permit Form for Hazardous Waste Storage, Treatment and Disposal		8/99
	Fact Sheet for Draft Permit		8/99
	Permit Form for Hazardous Waste Post-Closure		7/99
	Fact Sheet for Draft Post Closure Permit	2510-FM-LRWM0322	9/99
	Commercial Hazardous Waste Facility Private Water Supply Quarterly Water Quality Analyses	2510-FM-LRWM0062	10/99
	Hazardous Waste Monitoring Initial Background Report	2510-FM-LRWM0033	5/99
	Hazardous Waste Monitoring Semi-Annual Report	2510-FM-LRWM0091	5/99
	Hazardous Waste Monitoring Quarterly Report	2510-FM-LRWM0092	11/99
	Hazardous Waste Transporter License Application Instructions	2510-FM-LRWM0052	11/97
	Hazardous Waste Transporter License Application	2510-FM-LRWM0052A	11/97
	PA Terminal Location Form	2510-FM-LRWM0052B	11/97
	Guidelines for the Development and Implementation of a Contingency Plan for the Transportation of Hazardous Waste	2510-FM-LRWM0318	6/97
	Form 25R Source Reduction Strategy	2540-PM-LRWM0349	8/98

C. Bonding and Insurance Forms

	Hazardous Waste Facility Certificate of Liability Insurance	2510-FM-LRWM0078	11/99
	Hazardous Waste Site Closure or Post-Closure Corporate Guarantee Bond	2510-FM-LRWM0079A	11/99
	Corporate Guarantee Bond for a Waste Management Facility	2540-FM-LRWM0101A	11/99
7C-K-130	Collateral Bond For a Waste Management Facility	2540-FM-LRWM0101	7/95
7C-K-380	Collateral Bond Endorsement Replacement Bond	2540-FM-LRWM0104	7/95

C. Bonding and Insurance Forms (continued)

7C-K-370	Collateral Bond Endorsement Additional Bond	2540-FM- LRWM0102	7/95
	Collateral Bond Endorsement Partial Replacement Bond	2540-FM- LRWM0106	7/95
7C-K-420	Collateral Bond Endorsement Change of Ownership	2540-FM- LRWM0103	7/95
7C-K-230	Schedule for Deposit of Collateral	2540-FM- LRWM0108	7/95
7C-K-410	Collateral Bond Endorsement Phased Deposit Installment	2540-FM- LRWM0075	7/95
	Instructions for Submission of Certificates of Deposit	2540-FM- LRWM0109	7/95
	Assignment of Certificate of Deposit Non-Certificate Account	2540-FM- LRWM0107	10/95
	Appendix F Guidelines for Submission of Negotiable Government Securities	2540-FM- LRWM0110	7/95
7C-K-140	Surety Bond for a Waste Management Facility	2540-FM- LRWM0111	7/95
7C-K-400	Surety Bond Endorsement Replacement Bond	2540-FM- LRWM0114	7/95
7C-K-390	Surety Bond Endorsement Additional Bond	2540-FM- LRWM0112	7/95
7C-K-300	Surety Bond Endorsement Change of Ownership	2540-FM- LRWM0113	7/95
	Phased Deposit Surety Bond	2540-FM- LRWM0257	2/97
	Phased Deposit Endorsement and Schedule for Deposit	2540-FM- LRWM0259	2/97
	Phased Deposit Surety Bond Phased Deposit Installment Endorsement	2540-FM- LRWM258	2/97

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Appendix G	Act 275 of 1970 which amended Section 210 P.L. 177, the Act of April 9, 1929, known as "The Administrative Code of 1929"
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Appendix S	Civil Penalty Assessment Process
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SECTION I. INTRODUCTION

A. RELATIONSHIP OF THIS DOCUMENT TO THE PROGRAM DESCRIPTION PREVIOUSLY SUBMITTED AS PART OF PENNSYLVANIA'S APPLICATION FOR BASE PROGRAM AUTHORIZATION

The entity in Pennsylvania responsible for the administration of all solid and hazardous waste regulations is the Department of Environmental Protection (DEP or department). This Program Description provides a complete overview of the hazardous waste regulatory program administered by DEP. It replaces the Program Description (PD) previously submitted as a part of Pennsylvania's application for base program authorization for which the Commonwealth received final authorization on January 30, 1986, 51 FR 1791 (January 15, 1986).

The following Program Description, which was prepared in accordance with the requirements of 40 CFR 271.6, outlines the evolution of Pennsylvania's program since the state initially received base program authorization in 1986. This document summarizes how Pennsylvania has implemented the federal regulatory requirements for the base program as well as the regulatory amendments enacted since the Commonwealth's initial authorization. This Program Description provides regulatory program information on Pennsylvania's authorized base program as well as those regulations identified in the 1998 Consolidated Checklists, and additional Revision Checklists, for which the state is currently seeking authorization.

B. ORGANIZATION OF THE PROGRAM DESCRIPTION

This Program Description document is organized into eight sections. Section I herein provides an introduction to the Program Description. Section II describes in narrative form the scope, structure, coverage, and processes of the hazardous waste program. This section also includes an overview of the hazardous waste legislative and regulatory provisions administered by Pennsylvania and the differences between the state's laws and regulations and federal regulatory requirements.

Section III provides a description of the organization and structure of DEP and the responsibilities of each organizational unit in administering the hazardous waste program. Section III also discusses the responsibilities and procedures for program coordination within DEP and with the Environmental Protection Agency (EPA). It should be noted that information is also provided in the consolidated and revision checklists that specify the responsibilities of EPA and the state for administering the Hazardous and Solid Waste Amendments (HSWA) and the non-HSWA activities. Furthermore, the consolidated checklists and the revision checklists, which are included with the "Pennsylvania Legal Statement for Final Authorization Including Changes to the Federal RCRA Program Through June 1998" in Appendix B, and the "Pennsylvania Legal Statement for Final Authorization Including Changes to the Federal RCRA Program From July 1998 Through July 6, 1999", in Appendix C (jointly known as 'Legal Statements') also identify the program activities that Pennsylvania is currently seeking authorization to administer.

Section IV includes a description of the staff who carry out the state Resource Conservation and Recovery Act (RCRA) program, including the number, occupations and general duties of the employees. This section also contains information on the estimated costs of administering the program, and itemization of the sources and amounts of funding.

Section V provides a description of applicable state administrative and judicial procedures, including permitting, manifesting, regulatory development and other program components. Section VI examines Pennsylvania's compliance tracking and enforcement program. Section VII provides a picture of Pennsylvania's hazardous waste universe in terms of regulated entities and amounts of waste managed in the Commonwealth as of the date of this program revision. In conclusion, Section VIII contains copies of Pennsylvania's hazardous waste program forms.

SECTION II. PROGRAM SCOPE, STRUCTURE, COVERAGE, AND PROCESSES

A. SCOPE AND COVERAGE OF THE HAZARDOUS WASTE PROGRAM IN PENNSYLVANIA

1. Historical Information

In 1966, the Commonwealth of Pennsylvania enacted the state's first solid waste management statute entitled Act 241. This act, which was implemented through regulations developed by the Pennsylvania Department of Health, established permitting, operation and planning requirements for the management of municipal and residual waste. In 1970, the Commonwealth established the Department of Environmental Resources (DER) which subsequently became the authorized agency responsible for implementing Act 241. Within DER, the Bureau of Land Protection, Division of Solid Waste Management was selected to manage the enforcement of Act 241. In 1979, the Division of Solid Waste Management became the Bureau of Solid Waste Management, thus making the Bureau responsible for the management of Act 241. Today the department administers the hazardous waste program under numerous state laws (Appendix A), including the Solid Waste Management Act (SWMA), the Clean Streams Law and the Administrative Code of 1929.

On May 26, 1981, the department received Phase I Interim Authorization from EPA to administer Pennsylvania's hazardous waste program in lieu of EPA. Subsequently, Pennsylvania enacted regulatory amendments on September 4, 1982 which enabled the department to receive Phase II authorization from EPA. Changes in the federal regulations were enacted between 1982, when the state received interim authorization, and 1986, when the state received final base program authorization. As a result of these changes, the department revised its regulations several times in order to conform Pennsylvania's regulations to federal requirements. The changes to the regulations are referred to as 'conforming packages' and designated with the abbreviation PK. The conforming packages are serially numbered beginning with the first, published as final rulemaking on June 1, 1985, called PK-1. A regulatory amendment pertaining to financial assurance was published as final rulemaking on March 9, 1985. The second conforming package, PK-2, was published as final rulemaking on September 14, 1985. Collectively, these amendments established state hazardous waste regulations that conformed to federal hazardous waste regulations. As a

result of these efforts, Pennsylvania received base program authorization on January 30, 1986.

The department was reorganized shortly after Pennsylvania obtained its RCRA hazardous waste base program authorization in 1986. As a result of the reorganization, the department's Bureau of Waste Management assumed responsibility for managing the state's hazardous waste program. At that time, all of the department's hazardous waste staff, including the Central Office's program staff and the Regional Offices' permitting and enforcement staff, were organized within this Bureau. Upon further restructuring of the department in 1988, the Bureau of Waste Management was reorganized so as to include only the Central Office program staff. A new deputate (Field Operations) was created to oversee, among other duties, the responsibilities of the hazardous waste permitting and enforcement staff. In 1995, the department was divided into two separate agencies through the enactment of House Bill 1400, The Conservation and Natural Resources Act, which became effective on July 1, 1995. Through this legislation, the environmental protection aspects of the former Department of Environmental Resources were placed in a newly created Department of Environmental Protection. Subsequently, the Bureau of Waste Management was renamed the Bureau of Land Recycling and Waste Management (Bureau).

Today, the primary oversight responsibilities for the hazardous waste program, as well as transporter licensing and manifest document tracking, continue to be administered by the Central Office Bureau's hazardous waste program staff, while the Regional Offices, organized within the Field Operations deputate, continue to implement the permitting and enforcement requirements of the program. Together, Bureau staff and Regional Office staff effectively implement the hazardous waste regulations in Pennsylvania. Each federal fiscal year (October 1 through September 30) the Bureau develops a RCRA Grant Workplan with guidance from EPA. Field office commitments are specified for inspections and permit activities, and the field offices may negotiate directly with EPA Region 3 to cooperatively develop worksharing activities. The Workplan sets forth specific commitments and general requirements for a quality RCRA program for each year. The Bureau and the Regional Office staff use this Workplan to coordinate all RCRA activities.

Since the Commonwealth received RCRA program authorization from EPA in 1986, a number of additional hazardous waste regulations have been adopted in Pennsylvania. The most recent amendments, which are referred to as PK-4, were promulgated in 23 Pa. Bulletin 363 on January 16, 1993. These amendments included substantive language changes that differed significantly from language used in the federal hazardous waste regulations. Collectively, these amendments altered the framework of the state's hazardous waste program. For example, substantive changes were made to the definitions for "waste" and related terms such as "coproduct." The department enforced these amendments until further changes were enacted during the 1999 final rulemaking of the state's hazardous waste regulations. At that time, Pennsylvania chose to enact definitions equivalent to federal requirements.

Effective May 1, 1999, Pennsylvania enacted its final-form hazardous waste regulations. The result of these changes is that Pennsylvania's regulations currently either meet or exceed the standards set by EPA for hazardous waste management, with the

following exceptions: the corrective action requirements (Revision Checklists 17L, 44A, 44B, 44C and 121); the availability of information requirements; the requirements for existing and newly regulated surface impoundments provided in RCRA § 3005(j)(1) & (6) (Non-checklist item SR1); the variances from surface impoundment requirements provided in RCRA § 3005(j)(2)-(9) and (13) (Non-checklist item SR2), and; the criminal penalties for used oil fuel requirement violations (Non-checklist item CP). These final-form amendments were drafted primarily utilizing the incorporation by reference of the federal regulations into the state regulations in order to align the department's hazardous waste program more closely with the federal hazardous waste requirements. The incorporation by reference of the federal regulations also provides for the prospective incorporation of those regulations. Prospective incorporation means that the state regulations incorporate changes to the incorporated portions of the federal requirements when the changes are effective (usually six months after publication in the Federal Register) in the federal regulations. This ensures that consistency between the state and federal regulations is maintained as the federal program continues to evolve. In the event that Pennsylvania does not wish to incorporate a federal amendment by reference, or if the federal amendment is in conflict with a state statutory provision, an action may be taken by the state through its regulatory process to prevent the automatic adoption of specific provisions.

Through the development of its hazardous waste regulatory program, the Commonwealth has established measures to effectively control hazardous waste within the state. Since November 19, 1980, all hazardous waste generators in Pennsylvania have been required to report their activities to EPA and the department. To monitor the compliance with this requirement, the department requires that all generators and/or individuals that manage hazardous waste in the Commonwealth be assigned a permanent identification number. In addition to this provision, all individuals who ship or transport hazardous waste off-site and/or treat, store or dispose of wastes from off-site sources are required to use a manifest system. The manifest system, which is described in further detail in Section V, is a system designed to provide cradle-to-grave tracking information for all hazardous waste activities in the state. The manifest requirement is equivalent to provisions required by EPA and the United States Department of Transportation (U.S. DOT).

Implementation of the state's hazardous waste regulations requires the department to regulate all activities involving the treatment, storage, disposal or transportation of hazardous wastes. Facilities that perform any of these regulated activities must first apply for and receive a permit from the department to conduct those activities, before their operations can commence. Any individual who fails to comply with this requirement can be forced to close their operations. Based on 1999 data, the department regulates four Boilers or Industrial Furnaces (BIFs), four hazardous waste incinerators, four thermal treatment units subject to regulation under Subpart X, 53 land disposal units, 58 treatment, storage or disposal facilities, 1,625 large quantity generators, 12,382 small quantity generators, 300 transporters and 11,516 'other' facilities, which include conditionally exempt facilities and other facilities that are not classified but have provided a notification of hazardous waste activities to EPA.

The Central Office of the Bureau of Land Recycling and Waste Management is responsible for the administration of the state's hazardous waste program grant funding from EPA. The Bureau's Central Office provides programmatic support to the department's six

Regional Offices that are responsible for the permitting, inspection and compliance components of the program. Pennsylvania recognizes that a strong RCRA program is built on cooperative relationships, and acknowledges that clear communication, coordination and accountability between DEP and EPA will maximize the resources of both agencies. To facilitate a productive working relationship, the Bureau works with EPA Region 3 on such activities and projects as strategic planning, technical assistance, training, and work-sharing. In addition, Bureau staff meet at least quarterly with the department's regional hazardous waste compliance and permitting staff in order to increase communication and discuss pertinent issues. EPA staff are often invited to attend and participate in these quarterly meetings.

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

Due to major amendments to the Commonwealth's hazardous waste regulations, Pennsylvania is seeking authorization for all revisions to the federal base program which occurred from January 30, 1986 through July 6, 1999 (that is, through RCRA Cluster IX), except as otherwise noted in the following paragraph. The Commonwealth is also seeking authorization to (1) regulate the radioactive component of radioactive mixed waste (Non-checklist item MW) and (2) make assessment information available to the Agency for Toxic Substances and Disease Registry (Non-checklist item SI). The Commonwealth's regulatory provisions are documented on Consolidated Checklists C1 through C11, and on Revision Checklists 169-181, which are incorporated into the Pennsylvania Legal Statements in Appendices B and C.

However, the Commonwealth is not seeking authorization at this time for any of the federal recycled used oil management provisions included in Revision Checklists 112, 122, 130 and 166, or the criminal penalties for used oil fuel requirement violations (Non-checklist item CP). Pennsylvania's current used oil regulations at 25 Pa. Code Chapter 266a, Subchapter E, include provisions for used oil standards that are largely analogous to the federal standards as introduced by Revision Checklist 19, however this checklist has been superceded by the standards addressed in Revision Checklists 112, 122, 130 and 166. The Pennsylvania waste oil regulations are currently being revised to more closely follow the federal standards, and are proposed to be relocated into 25 Pa. Code Chapter 298.

In addition, Pennsylvania is not seeking authorization for the following program areas at this time:

- (a) Corrective Action requirements (Revision Checklists 17L, 44A, 44B, 44C and 121);** Pennsylvania is prepared to pursue authorization for Corrective Action, and has incorporated by reference all required federal regulations required to qualify. However, at the time the hazardous waste regulations were being finalized for publication as final rulemaking to incorporate the federal regulations by reference, 40 CFR 264 Subpart S (relating to corrective action for solid waste management units) was under challenge in a legal suit (*Environmental Defense Fund v. EPA*, D.C. Cir., No. 99-1077 2/26/99). Additional concern with implementation of Subpart S was raised by a pending federal proposal to amend Subpart S. These uncertainties and the ramifications of prospectively adopting

these changing requirements with unknown effects on Pennsylvania's voluntary clean up program prompted the Commonwealth's decision to postpone the effective date of incorporated Subpart S in Pennsylvania regulations. Finally, Pennsylvania and EPA Region 3 are in the process of developing a memorandum of understanding (MOU) to address the interaction of the federal corrective action requirements and Pennsylvania's voluntary cleanup program (Land Recycling Program). Resolution of the EDF suit and the establishment of the MOU should resolve any outstanding issues for Pennsylvania, which would allow the Commonwealth to pursue application for authorization for corrective action through a future program revision.

(b) the "Availability of Information" requirements;

Although the Commonwealth is not seeking authorization for the RCRA 3006(f) 'availability of information' requirements at this time, the department believes that its public outreach and information programs are substantially equivalent, and in some ways, broader in scope than the federal FOIA program. The Solid Waste Management Act, Act 97 (Appendix A), Section 502, specifically provides for the department's disclosure of information to the public with no prohibition on providing information except for trade secrets and confidential business information. The Right to Know Law of 1957 also provides for the disclosure of public information. Neither Act 97, the Right to Know Law, nor any other state statute would prohibit the Commonwealth from adopting regulations which make information obtained on treatment, storage, and disposal facilities available to the public in substantially the same manner and to the same degree as if EPA were running the program. Although neither of these statutes specifically provide for the reimbursement of attorney fees or other litigation costs, the Commonwealth Costs Act provides for up to \$10,000 in actions where the department was found negligent in performing its duties. This has the same effect as the federal FOIA requirements.

The hazardous waste program is in the process of developing new brochures and handbooks that explain Pennsylvania's updated RCRA program to regulated facilities and the public. In addition, the department makes a wide variety of commonly requested information readily available to the public through its web site. For example, the department's web-based compliance reporting system allows citizens to view inspection and enforcement records of regulated facilities, including hazardous waste facilities. This system was recently awarded an 'Innovations in State Government' award by the Council of State Governments. Program information is also disseminated to the public through the department's weekly newsletter (the UPDATE), DEP's web site, public advisory committee meetings and specialized mailings. The department conducts workshops, seminars and meetings on topics pertinent to the hazardous waste program. These include workshops on the newly promulgated hazardous regulations, specialized waste reduction techniques and environmental justice.

Specific facility information is available to the public without submission of a formal FOIA-type request, so that public requests may be made by telephone,

letter or electronic mail. Each DEP office has staff assigned to assist the public in viewing files and obtaining information on all aspects of the hazardous waste program, excepting information protected by Confidential Business Information requirements. All guidance, policies and regulations relating to the hazardous waste program are available at no cost to the public. Manifest and biennial report information on individual waste shipments and in aggregated form is made available to the public in electronic format or in hard copy reports. The department regularly updates its Hazardous Waste Facilities Plan and makes copies available to the public electronically and in hard copy.

- (c) **Requirements for existing and newly regulated surface impoundments provided in RCRA § 3005(j)(1) & (6) (Non-checklist item SR1), and;** The Commonwealth has adopted 40 CFR 265.221, which satisfies a portion of this requirement. However, not all of the components of this statutory requirement have been codified in the federal regulations, and therefore the Commonwealth's final-form regulations, which incorporated the federal regulations by reference, did not adopt an analog to these statutory requirements.
- (d) **Variances from surface impoundment requirements provided in RCRA § 3005(j)(2)-(9) and (13) (Non-checklist item SR2);** The requirements of this statutory citation have not been codified in the federal regulations, and therefore the Commonwealth's final-form regulations, which incorporated the federal regulations by reference, did not adopt an analog to these statutory requirements.
- (e) **Procedures for decision making in the hazardous waste permit program covered in 40 CFR 124.31 - 124.33 (Revision Checklist 148):** Although Pennsylvania regulations have an analog for 40 CFR 124.31 at 25 Pa. Code § 270a.83 and an analog for 40 CFR 124.33 at 25 Pa. Code § 270a.84, there is not have an analog to 40 CFR 124.32. Thus, the Commonwealth does not have analogs to all provisions in Revision Checklist 148. Because EPA cannot authorize partial checklists, the Commonwealth is not seeking authorization for Revision Checklist 148 at this time.

Finally, as per EPA guidance, the Commonwealth is not seeking authorization for the final rule addressed by Revision Checklist 165 [Organobromine Production Wastes, 63 FR 24596 (May 4, 1998), as amended June 29, 1998, at 63 FR 35147) and clarified on August 10, 1998 (63 FR 42580)] because of the court vacatur of the rule.

3. Specific Program Areas for which the Department is seeking authorization.

- (a) **Alternatives to Post-Closure Permits.** The federal final rule that made alternative options for post-closure permits possible was published in the Federal Register on Oct. 22, 1998. Title 40, CFR 270.1(c)(7) (relating to enforceable documents for post-closure care) now reads: "At the discretion of the Regional Administrator, an owner or operator may obtain, in lieu of a post-closure permit, an enforceable document imposing the requirements of 40 CFR 265.121." 'Enforceable document' means an order, a plan, or other document issued by EPA

or by an authorized state under an authority that meets the requirements of 40 CFR 271.16(e) including, but not limited to, a corrective action order issued by EPA under section 3008(h), a CERCLA remedial action, or a closure or post-closure plan.

Pennsylvania has the authority to use "enforceable documents" in lieu of post-closure permits. Pennsylvania has adopted regulations that are identical to the federal code for those sections pertaining to the use of alternatives to post-closure care permits.

Pennsylvania has the enforcement authority, provides for equivalent public participation and has adopted the requisite sections of 40 CFR 264 & 265 to issue enforceable documents in lieu of post-closure permits.

40 CFR 271.16(e) (relating to requirements for enforcement authority) now reads, "Any State authority used to issue an enforceable document either in lieu of a post-closure permit as provided in 40 CFR 270.1(c)(7), or as a source of alternative requirements for regulated units, as provided under 40 CFR 264.90(f), 264.110(c), 264.140(d), 265.90(d), 265.110(d) and 265.140(d) shall have available the following remedies (Pennsylvania has full authority for these sections as they have been adopted by reference and are part of Pennsylvania's regulations):

- The authority to sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of the requirements of such documents, as well as authority to compel compliance with requirements for corrective action or other emergency response measures deemed necessary to protect human health and the environment; and,
- The authority to access or sue to recover in court civil penalties, including fines, for violations of requirements in such documents.

Pennsylvania has full authority to meet these requirements as provided for in the Pennsylvania Solid Waste Management Act.

Pennsylvania statutes and regulations provide the following alternative options for completing post-closure care at both permitted and interim status facilities in place of a post closure permit:

- **State Approved Closure and Post-Closure Plans:** These plans meet all the requirements of 40 CFR 264.112 and 264.118 and 40 CFR 265.112 and 265.118 because Pennsylvania regulations have incorporated these sections by reference. In addition, 25 Pa. Code Chapter 270a Subchapter H. (relating to public notice and hearings) incorporates the necessary public participation requirements that must be met in order to comply with the federal 40 CFR Part 124. These public participation requirements would be applied where an alternative authority is used in lieu of a post-closure permit. Subsequently, Article VI, Section 602 (relating to

enforcement orders) and Section 605 (relating to civil penalties) of the Solid Waste Management Act provides powers to DEP which are similar to those granted to EPA pursuant to RCRA 3008(a) (relating to compliance orders). Pennsylvania would invoke these authorities in order to compel compliance with closure and post-closure requirements upon the failure of an owner or operator to comply with a state approved closure or post-closure plan.

- **Consent Order and Agreements (CO&A):** These are the normal mechanisms Pennsylvania uses to issue orders and legally binding agreements.

Another mechanism that could serve as an alternative to a post-closure permit in conjunction with a CO&A is to formally defer to effective clean up activities conducted under one or more of the following federal or state clean up authorities:

- EPA issued Corrective Action Orders or Corrective Action Permit
- Federal CERCLA Remedial Actions
- State HSCA Actions
- State Solid and Residual Waste Permits and Orders

The Consent Order and Agreements could incorporate one of the above as the approved plan. The legal documents (CO&A's) would be structured to include the required enforcement authority, the required public participation and assure at least the same level of protection of the environment and public health as a post-closure permit. It will be at the Secretary's discretion to provide for further public participation and/or require more stringent safeguards of the environment and public health than the original approved plans may have provided.

State statutes and regulations (including those sections of 40 CFR 264 & 265 adopted by reference) provide the necessary authority for the enforcement of documents, equivalent public participation and at least equivalent post-closure care of the facilities in question. Since the Commonwealth is not seeking authorization for facility-wide corrective action at this time, no enforcement proceeding instituted by the Department will interfere with the Federal implementation of facility-wide corrective action at the subject facility.

Pennsylvania has all of the above options available. The choice of which to use will be based on past state or federal involvement with the particular facility. Facilities will be evaluated on a case-by-case basis, and the most viable option will be selected.

(b) Organic Air Emissions for Process Vents and Equipment Leaks.

Pennsylvania does not anticipate any increased inspection or analysis workload associated with seeking authorization for Subparts AA and BB. Department inspectors have been trained by EPA Region 3 in the technical aspects of

conducting an inspection for compliance with Subparts AA and BB. These subparts have been part of Pennsylvania's inspection priority since 1997. The completion of an AA and BB checklist has been part of the department's inspection requirements since that time. These requirements are already part of negotiated priorities between EPA Region 3 and the department. Authorization will serve to formalize the department's responsibility in this area.

The analyses necessary to be performed will not cause additional burdens on the technical staff, nor on the department's laboratory. In most cases the department anticipates using contractors for both the sampling and the analysis portions of the program associated with Parts AA and BB. The department's inspectors will accompany the contractors when the sampling is done. This process is presently done with the assistance of EPA Region 3 during joint inspections. Pennsylvania anticipates the continuance of this process once the department receives their program authorization.

- (c) **Organic Air Emission Standards for Tanks, Containers, and Surface Impoundments.** Pennsylvania does not anticipate any increase in its inspection and analysis workload associated with seeking authorization for Subpart CC. Department inspectors have been trained by EPA Region 3 in the technical aspects of conducting an inspection for compliance with this Subpart. The Subpart has been part of Pennsylvania's inspection priority since 1997. The completion of a Part CC checklist has been part of the department's inspection requirements since that time. It is already part of negotiated priorities between EPA Region 3 and the department. Authorization will serve to formalize the department's responsibility in this area.

The analyses necessary to be performed will not cause additional burdens on the technical staff, nor on the department's laboratory. In most cases the department anticipates using contractors for both the sampling and the analysis portions of the program associated with Part CC. The department's inspectors will accompany the contractors when the sampling is done. This process is presently done with the assistance of EPA Region 3 during joint inspections and works well. Pennsylvania anticipates the continuance of this process once authorized for the program.

- (d) **Data Management for Subparts AA, BB and CC.** Pennsylvania is presently consolidating all of its data management programs into one data management system for the entire realm of environmental protection. This new system is under continual development. In anticipation of the authorization process the system will be modified to include data necessary to maintain Subpart AA, BB and CC authorization. The data fields presently in RCRIS (and future RCRAInfo) will be included in Pennsylvania's new data management system so that there will not be a problem integrating organic air emissions data into the system. An additional benefit of having a comprehensive data management system is that the information will be shared with and available to the department's Bureau of Air Quality, which

will periodically assist hazardous waste inspectors in the performance of the Subpart AA, BB and CC inspections.

- (e) **Enforcement of the Organic Air Emissions Standards for Subparts AA, BB and CC.** Pennsylvania will enforce the organic air emission standards through its normal inspection program. The department inspects approximately 20% of its large quantity generator universe annually. Where the inspector suspects organic emissions violations exist, they will reinspect the facility with a contractor or with an experienced inspector from the department's Bureau of Air Quality. While the department's laboratory can be used for some analyses, it is anticipated that a contract lab will handle most of the organic air emission samples as is presently done. This can be accomplished with the aid of EPA Region 3's contractor or with a laboratory contracted by the department. Inspection and enforcement personnel are already a part of the department's program and no increase in resources is anticipated as a result of becoming authorized for Subparts AA, BB and CC.
- (f) **Small Quantity Generators.** In Pennsylvania, a small quantity generator must comply with most of the large quantity generator requirements. Several areas of compliance for small quantity generators that are less onerous than those for large quantity generators center on accumulation. A small quantity generator may accumulate waste on site for 180 days (or 270 days depending upon the distance to the treatment, storage or disposal facility), instead of the 90 day limit imposed on generators, as long as the amount accumulated never exceeds 6000 kg. A small quantity generator that stores their waste in containers does not have to meet the ignitable and reactive set back requirements imposed on large quantity generators. Nor do they have to meet the organic air emission standards imposed by Parts AA, BB and CC.

In addition to the reduced accumulation requirements, a small quantity generator does not have to submit a biennial report, as does a large quantity generator, and the emergency response preparedness and training requirements are also reduced.

Pennsylvania will continue to identify small quantity generators through the universe reports from RCRIS, and also through the normal inspection process. As part of normal inspection functions, department inspectors locate facilities that they have not previously inspected while in transit to or from a routine facility inspection. Facilities that have not been previously inspected may also be inspected as a result of complaints received by the department. In this way all of the facilities located within the Commonwealth will eventually receive an inspection and receive a generator classification.

Pennsylvania has had a form of small quantity generator classification attached to all generators since becoming authorized for the base program. It is only with a recent rulemaking that the department adopted the conditionally exempt classification. Authorization for the small quantity generator program will not increase the inspection and analysis workload because the department has already been addressing these facility types.

- (g) Universal Waste Rule.** Pennsylvania is seeking authorization for all parts of the Universal Waste Rule.

The DEP has its own process for petitioning the department in order to initiate a new rulemaking. This petition process is found in Chapter 23 of the department's rules and regulations. The petition process requires the petitioner to submit a petition to the department's Environmental Quality Board (EQB) to initiate a rulemaking. The reference to the petition process is found in § 260a.20 of the department's regulations. Additional wastes will be added to Pennsylvania's universal waste program through a formal rulemaking. Once a petition has been judged administratively complete, the EQB will accept the petition and have the department investigate and report on the petitioner's request. The EQB will then decide to proceed or to not proceed with a formal rulemaking. This same process will be followed with the universal waste rule.

All generators, transporters and other facilities that manage universal wastes in accordance with the regulations are subject to the reduced requirements of the universal waste rules. The department routinely inspects all of the included entities, and universal waste requirements are part of the inspection process. Failure to properly manage universal wastes subjects a facility to the full hazardous waste regulations.

The deregulation initiated by this rule has resulted in an increase in the amount of universal waste materials that are recycled. The destination facilities that receive the wastes for recycling are permitted by the department or have interim status, and are routinely inspected by department staff. Because universal wastes make up such a small part of the Subtitle D waste stream, no decrease in inspections has been noted in this area. An increase in recycling at the facilities in question has been noted, but the facilities have more than enough capacity to handle the present and any foreseeable future increases in the amount of wastes recycled. Any future increases in the recycling of universal wastes can more than adequately be handled by the department's existing compliance monitoring program.

- (h) Miscellaneous Units.** Authorization for miscellaneous units will not result in an additional burden on permitting staff since the department has already assumed the review of permit applications for these units through a work-share arrangement with EPA Region 3. Future permitting of miscellaneous units will continue to be absorbed by existing department staff.

The department currently regulates three carbon regeneration units: one of these units is permitted; one is completing a permit application; and one remaining draft application is currently under consideration by the department. The department also regulates three facilities that use mercury retort units, of which one is permitted and two remain to be permitted. Two open burning units are also regulated: one is a military facility and is working toward a permit (or exemption) and one industrial facility is working toward a permit.

The inspection of miscellaneous units has been negotiated with EPA Region 3 as part of past RCRA grants and will continue to be negotiated through future grants. Since the department has already incorporated miscellaneous units into inspection and permitting activities, any future activities will continue to be absorbed by existing laboratory support staff, along with existing permitting and compliance staff. These facilities have been included in the Commonwealth's comprehensive data management system (known as FIX), and permitting and compliance activities will be tracked through this system.

The compliance and enforcement staff in DEP's six Regional Offices are well established in executing the program specifics, and will absorb these additional duties without any staff increases. Training has been provided to regional staff in the revised regulations and Subparts AA, BB and CC. Any additional training needs will be identified to EPA Region 3. The department may also rely on EPA HQ training opportunities or develop the necessary training courses in-house.

- (i) **Treatability Studies Sample Exemption.** During the normal course of their inspections, the department's compliance staff, with the help of the facilities involved, will identify waste samples used in treatability studies that qualify for this exemption. Facilities doing treatability studies have an EPA identification (ID) number and are included in our routine inspections of generators. The department has negotiated these inspections with EPA during past RCRA grant applications and they will continue to be so negotiated. As such, these are not "new responsibilities" for the Pennsylvania program. Since DEP has been doing these activities for a number of years, the department does not anticipate any additional burden with authorization on the permitting and compliance staff. As previously mentioned with other activities, inspection and compliance data management will be incorporated into the FIX system with little or no significant resource impact.

The compliance staff will continue to inspect these facilities, send Notices of Violations (NOV'S), and take the necessary enforcement actions if and when the violations have not been corrected within the established compliance time frames.

- (j) **RCRA Expanded Public Participation.** The department has not incorporated by reference the RCRA Expanded Public Participation requirements at 40 CFR 124.31-33 since 40 CFR 271.14 does not require State adoption as a condition of authorization. However, equivalent language and requirements of 40 CFR 124.31 and 124.33 can be found at PA Code § 270a.83 and 84. The department has no equivalent language or requirements of 40 CFR 124.32.

25 Pa. Code § 270a.83(b) requires the applicant to hold a pre-application meeting and post a sign-in sheet.

Section 270a.83(c) requires the applicant to submit a summary of the meeting, list of attendees and copies of any written comments or materials presented at the meeting to the department as part of their Part B application.

Section 270a.83(d) requires the applicant to provide at least a 30 day notice of the meeting. Public notice must be provided in the following forms: newspaper advertisement, visible and accessible signs, broadcast media announcements. The department and state and local units of government shall be notified. Information should include a contact person for the applicant.

25 Pa. Code § 270a.84(b) requires the department to assess the need for the applicant to establish and maintain an information repository. Section 270a.84(c) states that the repository is to contain all the reports, data and information deemed necessary by the department. Section 270a.84(d) requires that the site for the repository is to be chosen by the applicant and, if deemed inappropriate, the department can specify a different site.

Section 270a.84(e) requires the facility to make the information repository known to the public, by written notice, to everyone on their mailing list, and any further means deemed necessary by the department. Section 270a.84(f) requires the facility to maintain and update the information repository as necessary.

- (k) **Testing and Monitoring Activities.** The Pennsylvania hazardous waste regulations were amended in January 1997 to incorporate the list of publications in 40 CFR 260.11(a) by reference along with any additions, revisions or deletions.
- (l) **Toxicity Characteristic (TC) Revisions.** The Pennsylvania hazardous waste regulations were amended in January 1993 to adopt by reference the Toxicity Characteristic Leaching Procedure, the Table 1 list of contaminants and any additions, deletions or modifications that EPA makes to these parts of the federal regulations.

Therefore, since these revisions have been in place in Pennsylvania since 1993, there will be little or no impact on the management of the RCRA program in Pennsylvania.

- (m) **Boilers and Industrial Furnaces (BIFs).** Pennsylvania does not anticipate an unmanageable increase in workload associated with implementation of the Boiler and Industrial Furnace rules. The Field Operations Deputate's waste management staff and air quality staff will jointly conduct permitting and inspection activities. Prior to adopting the BIF rules, staff from these two program areas were already involved in regulating BIF facilities; either due to hazardous waste storage permit requirements or state air permit requirements. In addition, since the BIF rules were promulgated under the Hazardous and Solid Waste Amendments (HSWA) of 1984, US EPA Region 3 has been implementing the program in Pennsylvania. The EPA Region 3 has involved department staff in jointly conducting BIF related activities such as trial burns, air emissions risk assessments and facility inspections.

The BIF universe in the Commonwealth has been well defined over nearly eight years of implementation by EPA Region 3. Current facilities subject to the BIF

rules in Pennsylvania include one commercial facility, three captive facilities and eight Smelting, Melting and Refining (SMR's) furnaces. The EPA has permitted one facility in Pennsylvania, and the department will permit the remainder of the facilities after program authorization.

Pennsylvania is consolidating all of its data management programs into one system for the reporting of all environmental protection programs. Provisions have been incorporated into the consolidated data management system to accommodate BIF data. The data fields presently in RCRIS (and future RCRAInfo) will also be included in Pennsylvania's new data management system.

Pennsylvania will enforce the BIF provisions through its normal inspection program. The department will conduct in-depth inspections of commercial BIFs (currently 1 facility) at least annually. Onsite BIFs will be inspected at least once every two years and small quantity burners at least once every three years. Any additional analytical workload required due to BIF emission testing will be absorbed into our existing Field Operations Deputate Regional Office's sampling and analysis efforts. If the additional workload cannot be managed by our department's laboratory, a contracted laboratory will be used. Inspection and enforcement activities are already necessary at BIF facilities due to current waste storage and air quality requirements. It is anticipated that no additional staff will be required as a result of becoming authorized for the BIF program. Reduction in workload demands resulting from adopting the federal definition of solid waste (40 CFR 261.2) and the federal exemptions for recyclable materials (40 CFR 261.6) will cause some resources to be available for use in new program areas, such as the BIF program.

- (n) **Bevill Exclusion for Mining Wastes.** A 1990 federal court ruling (American Mining Congress v. EPA, 907 F.2d 1179, D.C. Cir. 1990) remanded five mining wastes from the list of hazardous wastes from specific sources at 40 CFR 261.32. The five wastes at issue are K064, K065, K066, K090 and K091. A subsequent court ruling (Edison Electric Inst. V. EPA, 2 F.3d 438, D.C. Cir. 1993) remanded the toxicity characteristic as it applies to mining wastes. The result of these two court rulings is that these five waste streams are not subject to regulation under the federal program. The EPA has not yet taken final agency action to address the remands. Nevertheless, the five wastes remain on the list of hazardous waste from specific sources at 40 CFR 261.32, which Pennsylvania has incorporated by reference at 25 Pa. Code § 261a.1.

Due to the federal court rulings, Pennsylvania does not intend to recognize the subject hazardous waste listings. To be consistent with the court remands, in its next rulemaking, the department will take exception to the general incorporation by reference of 40 CFR 261.32 for these five specific wastes.

- (o) **Wood Preserving Listings.** The Pennsylvania hazardous waste regulations incorporate by reference the federal hazardous waste list; therefore, the wood preserving wastes, F032, F034, and F035 became effective in Pennsylvania at the

same time they became effective in the federal regulations, on June 6, 1991. There were only a small number of facilities in Pennsylvania that were affected by these listings and any increased workload to the department due to these listings has long ago been absorbed by the staff.

The permitting and interim status standards for drip pads used by wood treating facilities were not incorporated by reference, therefore, because they were HSWA requirements they were effective as of June 6, 1991, in Pennsylvania, but have been administered by EPA. Pennsylvania adopted these drip pad requirements into the hazardous waste regulations effective January 11, 1997. As stated above, there were only a small number of facilities affected by these regulations and by the time the state adopted them virtually all these facilities had complied with the requirements, thus there was minimal impact as far as workload to the department is concerned.

- (p) Land Disposal Restrictions.** The Land Disposal Restrictions (LDR) regulations at 40 CFR Part 268 restrict the land disposal of hazardous waste beyond specified dates unless the waste is treated to specified standards or disposed of in a unit that meets certain technological standards. Pennsylvania does not anticipate a significant increase in workload associated with implementation of the LDR program. Although LDR requirements were not part of Pennsylvania's hazardous waste regulations prior to May 1, 1999, department inspectors have been checking for basic compliance with the federal program as part of our routine inspections program. In addition, the LDR rules were promulgated under the Hazardous and Solid Waste Amendments (HSWA) of 1984, therefore, the US EPA Region 3 has been implementing the program in Pennsylvania. Hazardous waste generators and transporters, and the owners or operators of hazardous waste treatment, storage and disposal facilities are familiar with the applicable LDR requirements.

Pennsylvania is consolidating all of its data management programs into one system for all environmental protection programs. The data fields presently in RCRIS (and future RCRAInfo) will also be included in Pennsylvania's new data management system. Any compliance or enforcement data relative to the LDR program will be included along with the results of inspection activities.

Pennsylvania will enforce the LDR provisions through its normal inspection program. The department's hazardous waste inspection checklists have been revised to include more detailed LDR information. Any additional analytical workload required due to the LDR program will be absorbed into our existing sampling and analysis efforts. If the additional workload cannot be managed by our department's laboratory, a contracted laboratory will be used. It is anticipated that no additional staff will be required as a result of becoming authorized for the LDR program. Reduction in workload demands resulting from adopting the federal definition of solid waste (40 CFR 261.2) and the federal exemptions for recyclable materials (40 CFR 261.6) will cause some resources to be available for use in new program areas, such as the LDR program.

- (q) **Radioactive Mixed Waste.** Mixed wastes contain both radioactive and hazardous wastes. The department is currently implementing the mixed waste program through the cooperation of the federal Department of Energy (DOE) and DEP's radiation protection and hazardous waste program staff. At the present time, there is one facility in western Pa. managing low level mixed waste materials.

Although the requirements for the management of the hazardous portion of mixed waste are contained in the hazardous waste regulations, the requirements for radiation safety are contained in DEP's radiation protection regulations. As with the federal statutes for hazardous waste and atomic energy, the state's requirements for these wastes are generally consistent and compatible, however whenever the provisions are found to be inconsistent, the radiation protection standards take precedence over the hazardous waste management standards.

4. General Correspondence between Pennsylvania's Regulations and the Federal Regulations

The 1998 Consolidated Checklists C1-C11 and the Revision Checklists C169-181, which are incorporated into the Pennsylvania Legal Statements in Appendices B and C, provide information that demonstrates that the regulations Pennsylvania is currently seeking authorization for are equivalent to federal program rules.

Generally, the Commonwealth's final-form regulations incorporate by reference the federal regulatory requirements for hazardous waste management and mirror the intent and often use the same language as the federal regulatory provisions. However, the state's final-form regulations also include additional Commonwealth requirements, where specifically warranted, that modify or add additional provisions to some of the federal regulatory requirements. Nevertheless, as a result of the incorporation by reference, most of the Commonwealth requirements that have federal analogs use the same section numbers as the federal numbering system. As a result, the Commonwealth's final-form regulations promulgated in Chapters 260a - 266a, 266b and 268a - 270a now align closely with the text and numbering system of the federal regulatory requirements found in 40 CFR Parts 260 - 273.

Aligning the Commonwealth's final-form hazardous waste regulations with federal regulatory provisions provides many benefits to the regulated community. Foremost, it simplifies the process the regulated community must adhere to in order to achieve compliance with applicable hazardous waste management regulations. By aligning the state regulations with federal provisions, the regulated community no longer needs to be confused over using two separate and different sets of federal and state regulations to manage their hazardous waste in the Commonwealth. All classes of hazardous waste generators, transporters, and treatment, storage and disposal facilities in the Commonwealth will benefit from the regulatory changes in the state which now provide final-form regulations that are consistent to federal regulatory requirements, language and numbering systems. Furthermore, since most states have hazardous waste regulations that closely resemble the federal regulations, amending the Commonwealth's hazardous waste regulations to conform with federal

regulations also allows companies to comply more easily with hazardous waste regulations on an interstate basis.

Although comprehensive changes were made to the Commonwealth's hazardous waste regulations, the state's final rulemaking imposes very few additional costs and may actually save money for both the regulated community and the department. More specifically, the department anticipates that the regulated community's overall cost of compliance will decrease as a result of the alignment of the federal EPA and state hazardous waste regulations. This anticipated cost savings will occur because the regulated community will now need to comply with only one set of regulations rather than two. For example, amendments made to the state's manifest regulations now require fewer manifest copies than the eight-part manifest previously required by the Commonwealth. As a result of the implementation of these amendments, it is estimated that the regulated community will save \$400,000 in clerical and mailing costs. In addition to cost savings realized by the regulated community, the Commonwealth will also save money as a result of the implementation of the manifest amendments. For example, it is estimated that the department will receive 50% fewer manifests than previously received as a result of the enactment of the manifest amendments. Through the implementation of these amendments and the associated reduction in manifest requirements, the department will save an estimated \$30,000 in mail handling and data entry costs.

In addition to the above, other amendments made to Pennsylvania's hazardous waste regulations will also result in cost savings to the regulated community. For example, amendments were enacted to the Module I requirements which provide an option for commercial TSD's to address the waste approval process in their permit as a replacement to the Module 1 form. These forms contain information on waste characteristics that are needed for disposal purposes. As a result of these changes, operators will no longer be required to pay a fee to amend their Module I form every time they receive a new waste stream. In addition, amendments were also enacted to Pennsylvania's hazardous waste regulations which now allow permit applicants to submit information on their own forms rather on the department's Module I forms. As a result of this amendment, the department estimates that the regulated community will save an estimated \$35,000 annually.

Please see Section II.B for further information on areas where the Commonwealth's program is more stringent or broader in scope than federal regulatory provisions.

Correlation of Federal and State Regulations
Table 1

EPA REGULATION Code of Federal Regulations (CFR)	STATE REGULATION	DESCRIPTION
PART 260	Chapter 260a	Hazardous Waste Management System: General
PART 261	Chapter 261a	Identification and Listing of Hazardous Waste
PART 262	Chapter 262a	Standards Applicable to Generators of Hazardous Waste
PART 263	Chapter 263a	Standards Applicable to Transporters of Hazardous Waste
PART 264	Chapter 264a	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
PART 265	Chapter 265a	Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
PART 266	Chapter 266a	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities
PART 268	Chapter 268a	Land Disposal Restrictions
	Chapter 269a	Siting
PARTS 270/124	Chapter 270a	The Hazardous Waste Permit Program
PART 273	Chapter 266b	Standards for Universal Waste Management

5. Enforcement Authority

The Solid Waste Management Act (Appendix A) and the department's hazardous waste regulations (Appendix A) provide the Commonwealth with the authority to ensure the regulated community's compliance with all applicable hazardous waste regulations. Refer to Sections V and VI of this Program Description for the specific procedures Pennsylvania uses to ensure compliance with the Commonwealth's hazardous waste regulations.

6. Public notices and hearings of program revisions

This application represents a comprehensive revision to Pennsylvania's existing RCRA base program authorization. Public notice requirements were fulfilled as part of the Commonwealth's application for base program authorization as required by 40 CFR 271.20(a). Public notice requirements as described in 40 CFR 271.21(b)(3)(i) are handled by the EPA Regional Administrator for program revisions.

The department provides public notice for each of its rulemakings, including all revisions to the hazardous waste regulations. For example, the proposed hazardous waste regulatory amendments were published on December 6, 1997, at 27 Pa. Bulletin 6407. At that time, the department initiated several review procedures consistent with 40 CFR 271.20 in order to obtain the public's comments on the proposed hazardous waste regulations. For example, the department initiated a 60-day public comment period on the proposed regulations. During the public comment period, which ended on February 4, 1998, the department received comments from 30 citizens and regulated individuals. Comments were also received from the Independent Regulatory Review Commission (IRRC) and EPA. In addition, three public hearings were held where three commentators provided testimony. The department reviewed all comments received and made changes to the amendments, where appropriate, based upon the recommendations and comments offered by the public.

On July 9, 1998, the department's Solid Waste Advisory Committee (SWAC) also reviewed and subsequently approved the amendments proposed to the Commonwealth's hazardous waste regulations; however, the Committee also made several recommendations to modify the regulations. After careful consideration of these recommendations, the department incorporated SWAC's changes to the hazardous waste regulations except for those changes to § 261a.7 and the changes proposed in the financial assurance provisions.

The final-form hazardous waste regulations were published on May 1, 1999, at 29 Pa. Bulletin 2367. With the exception of Chapter 264a, Subchapter S (relating to corrective actions for solid waste management units), these amendments became effective on the publication date of the final rulemaking. Pennsylvania is prepared to pursue authorization for Corrective Action and has incorporated by reference all required federal regulations.

The preamble to these regulations (29 Pa. Bulletin 2367) contains a comprehensive description of the department's program authorization status, and describes its intent to pursue an update to its base program authorization as a result of the changes included in the rulemaking.

B. DIFFERENCES BETWEEN FEDERAL AND STATE REGULATIONS

In developing the state's final-form hazardous waste regulations, the department amended its previous regulations by deleting certain language and adding new chapters that incorporate by reference the federal hazardous waste regulations. The Commonwealth incorporated the federal regulations by reference to ensure that the state's hazardous waste regulations are consistent with and conform to federal regulations. However, in cases

dictated by a compelling state interest, the Commonwealth promulgated more stringent/broader in scope/different hazardous waste regulations than those promulgated and enforced by EPA.

Predominantly, Pennsylvania has used the same chapter, subchapter and section numbers for its hazardous waste regulations as those enumerated in the corresponding federal regulations. For those sections that differ from the federal regulations, the Commonwealth has included a small letter "a" within the appropriate section number of the state's hazardous waste regulations to denote that these sections contain additions, deletions, or modifications to the incorporated federal regulations. The Commonwealth has also inserted language in the first section of each chapter of its hazardous waste regulations to denote those state regulations that have been incorporated by reference and the corresponding federal regulations upon which the incorporation was based. The phrase "in addition to", as used within the regulations, indicates that the state has made additions to the federally incorporated provisions. In instances where a state section number does not exist for a federal counterpart section, the Commonwealth has incorporated the federal section without modification.

The Commonwealth recognizes that certain sections exist within the hazardous waste regulations where EPA must retain its authority to implement and enforce the particular regulatory provision. For example, federal law prohibits states from enforcing certain RCRA provisions and gives the enforcement authority for these provisions to EPA exclusively. Furthermore, situations also exist where EPA cannot delegate to the states certain incorporated provisions of 40 CFR in the state authorization process. As a result, the department refrained from substituting terms found in § 260a.3(a) (relating to terminology and citations related to federal regulations) where federal authority supersedes the state's authority to manage the hazardous waste regulations. However, in those situations where the department inadvertently applied a blanket substitution where it should not have been applied, or did not make appropriate exceptions where necessary, the inappropriate language contained in the state's regulatory provision should be deemed unenforceable. In lieu of the state's language, the regulation should be interpreted and enforced based upon federal regulatory guidelines.

In order to reflect the Commonwealth's authority to regulate hazardous wastes, all of the dates contained in the federally incorporated language were modified, where warranted, to reflect dates applicable to Pennsylvania. For example, the Commonwealth changed the date established by EPA to achieve compliance with certain drip pad operations from December 6, 1990 to January 11, 1997, as noted in § 264a.570. Although drip pads have been subject to federal regulation since December 6, 1990, these regulatory requirements were not imposed in Pennsylvania until January 11, 1997. In addition, Pennsylvania has also inserted its own effective dates for those HSWA regulations applicable to federally regulated HSWA units. Although these units have been subject to federal regulations since EPA promulgated the HSWA regulations, Pennsylvania has concluded that it does not have the authority to enforce these provisions prior to the date that these regulations were effective in Pennsylvania.

The Commonwealth's hazardous waste management program is structured to prohibit any person or municipality from storing, transporting, treating or disposing of hazardous waste within the state unless these activities are authorized by the rules and regulations of the department. As such, no person or municipality may own or operate a hazardous waste storage, treatment or disposal facility unless a permit is first obtained from the department or the facility is operating under interim status, per the department's authorization. Furthermore, no person or municipality may transport hazardous waste within the Commonwealth unless a license has first been obtained from the department to transport such waste.

In administering the state's hazardous waste program, the department may issue, deny, modify or revoke any permit or license based upon an entity's compliance with any provision of the following statutes: the act of July 7, 1980, P.L. 380, No. 97, known as the Solid Waste Management Act; the act of June 22, 1937 (P.L. 1987, No. 394), known as the Clean Streams Law; the act of January 8, 1960 (1959 P.L. 2119, No. 787), known as the Air Pollution Control Act; and the act of November 26, 1978 (P.L. 1375, No. 325), known as the Dam Safety and Encroachment Act; or any other state or federal statute relating to environmental protection or to the protection of the public health, safety and welfare. The state may also issue, deny, modify or revoke any permit or license based upon an entity's compliance with any rule, regulation or order of the department or any condition of any permit or license issued by the department.

1. Areas where the state program is more stringent

In developing the state's final-form hazardous waste regulations, the department amended its previous regulations by deleting language and adding new chapters that incorporate by reference the federal hazardous waste regulations. The Commonwealth incorporated the federal regulations by reference to ensure that the state's hazardous waste regulations are consistent with and conform to federal regulations. However, the department's rulemaking body, the Environmental Quality Board, determined that the state can enact more stringent regulations than those promulgated by the federal government if the state has a compelling interest to do so. As a result, when warranted, the Commonwealth has adopted more stringent regulations than those promulgated in the federal hazardous waste regulations. None of the requirements identified as 'more stringent' are considered to have a substantial impact on the hazardous waste program in operation in Pennsylvania.

Following are two examples of where the Commonwealth's regulations are more stringent than the federal requirements.

- (a) At 25 Pa. Code § 261a.1, the state regulation is more stringent than the federal regulation for Conditionally Exempt Small Quantity Generators (CESQGs) in that CESQGs may not dispose of their hazardous wastes in a municipal or residual waste landfill in Pennsylvania.
- (b) At 25 Pa. Code §§ 264a.1(a) and 264a.71, the state regulation is more stringent than the federal regulation because the Commonwealth prohibits a facility from accepting waste from a transporter unless the waste is accompanied by the

Commonwealth manifest form or another form approved by the department, unless a manifest is not required at 40 CFR 262.20(e). The federal code does not prohibit a facility from accepting unmanifested waste even when a manifest is required by 40 CFR 262.20. At 25 Pa. Code § 264a.71(2), the Commonwealth requires that copies of the manifest be sent to the department and to the generator state, as required, within 30 days of the delivery. The federal code only requires that the manifest be sent to the generator within 30 days of the delivery.

Refer to the Pennsylvania Legal Statements in Appendices B and C for detailed information on where Pennsylvania's hazardous waste regulations are more stringent than the federal regulations.

2. Areas where the state program is broader in scope

Refer to the Pennsylvania Legal Statements and the Consolidated Checklists in Appendices B and C for detailed information on where Pennsylvania's hazardous waste regulations are broader in scope than the federal regulations. Requirements that were identified as broader in scope than the federal program were generally applied where Pennsylvania has a compelling state interest. None of the requirements identified as 'broader in scope' are considered to have a substantial impact on the current hazardous waste program in operation in Pennsylvania.

Following are two examples of where the Commonwealth's regulations are broader in scope than the federal requirements.

- (a) At 25 Pa. Code § 263a.13, the Commonwealth's regulations require that any person or municipality that wants to transport hazardous wastes in the Commonwealth must first obtain a license from the Department.
- (b) At 25 Pa. Code § 270a.10(b) the Commonwealth requires permit applicants to pay hazardous waste management fees. Such fees are beyond the scope of the federal program. The federal regulations do not include provisions for fees.

3. Areas where the state program differs from the Federal program

Refer to the Pennsylvania Legal Statements in Appendices B and C for detailed information on where Pennsylvania's hazardous waste regulations are different than but equivalent to the federal regulations. Requirements that were identified as different than the federal program were generally applied where Pennsylvania has a compelling state interest. None of the requirements identified as 'different' are considered to have a substantial impact on the current hazardous waste program in operation in Pennsylvania.

Following are two examples of where the Commonwealth's regulations differ from the federal requirements.

- (a) At 25 Pa. Code § 261a.7 clarifies that the residues in empty tanks, containers and inner liners removed from empty containers become subject to hazardous waste

regulation only after the residues are removed from the empty containers, tanks or inner liners.

- (b) At 25 Pa. Code §§ 264a.156(e) and 264a.168, the Commonwealth has unique requirements for bond forfeiture that apply in the situation where the owner or operator fails to perform post-closure care in accordance with applicable permit conditions.

SECTION III. STATE AGENCY RESPONSIBILITIES

A. ORGANIZATION AND STRUCTURE OF THE HAZARDOUS WASTE PROGRAM

1. Identification of State agency responsible for administering program

(a) State agency responsible for administering authorized program

The Pennsylvania Department of Environmental Protection is responsible for the administration of all statutes and programs related to the protection of the Commonwealth's air, water and land resources. The department's structure provides discrete organizational responsibilities for each media, such as solid waste, air quality, etc. The Bureau of Land Recycling and Waste Management, organized within the Air, Recycling and Radiation Protection Deputate, is the entity within the department with primary responsibility for implementation of Pennsylvania's hazardous waste program. The Bureau administers and enforces a comprehensive state hazardous waste program in line with all the necessary requirements of Subtitle C of the Resource Recovery Act of 1976, as amended in 1984. In some aspects, the Commonwealth's Solid Waste Management Act gives the department broader scope than provided for under the federal RCRA statute, and, in some areas the department's regulations may be more stringent or broader in scope than the U.S. Environmental Protection Agency (EPA) regulations.

Through the RCRA Grant Workplan, the Bureau's Central Office coordinates all RCRA activities. However, while the primary oversight responsibility for the hazardous waste program, as well as transporter licensing and manifest document tracking, is administered through the Bureau's Central Office hazardous waste program staff, the Regional Offices, organized within the Field Operations Deputate, implement the permitting, inspection and enforcement requirements of the program.

(b) State agency responsible for administering program revisions

After EPA authorization is received, the hazardous waste program responsibilities will remain with the same staff that managed the authorized base program activities. The Bureau of Land Recycling and Waste Management, will continue to hold the responsibility for administering the authorized program. Specifically,

the Division of Hazardous Waste Management will perform these duties. Whereas, the permitting, inspection and enforcement activities will continue to be primarily provided by the Field Operations Deputate, through staff in the Regional Offices.

2. Structure of State Agency Administering the Program:

The following sections describe the Bureau of Land Recycling and Waste Management, and its internal coordination, as well as coordination between the Bureau and other bureau's within the department.

(a) Hazardous Waste Program Staff: In 1998, 311 staff were directly involved in administering Pennsylvania's Solid Waste Programs, with 90 work years of effort directed towards performing duties for the RCRA hazardous waste program. This staff, located within the Central Office and Regional Offices, includes technical, administrative, and clerical staff. The Central Office and Regional Office staff do not serve the same function. The Central Office establishes permitting and inspection priorities, policies and procedures and oversees the permitting, inspection, surveillance, monitoring and enforcement activities. Regional Office administrative and technical staff accomplish permit reviews, inspections, monitoring and enforcement activities, and assist industry, local government and private citizens with complying with the regulations.

(1) Chain of Command: The Central/Regional Office chain of command requires coordination between the Central Office Bureau and the Field Operations Deputate. The "Chain of Command" in Central Office is as follows: Department Secretary -- Deputy Secretary for Air, Recycling and Radiation Protection -- Bureau Director, Land Recycling and Waste Management -- Division Chief, Division of Hazardous Waste Management -- Section Chief -- technical staff.

The "Chain of Command" for the Regional Offices is as follows: Department Secretary -- Deputy Secretary for Field Operations -- Regional Director -- Regional Solid Waste Manager -- Facilities or Operations Chief -- Field Supervisor -- technical staff.

Each Bureau Director directly transmits Bureau Policy and Procedure and program priorities/guidance to the Regional Solid Waste Managers for implementation by regional staff. Other Central Office Bureau personnel work directly with regional staff in assisting/overseeing RCRA permitting and compliance activities. The Bureau Director, who is ultimately responsible for RCRA program development and management, is not the immediate supervisor of the Regional Solid Waste Manager, who is the person responsible for Regional Office RCRA program implementation action. However, both persons, ultimately answer to the same authority, the Department Secretary. This difference in chain of command between the Central and Regional Offices was established to assure equal representation between the two organizational units, to facilitate conflict resolution and to provide for a more effective interface with other Bureaus. Both

Regional and Central Office staff must adhere to the same directives, policies and guidance. These documents are coordinated on an agency-wide basis by the department's Policy Office, and are posted on the department's web site.

(2) Central Office Staff: An organization chart detailing the Bureau of Land Recycling and Waste Management, including staff that are engaged in carrying out the Commonwealth's RCRA program (Division of Hazardous Waste Management), appears as Appendix D. The Central Office will conduct the overall administration of the RCRA grant commitments. The Hazardous Waste Management Division is comprised of a Division Chief and two sections: Hazardous Waste Permits and Compliance and Monitoring. The permitting section is staffed with a program specialist supervisor, a hydrogeologist, a sanitary engineer and a program specialist. The Compliance and Monitoring Section is staffed with a program specialist supervisor, two program specialists, a hydrogeologist and an environmental chemist.

Staff in the Division of Hazardous Waste Management are dedicated full-time to administering the RCRA program. Generally, personnel in this division develop program elements, guidelines and regulations, set the hazardous waste program goals and priorities, and provide Regional Office program training and implementation oversight. This division is also responsible for the hazardous waste transporter licensing program, which is one of the areas where Pennsylvania is more stringent than the federal program.

A separate division within the Bureau is the Reporting and Fee Division, which oversees the Commonwealth's manifest system, biennial reports, quarterly fee collection, and the enforcement and collection of fines and penalties for non-compliance with these activities.

(3) Regional Offices: The Regional Office staff will continue to provide the permitting, inspection and compliance portion of the hazardous waste program. The Regional Office personnel are divided into two sections--Facilities and Operations. Personnel in the Facilities Section are comprised of a facilities supervisor, engineers, hydrogeologists, soil scientists, chemists and facilities specialists. These persons conduct all technical permit and plan reviews in the hazardous waste program, including examination of the financial instruments, ground water assessments, and in depth closure /post closure plan review. These persons also assist inspectors when professional scientific expertise/opinions are required. Facilities Chiefs serve a supervisory/management function. Facilities specialists serve as assistants to a Facilities Chief, and specifically review bonding proposals and operating plans, and conduct the environmental assessment process. Each Regional Office Facilities Section includes at least one licensed professional engineer.

Personnel in the Operations Section include Operations Chiefs and Field Supervisors, solid waste specialists (inspectors) and compliance specialists. Solid waste specialists conduct inspections, assist in preparation of legal instruments,

conduct record reviews, etc. Each solid waste specialist is assigned a field area for which he/she is responsible. Compliance specialists work specifically with the development and coordination of all litigation in the region. They prepare legal documents, compliance and monitoring evaluations, enforcement action reports, etc. Operations Chiefs/Field Supervisors serve a supervisory/management function.

Each Regional Office has a permit coordinator. This person is part of the Facilities Section and maintains records of all enforcement/compliance and permitting activities specific to the hazardous waste program in that region.

B. COORDINATION WITH OTHER ENVIRONMENTAL PROGRAM AREAS

The Hazardous Waste Program will require, at times, coordination within other organizations within DEP (Water Management Deputate, Bureau of Air Quality, Bureau of Information Services, Office of Chief Counsel, the Bureau of Laboratories, etc.). Some of these relationships are described below.

Coordination also occurs, under the direction of the Bureau Director, within the Bureau of Land Recycling and Waste Management divisions (Remediation Services, Land Recycling, Hazardous Sites Cleanup, Municipal and Residual Waste, Reporting and Fee Collection). Coordination is also necessary with the Field Operations Deputate and the Pennsylvania Office of Attorney General. In addition, other Commonwealth agencies may become involved in the RCRA functions, either to provide technical support or as a result of regulatory interface. No formal arrangements are required to gain the assistance of these ancillary programs.

1. Coordination with the Bureau of Water Management.

Permit coordination between the hazardous waste program and the water management programs in both the Central and Regional Offices was first established in July 1982. The bureaus agreed to coordinate permit reviews for hazardous waste leachate treatment facilities and for those facilities that would qualify for permit-by-rule. In the case of hazardous waste leachate treatment facilities, the water management program will issue the NPDES permit.

2. Coordination with the Bureau of Air Quality.

Since our base program authorization in 1986, coordination of activities between the air quality and hazardous waste Central and Regional Office programs has continued. The Bureau of Air Quality reviews the design and operational aspects, risk assessment protocol and final report, and oversees the trial burns conducted on hazardous waste burning units such as incinerators or boilers and industrial furnaces.

The 'Air Quality Operating Permit Protocol' is contained in Appendix E and the 'Risk Assessment Guidelines for Facilities Burning Hazardous Waste' are contained in Appendix F. The Air Quality review considers the unit design, combustion performance, and odor and

noise requirements of Chapter 266a Subchapter H (relating to hazardous waste burned in boilers and industrial furnaces), but not the waste handling aspects, which are reviewed by waste management staff. The Air Quality permit review may result in the issuance of a new or amended Air Quality permit concurrently with issuance of the Land Recycling and Waste Management hazardous waste permit. If appropriate, the Air Quality permit is amended with special operating conditions found necessary to maintain proper Destruction and Removal Efficiency. Where no air quality permit or change in existing permits is required, the Bureau of Air Quality will prepare a written summary of their findings and recommendations.

In either case, the Regional Office waste management staff, incorporating the conditions and recommendations of the Air Quality program, will issue a Hazardous Waste Management permit. Since the Air Quality program will not issue a permit in all cases, the Bureau of Land Recycling and Waste Management will coordinate the department's public notification activities. The Regional Director, in accordance with the applicable regulations, notifies local government officials.

The "chain of command" and Central/Regional Office coordination in the air program is similar to that outlined for the hazardous waste management program. Permit writing guidelines are coordinated between Bureaus at the Central Office level. Coordination of permits is orchestrated at the Regional Office level with Central Office oversight. The high degree of coordination between the programs, availability of RCRA technical permit writers guidance documents and training, and the continuing development of detailed procedures guarantee high quality and consistent permits and permit conditions, which meet or exceed RCRA standards.

3. Coordination with the Office of Chief Counsel.

The department's Office of Chief Counsel is divided into four areas, each of which provides support to the RCRA program.

Regional counsel offices are located in each of the six regions where the department maintains a major field office. About sixty attorneys are assigned to these offices to assist in the compliance efforts of the department. Cases handled by these offices range from challenges to department permit actions before the Environmental Hearing Board to multi-agency efforts to control ongoing pollution in federal courts. Attorneys from the Regional Office counsel offices frequently appear before the Commonwealth Court, the Pennsylvania Supreme Court, federal district courts and bankruptcy courts. The offices currently handle over 1200 active cases.

The Bureau of Regulatory Counsel has fourteen attorneys. The attorneys in this Bureau advise the environmental regulatory programs within the department on legal matters related to policy and procedure. Matters handled by attorneys in this Bureau may include legislative issues, the preparation of regulations, program counseling and litigation affecting the substance of the regulatory programs.

The Bureau of Investigations staff consists of field and financial investigators. The staff provides investigative support for all the department's regulatory activities.

Investigations may involve identifying responsible parties under the state's Hazardous Sites Cleanup Act, developing factual information about individual or personal liability associated with violations of statutes administered by the department and performing financial investigations of companies involved in enforcement actions taken by the department. In addition, this group provides field support to the Environmental Crimes Section in the Office of Attorney General and coordinates investigations with other law enforcement agencies as they pertain to the hazardous waste requirements.

The General Law division provides support for such activities as contracting and personnel matters.

4. Coordination with the Bureau of Laboratories. The department's Bureau of Laboratories provides the field staff with support in the following areas:

- (a) **Analytical Services:** The laboratory provides analytical services for the RCRA Program. Most of the SW-846 methods are available, along with a wide variety of other methods.
- (b) **Consulting Services:** The laboratory provides consulting services to the field staff in the following areas:
 - Analytical parameter selection;
 - Use of sample containers;
 - Field and laboratory Quality Assurance/Quality Control activities;
 - Interpretation of analytical results;
 - Use of field preservatives;
 - Sample shipment and logistics;
 - Sample custody and chain-of-command protocols;
 - Scheduling of sampling projects and special analytical efforts; and
 - Expert witness testimony in enforcement cases.

The Bureau of Laboratories provides routine training and guidance to field staff on proper sampling and handling techniques.

The Bureau of Land Recycling and Waste Management and the field staff also utilize contractors for special investigations, sampling efforts, analytical efforts and studies. This expertise is used to supplement the department's existing resources and to provide expertise when it is not available within the department.

C. COORDINATION BETWEEN THE STATE AND EPA

Upon program authorization, the department will be responsible for the permitting and enforcement of all the Hazardous and Solid Waste Amendments of 1984 (HSWA) requirements in Pennsylvania, except for the programs identified in Section II.A.2. However, since Pennsylvania is not applying for authorization of some programs with this package, EPA will retain all responsibilities relevant to those HSWA and otherwise non-delegable

program areas for which the Commonwealth is not authorized. In the event of over-filing of a Pennsylvania decision by EPA, Pennsylvania's regulations relating to all authorized requirements will be the enforceable regulations for Pennsylvania facilities.

In addition, EPA retains the responsibility of issuing and maintaining permanent EPA ID numbers for hazardous waste activities in Pennsylvania, whereas Pennsylvania will continue to provide and track temporary EPA ID numbers to generators for one-time use.

See the Pennsylvania Legal Statements in Appendices B and C for analysis of those program areas for which EPA remains responsible because they are not delegable to the states.

D. RELATIONSHIP OF DEP AND THE PENNSYLVANIA OFFICE OF ATTORNEY GENERAL, ENVIRONMENTAL CRIMES SECTION

The department maintains authority over the regulation of all aspects of hazardous waste management and transportation, with the exception of criminal enforcement. In the case of criminal enforcement of environmental statutes, the Pennsylvania Office of Attorney General will prosecute those cases that are referred to it by another jurisdiction.

The department has maintained a close working relationship with the Environmental Crimes Section (ECS) of the Office of Attorney General for the past twenty years. ECS continues to provide support and assistance to the Bureau through the analysis of samples, the services of the DEP response van and the assistance of the Bureau of Investigations during the execution of search warrants. Additionally, the ECS calls upon the technical and legal expertise of its Central and Regional Offices, as well as the Office of Chief Counsel.

The ECS also relies on DEP in one other important area - the referral of cases. Under the Commonwealth Attorneys Act, the Office of Attorney General does not have original jurisdiction to investigate and prosecute environmental crimes. The Office of Attorney General usually gains jurisdiction of an environmental crime case by either a referral from DEP or a District Attorney. See, 71 Pa. C.S.A. § 732-205(a)(6) and (a)(3) respectively.

The special agents assigned to the ECS come from a variety of backgrounds, including former police officers, firemen, and civil investigators. The prosecutors also came from a variety of areas, including District Attorney's Offices, DEP, and private practice. The vast variety of experiences of both the special agents and attorneys has proven invaluable to the success of the Section. The agents in the Section are mandated to attend certain specialized training courses, including EPA sponsored courses in personal protection and safety and sampling.

Currently, the Environmental Crimes Section maintains Regional Offices in Erie, Harrisburg, Norristown, Pittsburgh, Wilkes-Barre, and Williamsport, and also has a satellite office in State College. At present, a Chief Deputy Attorney General, five Deputy Attorneys General, one Senior Supervisory Special Agent, thirteen Special Agents and five support staff are assigned to the Section.

E. RELATIONSHIP OF DEP TO THE ENVIRONMENTAL QUALITY BOARD

The Environmental Quality Board is a 20-member independent board that formulates, adopts and promulgates rules and regulations as necessary to accomplish the Department of Environmental Protection's work. Responsibilities of the EQB also include the consideration of petitions to change regulations, adoption of the Hazardous Waste Facilities Plan, and the consideration of applications for a certificate of public necessity for hazardous waste disposal facilities, among others. These authorities have been granted to the Board through Act 275 of 1970 (Appendix G, pages 7 and 31), which amended Section 210 P.L. 177, the Act of April 9, 1929, known as "The Administrative Code of 1929," also previously amended May 6, 1970 (Act 120).

The Secretary of DEP chairs the Board. The 20 members of the Board include eleven state agencies: DEP (Chair), Agriculture, Health, Community and Economic Development, the Public Utility Commission, the Fish and Boat Commission, the Game Commission, Labor and Industry, the Governor's Office of Policy, the Historical and Museum Commission, Transportation, five members of the Citizens Advisory Council and four members of the Senate and House.

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

A. NUMBER OF STAFF

The department has a staff of 311 to directly administer its solid waste programs, not including the Regional Office Environmental Cleanup program staff. In federal fiscal year 1998 (FFY98), 228 of these staff devoted at least a portion of their time to the RCRA program. This equated to an equivalent of more than 90 FTEs (full time equivalents) of effort. In addition, the RCRA program receives indirect support in terms of laboratory, fiscal, personnel, information services, and legal resources from areas outside of the Bureau and Regional Offices, as described in Section III.

Staff specifically dedicated to the state RCRA program are located in the Bureau of Land Recycling and Waste Management in the Central Office, or one of six Regional Offices (Field Operations Deputate). The Regional Offices are responsible for the permitting, inspection and enforcement components of the state RCRA program. Many staff are responsible for more than one program area, such as Subtitle D municipal and non-hazardous industrial waste.

As described previously in Section III.A.2., the Central Office Bureau of Land Recycling and Waste Management is responsible for overall program direction, including the development of policies, procedures, regulations and program authorization. In addition, the Central Office maintains the hazardous waste manifest system (PWIMS), issues temporary identification numbers and transporter licenses, and makes waste determinations. Most of the Bureau hazardous waste program staff are organizationally located in the Division of Hazardous Waste Management, and are dedicated full-time to the RCRA program. Other support staff are located in the Assistant Director's Office and the Division of Reporting and

Fee Collection. The six Regional Offices, organized within the Field Operations Deputate, have staff to implement the permitting, inspection and enforcement requirements of the program.

Organizational charts for each of the six Regional Offices and the Central Office are contained in Appendix H.

In addition, the program receives support from several ancillary bureaus, including:

- Management and Technical Services (laboratory analyses, grant support, fleet management, purchasing, computer systems support, personnel, etc.);
- Bureau of Fiscal Management (grant support);
- Office of Chief Counsel (regulatory counsel, litigation and investigative support);
- Office of Pollution Prevention and Compliance Assistance (waste minimization and small business assistance); and
- Policy and Communications (public outreach, legislative coordination, regulatory support, etc).

B. OCCUPATIONS AND GENERAL DUTIES

Job specifications, which describe job duties and responsibilities, examples of work performed, and minimum educational and experience requirements, are contained in Appendix I. Since Pennsylvania's original program authorization, these job specifications have changed little except to consolidate a limited number of job classifications. The information technology series was recently added to reflect increased reliance of the Commonwealth on information management systems.

C. SIZE OF THE REGULATED COMMUNITY

The size of the regulated community is further discussed in Section VII. The department will not need to reallocate or increase staff with the authorization of additional authorities for the hazardous waste program. Although Pennsylvania will be picking up new program elements with this authorization, other priorities will be shifting away from permitting and facility identification activities, since these activities have been primarily completed in the Commonwealth, and will be refocused on implementing the new program areas.

D. SOURCES AND AMOUNTS OF AVAILABLE FUNDING

The Pennsylvania RCRA program relies primarily on two funding sources: the federal RCRA grant and the Hazardous Sites Cleanup Fund. The Hazardous Sites Cleanup Fund (HSCF) was created in 1988 to provide a steady source of income for the Hazardous Sites Cleanup Program, the state equivalent to the federal Superfund program. The hazardous waste appropriation, which was the former source of state funding for the RCRA program, was subsumed by the HSCF. The current balance in this fund stands at over \$100 million. It is the HSCF that provides state matching funds for the RCRA grant. In addition, the state

may use its general fund appropriation or the state Solid Waste Abatement Fund to provide support to the RCRA program.

A summary of actual, budgeted and projected expenditures from these two funds for FFY98 through FFY01 appear in Table 1. Figures presented for FFY98 are actual direct expenditures directly charged to the RCRA grant. Figures presented for FFY99 and FFY00 are taken from Pennsylvania's RCRA grant applications. Actual expenditures for the state portion will be slightly higher for these years, as they were in FFY98, but cannot be determined in advance. The column representing FFY01 is a projected number.

Table 2 demonstrates that Pennsylvania has adequate financial resources to carry out the state RCRA program.

Table 2
Pennsylvania Hazardous Waste Program Funding

	FFY 98	FFY 99	FFY 2000	FFY 2001
	Actual	Budget*	Budget*	Projected
Personnel				
State HCSA Funds	762,478	911,477	846,650	938,820
Federal RCRA Grant	2,348,915	2,734,429	2,539,950	2,816,460
Subtotal	3,111,393	3,645,906	3,386,600	3,755,280
Benefits				
State HCSA Funds	247,870	282,534	262,204	291,010
Federal RCRA Grant	763,591	847,603	786,611	873,030
Subtotal	1,011,461	1,130,137	1,048,815	1,164,040
Travel				
State HCSA Funds	11,441	15,000	12,500	15,000
Federal RCRA Grant	87,488	45,000	37,500	45,000
Subtotal	98,929	60,000	50,000	60,000
Equipment				
State HCSA Funds	89,142	17,651	-	20,000
Federal RCRA Grant	86,285	52,952	-	60,000
Subtotal	175,427	70,603	-	80,000
Supplies				
State HCSA Funds	15,057	13,135	21,044	15,000
Federal RCRA Grant	34,068	39,404	63,133	45,000
Subtotal	49,125	52,539	84,177	60,000
Contracts				
State HCSA Funds	149,501	73,375	66,239	200,000
Federal RCRA Grant	366,544	220,125	198,718	200,000
Subtotal	516,045	293,500	264,957	400,000
Other/Not Applic				
State HCSA Funds	34,308	20,889	86,250	20,000
Federal RCRA Grant	184,753	62,669	258,750	60,000
Subtotal	219,061	83,558	345,000	80,000

Table 2
Pennsylvania Hazardous Waste Program Funding (continued)

	FFY 98	FFY 99	FFY 2000	FFY 2001
	Actual	Budget*	Budget*	Projected
Grants/Subs				
State HCSA Funds	-	-	-	-
Federal RCRA Grant	30,000	-	-	-
Subtotal	30,000	-	-	-
Direct Totals				
State	1,309,797	1,334,061	1,294,887	1,499,830
Federal	3,901,644	4,002,182	3,884,662	4,099,490
Subtotal	5,211,441	5,336,243	5,179,549	5,599,320
Indirects				
State	260,760	253,914	245,449	275,000
Federal	782,281	761,743	736,346	825,000
Subtotal	1,043,041	1,015,657	981,794	1,100,000
Grand Totals				
State	1,570,557	1,587,975	1,540,336	1,774,830
Federal	4,683,925	4,763,925	4,621,007	4,924,490
Total	6,254,482	6,351,900	6,161,343	6,699,320

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

A. REGULATORY DEVELOPMENT

The department's current "Policy for Development, Approval and Distribution of Regulations" is contained in full in Appendix J. A flow chart of the regulatory process is located in Appendix K. Upon their effective date, all rules and regulations are self-executing and enforceable and compliance with such rules and regulations is required.

The procedures for developing, approving, and distributing regulations are summarized as follows:

1. Development and Approval of Proposed Rulemakings.

This step begins with requesting the Secretary's approval to initiate development of a regulation. It also includes preparing a proposed rulemaking package, obtaining necessary reviews and approvals within established timeframes, publication and public review of the proposed rulemaking.

2. Advance Notice of Proposed Rulemaking (ANPR) Procedure.

This is an optional procedure established for DEP to solicit comments on draft regulations prior to presenting a proposed rulemaking to the Environmental Quality Board (EQB). The Secretary's approval to use this procedure may be sought when input from a specific regulated community is needed to provide direction in drafting new regulatory requirements, providing that a relevant advisory committee does not exist or does not have that specific representation. Comments DEP receives on draft regulations as a result of publishing an ANPR are summarized in the preamble and submitted to the EQB as part of the proposed rulemaking.

3. Development and Approval of Final Rulemakings.

This step begins with scheduling a final rulemaking for EQB consideration. It includes preparing a final rulemaking package, obtaining necessary reviews and approvals within established timeframes, and publication of the final rulemaking.

4. Advance Notice of Final Rulemaking (ANFR) Procedure.

This optional procedure was established to solicit comments on draft final regulations prior to presenting a final rulemaking to the EQB. Secretary's approval to use this procedure is recommended when significant changes are made to a proposed rulemaking. Comments DEP receives on draft final regulations as a result of publishing an ANFR are summarized in the preamble and submitted to the EQB as part of the final rulemaking. This section includes timeframes for mailing regulations to the EQB. It also summarizes the content of regulatory packages and explains the regulatory documents that are available for distribution to the public.

5. The content of the regulations are developed consistent with the following principles:

- Regulations shall address a compelling public interest.
- Costs of regulations shall not outweigh their benefits.
- Regulations shall be written in clear, concise and, when possible, non-technical language.
- Regulations shall address definable public health, safety, or environmental risks.
- Where federal regulations exist, Pennsylvania's regulations shall not exceed federal standards unless justified by a compelling and articulable Pennsylvania interest or required by state law.
- Compliance shall be the goal of all regulations.
- Where viable non-regulatory alternatives exist, they shall be preferred over regulations.
- Regulations shall not hamper Pennsylvania's ability to compete effectively with other states.
- All agency heads shall be held directly accountable for regulations

promulgated by their respective agencies.

B. EXECUTIVE ORDER 1996-1

Regulations must also be developed in compliance with Executive Order 1996-1, with the following key principles in mind:

1. Conformance with State Statutes

Regulations should explain but not enlarge the scope of statutory provisions. Program counsel should be involved in the development of regulations to ensure conformity.

2. No More Stringent than Federal Requirements:

- (a) As a general rule, DEP will not promulgate regulations which contain standards, procedures, or other requirements more stringent than imposed by federal law unless authorized by state law and determined to be needed to address a problem of state concern.
- (b) If DEP proposes to adopt or amend any rules or regulations containing standards or requirements more stringent than imposed by federal law, DEP shall, in addition to all requirements imposed by existing law and regulation, make available and include as part of the preamble to the proposed and final rulemaking the following:
 - (1) a statement describing the standards or requirements which exceed the requirements imposed by federal law and the basis for those requirements in state law;
 - (2) the appropriate citations to the federal law or regulations;
 - (3) an analysis comparing the state requirements to the federal requirements;
 - (4) a discussion of the policy or technical reasons for imposing a regulation which exceeds the federal requirements;
 - (5) an economic analysis of DEP's decision to impose the stricter requirements and a determination that the state standard or requirement to be imposed is achievable under current or reasonably available technology expected to be available, notwithstanding the federal government's determination that lesser requirements are appropriate; and
 - (6) a statement of how DEP will involve and inform the public of the purpose, requirements, costs, and consequences of adoption of the regulation.

3. Economic Impacts:

- (a) Regulations should be proposed only when the need for and economic consequences of any proposal are evaluated. Regulatory strategies should be designed to achieve the desired goal at the lowest possible cost. The costs of the regulation shall not outweigh the benefits.

- (b) Regulations should be drafted in a manner that does not diminish Pennsylvania's competitive economic advantage while still achieving their objectives. Furthermore, performance standards are generally to be preferred to engineering or design standards because performance standards provide the regulated parties the flexibility to achieve the regulatory objective in a more cost-effective way.
- (c) Regulations should be drafted in a manner that minimizes the impact on individuals, businesses, and local government. In instances where there are important or significant distributional consequences, careful consideration will be given to alternatives such as tax and transfer policies with substantial opportunity given for public input. Generally, where viable non-regulatory alternatives exist, they shall be preferred over regulation.
- (d) Regulations should be generally adopted to maximize monetary benefits. However, benefits that cannot be monetized, such as an increase in the rate of introducing more productive new technology or a decrease in the risk of extinction of endangered species, should also be presented and explained. Care should be taken to assure that quantitative factors do not dominate important qualitative factors in decision-making.
- (e) Regulations should be drafted so as to reduce paperwork, minimize administrative burdens, and save time for both the regulated community and agency staff.

4. Compliance Assistance:

- (a) Compliance shall be the goal of all regulations.
- (b) DEP shall identify regulations early in the development process which affect small businesses, local governments and individuals directly. Because they present a greater need for compliance assistance, DEP shall develop compliance assistance programs to help them.
- (c) Each preamble shall contain a summary of the compliance assistance plan addressing possible types of financial assistance, as well as technical and educational assistance. Educational and informational materials on the new regulation should clearly identify new regulatory requirements.

5. Pollution Prevention:

Regulations should help promote the use of pollution prevention technologies and procedures.

6. Performance or Outcome Oriented

To the extent possible, regulations should focus on achieving the desired level of environmental performance. Maximum flexibility to achieve the desired outcome should be encouraged rather than prescribing specific technologies or equipment.

7. Necessity

Regulations should address definable public health, safety or environmental risks. Regulations should be current and needed to implement current laws. Regulatory preambles should describe in non-technical terms the compelling public need the regulation is designed to address. Each proposal should contain a provision that clearly describes how the agency will identify the environmental objective to be achieved and measure whether the rule is achieving the desired result.

8. Clarity of Regulations:

Regulations should be drafted in clear, concise and, when possible, nontechnical language.

- (a) Each proposed and final rulemaking preamble should explain in nontechnical terms the purpose of the regulation, what is required, and who it affects.
- (b) DEP should avoid promulgating regulations that are inconsistent and incompatible with its other regulations or those of the federal government.
- (c) DEP should draft its regulations with the goal of minimizing the potential for uncertainty and misinterpretation.
- (d) Regulations should not be duplicative of other regulations.

9. Green Technologies

Regulations should promote the utilization of new, less costly methods and technologies that will maintain or improve environmental quality. Regulations should provide the flexibility for expedited reviews to provide incentives for using these technologies.

10. Public Participation:

Regulations should be drafted in accordance with DEP's public participation policy.

Regulations should be drafted with early and meaningful input from affected interests, through the use of DEP advisory committees, or use of regulatory negotiation or other participatory techniques to develop regulations. Draft regulations should be submitted to advisory committees in advance of EQB consideration. Regulations that are submitted to the EQB should include the advisory committee's report or recommendations.

DEP shall publish a regulatory agenda every six months which describes the regulations being developed, when advisory committee review is anticipated, the proposed date for EQB consideration, the need and legal basis for the action being taken, and the status of regulations previously listed on the agenda.

11. Sunset Review

The department will publish an annual sunset schedule in the *Pennsylvania Bulletin*. This schedule will contain the *Pennsylvania Code* chapters that will undergo a sunset review to determine whether the regulation effectively fulfills the goals for which it was intended. Bureau Directors shall provide a list of the chapters proposed for amendment in the coming year to the Secretary, through the Deputy Secretary, Regulatory Coordinator, and Executive Deputy Secretary for Policy and Communications, by December 1 of each year. Following approval by the Secretary, this list will be published in the *Pennsylvania Bulletin* the first Saturday in January.

C. NOTIFICATION

25 Pa. Code § 262a.12 of the department's regulations, regarding notification requirements, has been incorporated by reference from 40 CFR 262.12 (relating to EPA identification numbers). Therefore, "a generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the (EPA) Administrator." And, "a generator who has not received an EPA identification number may obtain one by applying to the (EPA) Administrator using EPA form 8700-12."

In addition to the requirements (above) incorporated by reference, any generator is required to submit a subsequent notification to the department if:

- The generator activity moves to another location.
- The generator facility's designated contact person changes.
- The ownership of the generator facility changes.
- The type of regulated activity that takes place at the generator facility changes.

Also, "a generator must not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number."

A 'generator' is "any person, by site, whose act or process produces hazardous waste identified or listed in Part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation."

Although EPA issues the permanent ID numbers for Pennsylvania facilities, the department issues temporary ID numbers for one-time use at a specific location. These temporary ID numbers are generally issued by telephone or fax in response to an immediate need. All approvals are logged by date, facility, transporter name and use in order to

maintain the sequential issuance of the 'PADEP' numbers. The logs are maintained both on paper and in a computer system in Land Recycling and Waste Management's Division of Reporting and Fee Collection.

D. MANIFEST TRACKING SYSTEM

A manifest is required for hazardous waste shipments to or from Pa. locations. In addition to EPA-required information, transporter and designated facility phone numbers and hazardous waste numbers are required.

Sufficient copies of the manifest are required to provide the generator, each transporter, and the designated facility one copy each and which will allow the designated facility to send one copy of the signed manifest to the generator, generator state, and destination state.

Manifests received are processed using a new optical image/optical character recognition system. Those not fully processed automatically are data-entered manually. Data is ultimately useable for multiple purposes, both internally and externally. Very few unmanifested waste reports are received. Those received are predominantly for shipments not required to be manifested per 25 Pa. Code § 261.5. Others are handled as appropriate to the circumstances.

Information on interstate and international shipments is processed with all other captured manifest data. The data is available as needed.

E. COORDINATION OF INFORMATION REGARDING INTERSTATE AND INTERNATIONAL SHIPMENTS

The 'Notification of Intent to Import Hazardous Waste' forms are received by EPA Region 3, and a copy of the form is faxed to DEP. Notifications are reviewed by DEP to assure that the waste is acceptable for the particular TSD that is receiving the waste.

F. PERMITTING

1. Types of permits

The Department of Environmental Protection has been entrusted with protecting Pennsylvania's natural resources and providing a safe and healthy environment for all Pennsylvanians. One way the department carries out its environmental protection responsibilities is through a system of authorizations—permits, licenses, certifications and registrations.

The Solid Waste Management Act of July 7, 1980, P.L. 380 as amended at 35 P.S. Section 6018.401, requires any person or municipality which is engaged in the processing, transportation, storage, handling, disposal or treatment of hazardous waste to obtain the necessary permits and approvals, and abide by the appropriate regulatory and statutory requirements. All owners and operators of hazardous waste management facilities are also

required to obtain an EPA identification number prior to commencing treatment, storage or disposal of hazardous wastes.

Permits generally fall into the categories of treatment, disposal and storage, and include the activities of treatment, disposal, storage, generation and transportation of hazardous waste. Although defined more precisely in the regulations, generally their definitions mean that:

Treatment is any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, suitable for recovery, suitable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of waste so as to render it neutral or nonhazardous.

Disposal is a hazardous waste management activity which involves incinerating, discharging, depositing, injecting, dumping, spilling, leaking or placing any solid waste or hazardous waste into or on any land or water in a manner that the solid waste or a constituent of the solid waste enters the environment, is emitted into the air or is discharged to the waters of the Commonwealth.

Storage is defined as a hazardous waste management activity that provides for the containment of waste on a temporary basis, in such a manner as not to constitute disposal of waste. Generally, storage of hazardous waste for more than one year constitutes disposal of the waste. When a facility generates hazardous waste in amounts of 1000 kg/month or more, and stores or accumulates the waste on site for a period of 90 days or longer, a hazardous waste storage permit is required.

Permit types issued as part of the hazardous waste program include:

- Boilers and Industrial Furnaces
- Chemical/Physical/Biological Treatment
- Closure and Post-closure permits
- Commercial Treatment/Disposal
- Containment Buildings
- Drip Pads
- Incinerators
- Land Treatment
- Landfills
- Miscellaneous Treatment Units
- Storage
- Surface Impoundments
- Waste Piles

DEP has taken a number of steps to improve the quality, efficiency and responsiveness of the permitting process for applicants. Except for transportation licensing

and the permitting of a commercial hazardous waste treatment or disposal facility, most of the permitting process is handled at the Regional Office level, with DEP's Central Office providing technical oversight and support to the Regional Offices which make all environmental protection and land development decisions. This action brings decision making closer to the applicant and creates one stop permitting.

In addition, the department is increasing its efforts to communicate with permit applicants. These efforts include making greater use of pre-application conferences to help applicants with questions or concerns regarding permit applications; corresponding with applicants at critical points in the permit review process; and creating a series of permit guides to provide information to applicants and the public.

2. Important regulatory differences between the federal and state permitting programs

- (a) The Commonwealth will not issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit for all existing units at the facility. In contrast, the federal program provides for the permitting of individual units.
- (b) The Commonwealth lists the contents of a Part B application within Pennsylvania's Hazardous Waste TSD Application Checklist. This checklist has the legal force of regulations equivalent to the federal regulations at 40 CFR 270.15-270.21.
- (c) Under previous department hazardous waste regulations, a permit was not transferable or assignable to another person or municipality. The federal program allows the transfer of permits by major or minor modification of the permit or by revocation and reissuance of the permit. The Commonwealth has incorporated by reference 40 CFR 270.42 and Appendix 1 to § 270.42 that allow the transfer of permits.
- (d) The Commonwealth does grant emergency permits as provided for in the federal program since we have incorporated 40 CFR 270.61 by reference.
- (e) Changes in the type of hazardous waste handled, design capacity, or treatment, storage, or disposal processes at interim status HWM facilities are now allowed since the department incorporated most of 40 CFR Chapter 270 by reference. The federal program allows various changes during interim status if the owner or operator submits a revised Part A permit application prior to such change.
- (f) The Commonwealth has reporting regulations requiring the permittee to give advance notice to the department of any planned changes at the facility that may result in non-compliance with permit requirements. Upon notification, the department conducts inspections at each stage of construction and a registered professional engineer must certify the completed construction. These requirements are found at 25 Pa. Code § 264a.15 and are comparable to the

federal requirements at 40 CFR 270.30(1)(2)(ii)(A) and (B). The Commonwealth has incorporated 40 CFR 270.30 by reference.

- (g) Pennsylvania requires transporters of hazardous waste, that either pick up or drop off hazardous waste in Pennsylvania, to obtain a hazardous waste transporter license. This license is required in addition to the requirements of 40 CFR Part 263 adopted by reference at 25 Pa. Code § 263a.10. Pennsylvania regulations for licensing of hazardous waste transporters are located at 25 Pa. Code § 263a.13. As per these regulations, an applicant for a license must first obtain an EPA ID number. The applicant then completes and submits the hazardous waste transporter application form (Appendix L), with the application fee, to the department. In addition, a compliance history form (Appendix M) and transporter contingency plan (Appendix N) must be submitted. Upon receipt of the application, the department reviews the application and issues or denies the license. New licenses and renewals are issued for two years and are non-transferable.

3. Permit application requirements

Depending on the type of hazardous waste management activity for which an applicant is seeking a permit or approval, the site at which the applicant plans to conduct the activity may be subject to the environmental siting criteria found in Chapter 269a of the Hazardous Waste Regulations. These criteria apply only to hazardous waste treatment and disposal facilities. For the purposes of Chapter 269a, incineration is considered disposal. It is important to note that if a proposed site cannot meet the siting criteria, the application will be denied.

Applicants seeking a permit for a storage facility are exempt from the requirements specific to the environmental siting criteria, but may be subject to the environmental assessment process. These facilities include those that use containers, tanks and indoor waste piles. Depending on the type of storage activity an applicant may propose, completion of some forms may not be necessary. Applicants are advised to contact their DEP Regional Office for assistance in determining which forms are not applicable.

(a) Permits must be obtained in the following instances:

- (1) A person or municipality plans to store hazardous waste longer than 90 days.
- (2) A person or municipality plans to treat hazardous waste.
- (3) A person or municipality plans to treat, store or dispose of hazardous waste in a surface impoundment.
- (4) A person or municipality plans to treat or dispose of hazardous waste in an incinerator.
- (5) A person or municipality plans to dispose of hazardous waste in a land disposal facility.
- (6) A person or municipality plans to treat, store or dispose of hazardous waste in a miscellaneous unit.

(7) A person or municipality plans to treat, store or dispose of hazardous waste in a boiler or industrial furnace.

(b) Requirements for applying for a storage, treatment or disposal permit (with noted exceptions for storage permits) (See Section VIII B. for copies of these forms):

(1) Part A- Hazardous Waste Application (2510-PM-LRWM0059): Part A of the Hazardous Waste Permit Application contains general information about the site owner and its location, wastes planned to be managed, and technical information describing the process to be used at the site.

(2) Form HW-B Professional Certification (2500-FM-LRWM0227): Used to certify that the preparers of the application have the technical qualifications to provide the required engineering, soils, geological and hydrogeological information necessary for completion of the application.

(3) Form HW-C Compliance History: The Department makes a determination of the applicant's prior compliance record. Where outstanding violations exist, or the applicant has demonstrated an unwillingness or inability to comply with environmental regulations, these issues will affect the applicant's ability to obtain a permit.

(4) Form HW-E Landowner Consent (2510-FM-LRWM0229): Includes maps which are signed by the legal owner(s) of record. By signing the form and maps, the landowners acknowledges the proposed activity and that the department has the right to access the permitted site for data gathering activities, monitoring and compliance purposes.

(5) Form Module 9, Phase I and Phase II Siting Criteria: Phase I Criteria found in 25 Pa. Code §§ 269a.21-269a.29 are exclusionary in nature and prohibit the siting of facilities in certain environmentally sensitive areas such as wetlands, Class I agricultural lands, watersheds of exceptional value or national historic or wildlife areas/parks. This part of the application requires the applicant to address these issues.

Phase II Siting Criteria are found in §§ 269a.41-269a.50 and identify further environmental, social, and economic factors which may affect the suitability of a location for a proposed facility. The Phase II Criteria apply to all hazardous waste treatment or disposal facilities and modifications thereto. If a facility site does not satisfy the Phase II criteria, the applicant must submit additional information and analyses to allow the department to assess what effect, if any, failure to meet the criteria would have upon the acceptability of the site.

(Applicants for a storage permit are only required to submit the Environmental Assessment Section, Section 269a.50, of the Module 9 form.)

(6) TSD Part B Application Checklist: All TSD facility permit applications must be prepared in accordance with the Pennsylvania Hazardous Waste Management Regulations. A reference checklist is provided to assist in verifying the completeness of an application. The checklist contains the minimum information acceptable to the department for a permit application to be considered administratively complete for in-depth technical review.

(7) Financial Responsibility- Insurance and Bonding Requirements: The permitting process mandates the applicant to demonstrate compliance with the minimum requirements for financial responsibility for a hazardous waste treatment, disposal and storage facility by providing adequate bond guarantees for operation, closure and post-closure operations at the facility. The applicant must also provide adequate insurance protection for personal injury, property damage, or environmental damage resulting from the operation of the facility. Regulations governing financial assurance can be found in 25 Pa Code Subchapter H, §§ 264a.141-169 and 265a.141-169.

4. Permit application submittal process

A pre-application process has been developed to provide applicants with an understanding of the hazardous waste storage/treatment/disposal permitting process and to establish a meaningful dialogue between the developer, the local community and the department so that the process can move expeditiously.

Before any application is submitted for a hazardous waste permit, it is strongly suggested that a pre-application meeting be held to discuss the requirements of the application and review process and to establish channels of communication. The applicant should prepare a scaled site plan for the meeting that is attended by the applicant, the applicant's consultant, and appropriate DEP staff members, along with a representative from both the host municipality and host community. Where the developer has elected to follow the department's guidance for meaningful public participation, the developer already will have identified and started to work with a lead local interest group by the time the preapplication meeting is held. This group also will be invited to participate in the pre-application process.

The scaled site plan, which may be a preliminary plan, will form a basis for meaningful dialogue. DEP will more readily understand the applicant's intentions and will be able to provide the applicant with an understanding of the parameters he or she must use when applying for a permit.

Prior to requesting a pre-application meeting, the developer should, in addition to already having started a meaningful public participation process, assemble and forward the following information to the appropriate DEP Regional Office:

- A current 7.5 minute USGS topographic map showing the proposed location of the facility.

- A scaled map of the proposed facility in sufficient detail so that the facility site boundaries can be determined.
- Phase I exclusionary siting criteria data (*not required for storage permit applicants*).
- A brief narrative describing the proposed monitoring program for surface and groundwater and the basis for the proposed monitoring program (optional).
- A signed letter from the property owner granting site access.
- Any other hydrologic/geologic data that may already be assembled for the site.

Other potential site problems or deficiencies that may preclude further consideration of the site should be addressed by the applicant prior to the submittal of the siting application. For example, if the proposed site or area is within ¼ mile of the site and contains archaeological resources based on information obtained by the applicant or the Regional Office, the Pennsylvania Historical and Museum Commission will be requested to participate in the process of identifying potential impacts and discussing possible mitigation.

The meeting and site visit will be held in the vicinity of the proposed site. At the meeting and site visit the applicant will receive:

- Input from the region on the adequacy of the proposed monitoring plan and any changes needed to make it complete (if one is submitted);
- An early assessment of the compatibility of the proposed site with the exclusionary criteria; and;
- An indication of the potential problems with the site (e.g. groundwater, public and private water supplies, species of special concern, wetlands, etc).

After the pre-application meeting and site visit, the applicant will receive a written notice from DEP summarizing the meeting and addressing potential problems with the site. This notification will also be given to the host county/municipality, and will be available to the public upon request. The post meeting written notification also should help minimize misunderstandings as to what information is needed for the complete permit application.

While the Regional Office encourages applicants to fully use the pre-application process, all but the pre-application meeting can be waived at the applicant's request if the applicant believes that he/she has fully investigated the site prior to considering the application.

Disposal and treatment permit applicants are required to determine whether the proposed site conforms to the Phase I Exclusionary criteria found in 25 Pa. Code Chapter 269a, specifically Sections 269a.21-29. The purpose of the criteria is to provide an additional margin of safety beyond the protection already afforded by facility design, operational and monitoring requirements required by regulation. The criteria absolutely prohibit the siting of treatment or disposal facilities in environmentally sensitive areas.

Permit applicants must subject lands proposed for treatment or disposal of hazardous waste to the siting criteria prior to the issuance of a hazardous waste permit. It is recommended that potential permit applicants subject proposed facilities to Phase I of the Exclusionary Siting Criteria prior to the preparation of any other component of the hazardous waste (Part B) permit application.

The Phase II Siting Criteria address factors such as access to or impact upon transportation networks, proximity of the site to population centers, historic sites, recreational areas, etc. Failure to initially meet all of these criteria does not necessarily prohibit the siting of a facility, if the applicant provides for the mitigation of such impacts.

Because of the extensive amount of technical information that must be considered in the design and operations portion of the application, the developer may address the Phase II Siting criteria early. While a decision must be made only on the Phase I Siting Criteria during the initial review, early submission of the Phase II Siting Criteria along with the Phase I Siting Criteria will provide the applicant with early indications of any Phase II Criteria which cannot be mitigated, or indication of where significant efforts will be needed to mitigate adverse impacts. It is to the developer's advantage to know this early in the siting process.

The final part of the application contains specific information on the proposed facility's design and operation. These requirements can be found at 25 Pa. Code Chapter 270a.

The applicant submits three copies of the full operation and design application to the appropriate DEP Regional Office. The region will determine if the application is complete and then will notify the applicant. If complete, additional copies of the application packet will be requested and distributed and the review process will begin. If the application is incomplete, the Regional Office will return the application to the applicant along with a written statement indicating the deficiencies in the permit application.

5. Permit application review process

When a permit application for a hazardous waste management activity is received, it may be necessary for the applicant to obtain additional approvals or permits which fall outside the jurisdiction of the Bureau of Land Recycling and Waste Management. The DEP Bureau or Regional Office permit coordinator will send those portions of the permit application to the appropriate bureau or agency for review and approval.

In some cases, it may be necessary for the EPA to jointly review a permit application along with DEP for certain hazardous waste management activities. This may be especially true for an application where the applicant is seeking a permit for an activity for which the department does not have program responsibility. DEP will inform the applicant of any activities that may require EPA oversight.

First, a permit application undergoes a completeness review (see Section 6). If the application is deemed complete, it then undergoes a technical review. The technical review considers potential adverse environmental impacts; checks for completeness, clarity, and

soundness of the engineering proposal; checks for conformance with applicable statutes and regulations; and reviews comments received from the public. If technical deficiencies are found in the application, a letter (Notice of Deficiency) will be sent to the applicant outlining the specific problems in the application that must be corrected. The applicant will be given a reasonable amount of time (90 days) to correct these deficiencies. If the applicant fails to respond within the allotted time, the application will be denied. If the material submitted in response to the deficiency letter still fails to meet the department's requirements, a pre-denial letter will be sent. The applicant will have one last opportunity to address the deficiencies. If the applicant fails to do so, the permit will be denied.

After DEP performs an in-depth technical review of the application, a determination as to whether to issue or deny the permit application will be made. If all requirements are met, the permit(s) will be issued. If the department tentatively decides to deny the permit application, a notice of intent to deny (NOID) the application will be issued. A notice of intent to deny the permit application is a type of draft permit that follows the same procedures as a draft permit. After determining that a permit will be issued or denied, the department may request that the applicant participate in a post-issuance or denial conference. The purpose of this conference is to review all aspects of the permit and to give the applicant a chance to seek clarification of the rationale for permit approval or denial.

For permit decisions, an appeal process has been established by which any person aggrieved by the department's decision on a permit application may appeal that action. The appeal process is conducted pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 Pa. C.S. Chapter 5A. Any person aggrieved by an action of the department may appeal to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of the department's action unless the appropriate statute provides a different time period.

If a permit is issued, but there is a local government bar to the siting or operation of the facility such as a zoning ordinance prohibiting any hazardous waste activities, the applicant can petition the Environmental Quality Board (EQB) for a Certificate of Public Necessity, which would override the local ordinance. The procedures for this process can be found at 25 Pa. Code Section 269a.101. In deciding whether to issue a Certificate of Public Necessity, the EQB is required by the Solid Waste Management Act to evaluate the degree to which opportunities for meaningful public participation were provided by the applicant throughout the entire permitting process. As the need for a certificate may arise very late in the process, the applicant should consider developing a strong public participation program very early in the process, so as not to be foreclosed from obtaining a certificate if one later proves necessary. In issuing a certificate, the EQB also is required to evaluate if the proposed facility is needed to implement the Pennsylvania Hazardous Waste Facilities Plan. The applicant should be familiar with this plan and know whether the proposed facility is one that is needed in Pennsylvania.

6. Permit application completeness review

Departmental policy requires an administrative completeness review to be completed within 20 days of the department's receipt of an application. The administrative completeness review checks for appropriate signatures, filing fees, notary seals, professional engineer's seal, maps and forms. The technical quality of the information contained in the application is not reviewed as part of the completeness review. If the application is missing any of the required items or contains incomplete forms, the department will notify the applicant by certified mail. Depending upon the type of incomplete information, the application is either returned or is retained until the corrected information is received. Applicants are given 90 days to respond to any deficiencies.

When the application is deemed to be administratively complete and is accepted for technical review by the department, the department will notify the applicant in writing. A letter will include the name and phone number of the lead review DEP staff person responsible for the technical review. In addition, when the department receives an application, notice of its receipt is published in the *Pennsylvania Bulletin*.

For an application to be considered administratively complete, the applicant must meet the following requirements (this applies to Part B applications that contain all of the specific information on the proposed facility's design and operation):

- (a) The applicant must publish a notice in two daily newspapers of general circulation, once a week for two consecutive weeks. Copies of the notices should be forwarded to the appropriate DEP Regional Office.
- (b) The applicant must notify the host county and municipality, adjacent landowners, counties and municipalities within ½ mile of the proposed site.
- (c) The application must be notarized, signed by a responsible official and include a professional engineer's certification verifying that the facility will be operated in accordance with the regulatory guidelines and that the information submitted is true and correct, to the best of his/her knowledge.
- (d) Once a disposal or treatment application has been accepted as meeting the Phase I Exclusionary Criteria, the applicant is required to submit an application fee. Applications for a permit for hazardous waste storage facilities are also required to include a nonrefundable permit application fee.
- (e) The permit application must contain the appropriate forms and checklists

Hazardous waste storage facilities are exempt from the requirements specific to the Environmental Siting Criteria, but may be subject to the Environmental Assessment Process, in accordance with Article I, Section 27 of the Pa. Constitution, known as the Environmental Rights Amendment. The criteria to be used for the Environmental Assessment Process can be found in 25 Pa. Code § 269a.50.

7. Draft permit

If the department's decision is to issue the permit, the department will prepare a draft permit. It will contain information relating to the facility along with specific conditions which include: standard conditions for hazardous waste treatment, storage or disposal facilities; monitoring and reporting requirements; and compliance. The permit conditions ensure safe operation of the facility and compliance with all appropriate regulations. The draft permit will be accompanied by a fact sheet or statement of basis that includes: a brief description of the type of facility or activity which is the subject of the draft permit; the types and quantities of waste to be treated, stored or disposed of at the facility and a brief summary of the basis for the draft permit, including references to applicable statutory and regulatory provisions.

If the department tentatively decides to deny the permit application, a notice of intent to deny (NOID) the application will be issued. A notice of intent to deny the permit application is a type of draft permit that follows the same procedures as a draft permit.

After determining that a permit will be issued or denied, the department may request that the applicant participate in a post-issuance or denial conference. The purpose of this conference is to review all aspects of the permit and to give an applicant a chance to seek clarification of the rationales for permit approval or denial.

8. Public participation

DEP is charged with balancing the sometimes conflicting needs of citizens against those of industries which draw upon Pennsylvania's bountiful resources. Public participation is crucial in helping the department strike this balance. Input from citizens and their elected representatives is an integral part of DEP's review of applications from private firms interested in developing commercial hazardous waste treatment and/or disposal facilities. Moreover, Pennsylvania's Hazardous Sites Cleanup Act of 1988 (Act 108) established specific requirements for public participation in the permitting and siting application review process; steps intended to create an open dialogue between the public and DEP.

An applicant for any hazardous waste permit must notify in writing, with copies to the department, the host municipality, county, landowners adjacent to the proposed site and any county or municipality within a one mile radius of the proposed facility of the application submittal. The applicant must also publish a notice of the submittal in two local daily newspapers once a week for two successive weeks, be prepared to host a public informational meeting and provide a copy of the application to any county or municipality within a one mile radius of the proposed facility. DEP must hold at least one public meeting and a public hearing in the vicinity of a proposed site after receiving a complete Phase I application from a potential developer. The meeting is intended to familiarize the public with the permit review process and to give citizens the opportunity to ask questions about the Phase I review process, the Phase I application and the possible environmental impacts of a proposed facility. The DEP will provide information citizens may need to prepare formal comments on the application. A public hearing affords interested citizens, groups and local officials the chance to present oral and written comments on the application. Comments will also be accepted after the hearing during a specified comment period. The DEP review team will consider each comment in reaching its decision on the Phase I application and will

prepare a document explaining how these comments were considered. The document will be made available to host communities and the general public.

If the Phase I requirements are met and that part of the application is approved, the facility developer will be requested to submit a Phase II permit application. During the Phase II review, DEP review team holds a second public meeting for citizens to ask more questions and air concerns. At this point, the entire permit application is available for inspection, including details of the facility's design, access routes, social and economic impact data, safety services and contingency plans. Other items for discussion include what kinds of waste are to be accepted at the proposed site and how those wastes are to be handled. As with the first public meeting, the team also provides information the public may need to prepare for a public hearing on the department's decision. The Phase II review ends when the department Secretary, after receiving recommendations from the DEP review team, publishes either a draft permit or a notice of intent to deny the application. DEP then holds another public hearing to gather additional written comments from citizens. The testimony is an important ingredient used by DEP review team to make a final recommendation to the department Secretary, who then issues or denies the permit.

DEP also requires potential site developers to submit preliminary information, or a pre-application, and attend a meeting intended to familiarize the site developer with the permitting process. This meeting also is an opportunity to acquaint other involved parties - the developer, the community, local and state elected officials and members of the DEP review team. The Hazardous Sites Cleanup Act provides reimbursements of up to \$50,000 each for both the host municipality and county to perform independent technical studies of a disposal facility application. Both are encouraged to take an active part in the permit review and submit the results of their individual reviews, as well as any concerns, to the department. The public's involvement is not limited to a rigid schedule of hearings or meetings. DEP recognizes the public's interest in the siting of hazardous waste facilities and encourages citizens, local officials and interest groups to contact the siting team leader or appropriate DEP Regional Office throughout the permitting process.

Upon submitting a Phase I application, the developer is obligated to notify the host municipality and county as well as landowners within one-half mile of the proposed facility and counties and other communities within a mile of the facility. The developer is to provide for notice of the application to appear at least once a week for two consecutive weeks in two daily newspapers in the area. The developer also must furnish a copy of the complete application to counties or municipalities within a mile of the proposed facility.

The Environmental Quality Board, an independent regulatory review body, has assembled a guidance document for providing "meaningful public participation" throughout the application review process. The EQB maintains that, in matters as serious as proposed hazardous waste facilities, giving citizens an audible voice helps ensure that any decisions are based on the best and most complete information available. The document calls for the developer first to advertise its intent to search for a site, or intent to make a permit application involving a specific site, by issuing a press release and placing notices in two local newspapers for at least two consecutive weeks. A developer is also urged to form a committee of at least 15 people who represent private citizens, civic groups and others

interested in hazardous waste issues, elected and other public officials and an academic scientist. The group is to be intimately involved in reviewing the proposed site or sites and making recommendations, even before a developer submits an application to DEP. The committee may also comment on chosen technologies and recommend modifications. Public participation opportunities organized by the applicant are entirely separate and in addition to those provided by DEP.

File repositories are maintained for inspection by citizens at DEP's Central Office in Harrisburg and at that appropriate DEP Regional Office. In many cases, a local file repository will also be maintained to make it more accessible to citizens interested in reviewing the application. Copies of correspondence and reports, in addition to the application itself, are also open for public review at these locations. The department suggests that a citizen call before visiting DEP offices to ensure that staff is on hand to provide any needed assistance.

If a permit is issued, but there is a local government bar to the siting or operation of the facility such as a zoning ordinance prohibiting any hazardous waste activities, the applicant can petition the Environmental Quality Board (EQB) for a Certificate of Public Necessity, which would override the local ordinance. The procedures for this process can be found in 25 Pa. Code § 269a.101. In deciding whether to issue a Certificate of Public Necessity, the EQB is required by the Solid Waste Management Act to evaluate the degree to which opportunities for meaningful public participation were provided by the applicant throughout the entire permitting process. As the need for a certificate may arise very late in the process, the applicant should consider developing a strong public participation program very early in the process, so as not to be foreclosed from obtaining a certificate if one later proves necessary.

In issuing a certificate, the EQB also is required to evaluate if the proposed facility is needed to implement the Pennsylvania Hazardous Waste Facilities Plan. The applicant should be familiar with this plan and know whether the proposed facility is one that is needed in Pennsylvania.

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DEP's Public Participation

(on the World Wide Web)
www.dep.state.pa.us
(select "Public Participation")

RCRA also establishes an expanded public participation process for use during the permitting of hazardous waste facilities. Although the department has not incorporated by reference the RCRA Expanded Public Participation requirements, the language and requirements of 40 CFR 124.31 and 40 CFR 124.33 can be found at 25 Pa. Code §§ 270a.80, 82, 83 and 84. At 25 Pa. Code § 270a.83(b) the applicant is required to hold a pre-application meeting and post a sign-in sheet. 25 Pa. Code § 270a.83(c) requires the applicant to submit a summary of the meeting, a list of attendees and copies of any written comments

or materials presented at the meeting to the department as part of their Part B application. 25 Pa. Code § 270a.83(d) requires the applicant to provide at least a 30 day notice of the meeting. Acceptable public notice includes newspaper advertisements, visible and accessible signs, and broadcast media announcements. The department and local units of government, including a contact person for the applicant, should also attend. 25 Pa. Code § 270a.84(b) requires the department to assess the need for the applicant to establish and maintain an information repository. Section 270a.84(c) states that the repository is to contain all the reports, data and information deemed necessary by the department. Section 270a.(d) requires that the site for the repository is to be chosen by the applicant and, if deemed inappropriate, the department can specify a different site. Section 270a.(e) requires the facility to make the information repository known to the public, by written notice, to everyone on their mailing list, and any further means deemed necessary by the department. And Section 270a.(f) requires the facility to maintain and update the information repository as necessary.

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

40 CFR 270.42 (relating to permit modification at the request of the permittee) has been incorporated by reference at 25 Pa. Code § 270a.42. This section identifies the three classes of permit modifications; Class I, Class II and Class III. Appendix 1 to 40 CFR 270.42 (relating to classification of permit modifications) lists the modifications and their corresponding class. Pennsylvania regulations, which describe the classification of permit modifications and the procedures that are used for each type of modification, are the same as the federal modifications with the following exceptions:

- (a) Instead of complying with 40 CFR Part 124.10(c)(ix) (relating to public notice of permit actions and public comment period) the permittee shall send a notice to those persons in § 270a.80(d)(iv).
- (b) Instead of the appeal procedure in 40 CFR 245.19 (relating to appeal of RCRA, UIC, NPDES permits), the department's decision to grant or deny permit modifications may be appealed to the EHB under Section 4 of the Environmental Hearing Board Act (35 P.S. § 7514).
- (c) Applicants seeking Class 2 and 3 permit modifications shall comply with § 270a.83 (relating to preapplication public meeting and notice).
- (d) Pennsylvania regulations at 25 Pa. Code § 270a.3 list an application fee schedule that contains application fees for permit modifications.

Permit renewals are treated generally as new applications. However, certain regulatory requirements which apply to new facilities, such as Siting at 25 Pa. Code Chapter 269a, would not apply.

25 Pa. Code §§ 270a.41 and 270a.43 of the department's regulations regarding revocation and reissuance of permits and termination of permits, have been incorporated by reference from 40 CFR 270.41 and 270.43 (relating to modification or revocation and reissuance of permits and termination of permits). Therefore, state and federal requirements

are the same with the exception of 25 Pa Code § 270a.41, which contains provisions which replace the procedures required in 40 CFR Part 124.

With the department's implementation of the May 1, 1999 revisions to the hazardous waste regulations, Pennsylvania is now equivalent to the federal regulations regarding permit modification, termination or revocation and reissuance (25 Pa. Code § 270a.41). The department may modify, revoke and reissue, or terminate a permit either at the request of an interested person, including the permittee, or upon the department's initiative for reasons specified in 40 CFR 270.41-270.43 (relating to modification or revocation and reissuance of permits; permit modification at the request of the permittee; and modification or revocation and reissuance or permits, and termination of permits) or for a reason authorized under the act, the regulations or the terms and conditions of the permit. Requests must be in writing and contain facts and reasons supporting the request. If the department decides the request is not justified, a brief written response giving a reason for the decision is sent to the requester. The department's refusal to modify, or revoke and reissue a permit under a request is not subject to public notice, comment or hearings.

If the department tentatively decides to modify, terminate or revoke and reissue a permit, in accordance with the incorporated provisions of 40 CFR 270.41, 270.42(c) or 270.43, the department prepares a draft permit under 270a.10(c) (7-10) (relating to general application requirements) incorporating the proposed changes. The department may request additional information from the permittee and may require the permittee to submit an updated permit application. In the case of revoked and reissued permits, the department requires the submission of a new application. The permittee must submit additional information or an updated or new application under a request by the department within the time specified by the department.

In a permit modification, only those conditions to be modified are reopened when a new draft permit is prepared. Other aspects of the existing permit remain in effect for the duration of the permit. When the permit is revoked and reissued, the entire permit is reopened just as if the permit expired and is reissued. During a revocation and reissuance proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is issued.

If the department tentatively decides to terminate a permit in accordance with the incorporated provisions of 40 CFR 270.43, a notice of intent to terminate is issued. A notice of intent to terminate is a type of draft permit which follows the same procedures as a draft permit prepared under 270a.10(c)(7-10).

Class 1 modifications, as listed in the Appendix I to 40 CFR 270.42, are not subject to the requirements established under 25 Pa. Code § 270a.10(c) (7-10). Instead of complying with 40 CFR Part 124.10(c)(ix) (relating to public notice of permit actions and public comment period) the permittee shall send a notice to those persons in 25 Pa. Code § 270a.80(d)(iv). Instead of the appeal procedure in 40 CFR 245.19, the department's decision to grant or deny permit modifications may be appealed to the Environmental Hearing Board under Section 4 of the Environmental Hearing Board Act.

Applicants seeking Class 2 and 3 permit modifications shall comply with 25 Pa. Code § 270a.83 (relating to preapplication public meeting and notice).

It is important to note that the continuation of existing permits, contained in 40 CFR 270.51 (relating to the continuance of expiring permits) is not incorporated by reference within Pennsylvania's hazardous waste regulations. In the event that a hazardous waste permit expires before the department has had the opportunity to renew the permit (through no fault of the permittee), the department may initiate one of two actions. The department may either use enforcement discretion to allow continued operation, or, if necessary, sign a protective Consent Order with the permittee allowing continued operation under the substantive terms of the expired permit.

10. Interaction of permitting and enforcement personnel

The organization of DEP and particularly the Bureau of Land Recycling and Waste Management is such that free and open communication is encouraged and promoted on an ongoing basis. In the Regional Offices, the Regional Manager holds weekly staff meetings with the permitting and enforcement managers, who in turn, meet with or pass on the information to their respective staffs. The Regional Managers are required to have quarterly staff meetings with all permitting and enforcement staff. In the Central Office, the Division of Hazardous Waste Management holds weekly staff meetings with the entire staff, including permitting and enforcement staff. The Facilities Managers (permitting) and the Operations Managers (enforcement) meet with Central Office quarterly with a portion of the meetings being jointly held so that common problems with permitted facilities, generators, etc. can be discussed. The Bureau also held a conference of all staff (EDCON) in 1998.

During the permit review process, the enforcement staff is involved in every step of the process (i.e. the technical review, draft permit, public meetings and public hearings). Copies of the permit and permit conditions are available to the enforcement staff. The enforcement staff normally reviews the permit and/or takes a copy with them on facility inspections.

11. Routine review of facility operation

See Section V, Item H.

12. Reports and Information

(a) Reports and information required by EPA from the Commonwealth

The regional facilities staff completes a RCRIS form for every type of permit action. These forms are submitted directly from the Regional Offices to EPA Region 3 for input into the RCRIS system (Pennsylvania has not assumed direct implementers status). The Central Office permitting staff helps prepare and negotiate the yearly RCRA grant with EPA Region 3. This staff prepares a permitting report for EPA that is due at the mid-year and end-of-year as required by the RCRA grant.

(b) Reports and information required by the Commonwealth

The owner or operator of a site is required to do self-monitoring and record keeping for all permitted treatment, storage or disposal facilities. These records must be made available to the department upon request. The information required includes:

- (1) Description and quantity of each hazardous waste received and methods and dates of treatment, storage or disposal;
- (2) The location and quantity of each hazardous waste within the facility;
- (3) The results of waste analysis and trial tests required by the regulations;
- (4) Summary reports and details of all incidents that required the implementing of the facility's contingency plan;
- (5) Records and results of inspections as required by 25 Pa. Code § 264a.15 of the department's regulations.
- (6) Generator authorization notices for each waste received;
- (7) Current closure cost estimates;
- (8) Monitoring and testing data.
- (9) In addition to the operational record, facilities must submit quarterly facility reports to the department. The quarterly reports contain specific information on all waste treated, stored or disposed at the facility during the previous quarter.
- (10) Certain treatment or disposal facilities are required to sample and monitor the surrounding ground and surface waters according to the approved permit plan. The water monitoring requirements are specific to individual permits and are contained in the approved permit plan. If the sampling analysis indicates a significant change in water quality, the operator is required to implement an approved compliance monitoring program to assess the reasons for the water quality degradation and begin an approved corrective action program.

13. Other types of permits

Pennsylvania has incorporated by reference, Subpart X-Miscellaneous Units, found at 40 CFR 264.600-603. The Bureau of Land Recycling and Waste Management has developed considerable permitting expertise since 1986 when the Commonwealth first became an authorized program. On the facilities (permitting) side of the staff, DEP have technical staff such as engineers, hydrogeologists, soil scientists, chemists and program specialists. This mix of technical staff is also present in every DEP Regional Office. In addition, the Bureau and Regional Offices can and do call on help from the Department's Air Quality engineers when reviewing equipment requiring air pollution devices, and the Department's Water Quality engineers, for such things as NPDES discharge requirements, etc. Waste Management staff also rely heavily on EPA for technical resources in multi-pathway risk assessments, land disposal restrictions, delisting applications, etc.

The department, while largely adopting the federal requirements by reference, has retained some special provisions for other special forms of permits. These provisions are contained in Subchapter F of the hazardous waste regulations, 25 Pa. Code §§ 270a.60 (relating to permits by rule), 270a.62 (relating to hazardous waste incinerator permits),

270a.64. (relating to interim permits for UIC wells) and 270a.66 (relating to permits for boilers and industrial furnaces burning hazardous waste).

- (a) **Permits by rule:** A number of additional requirements have been substituted for the introductory paragraph in 40 CFR 270.60. These requirements are specified in the regulations in 25 Pa. Code § 270a.60(a)-(c).
- (b) **Hazardous waste incinerator permits:** The requirements have been adopted by reference from the federal regulations except for a change in the notification requirements. Instead of the notification requirement at 40 CFR 124.10 (relating to public notice of permit actions and public comment period), the department sends notice to those listed in 25 Pa. Code § 270a.80(d)-(f).
- (c) **Permits for boilers and industrial furnaces burning hazardous waste:** The requirements have been adopted by reference from the federal regulations, except for a change in the notification requirements. Instead of the notification requirement at 40 CFR 124.10 (relating to public notice of permit actions and public comment period), the department sends notice to those listed in 25 Pa. Code § 270a.80(d)-(f).
- (d) **Permits for treatment prior to reclamation:** The federal provisions regarding recycling exemptions (40 CFR 261.6(c)) have not been incorporated by reference. The department regulates more extensively than the federal government certain hazardous waste activities that occur prior to the actual reclamation or recycling process. The requirements for these permits are contained at 25 Pa. Code §§ 261a.6, 266a.7, 266a.80 and 270a.60.

14. Joint permitting

The only joint permitting (worksharing) required between the Department and EPA after this program authorization will be in the corrective action program. The corrective action orders will continue to be written by EPA Region 3. DEP will assist EPA Region 3 through a worksharing program on selected facilities.

For the past several years, DEP has assisted EPA Region 3 via a worksharing arrangement negotiated through the RCRA grant process. This work has included assisting the Army Corps of Engineers, which has been working in the capacity of assisting EPA in supporting DEP program understanding and technical development in corrective action, with site assessments of high risk facilities. It has also included everything from routine CME's to such diverse activities as the oversight of slurry-wall construction. This worksharing in corrective action has increased each year until it now comprises a large part of the RCRA permitting workyear's commitment in the Commonwealth's RCRA grant.

In addition to the corrective action worksharing component of the RCRA grant, DEP has also volunteered to be the lead review agency for EPA's combustion strategy. This work includes review of applications from those applicants seeking incinerator permits (and renewals) and BIF applications seeking to burn hazardous waste in boilers and industrial

furnaces, which includes the review of risk assessments and multipathway risk assessments (R.A.). On the multi-pathway risk assessments, we have relied on technical assistance from EPA Region 3. The DEP staff responsible for this work is in the department's Bureau of Air Quality. This is another form of worksharing that DEP has assumed for the past several years and intends to continue.

G. Interim Facility Status

Procedures for granting interim status to qualifying hazardous waste facilities can be found in 25 Pa. Code Chapter 270a: Subchapter G (relating to interim status) and in the incorporated federal regulations found at 40 CFR Part 270 Subpart G. For the most part Pennsylvania's interim status requirements parallel the federal requirements.

Qualification requirements for Interim Status can be found in 40 CFR 270.70. For those hazardous waste management facilities in existence on the effective date of statutory or regulatory amendments under the Act that rendered the facility subject to the requirement to have a RCRA permit to operate, were granted interim status and are operating under interim standards until a permit can be issued.

In order to obtain interim status, a facility must comply with Section 3010 of RCRA, which pertains to the Notification of Hazardous Waste Activity; and also with the requirements of 40 CFR 270.10, governing the submission of a Part A application, which contains information about the facility regarding, location, size, types of wastes accepted, and types of activities conducted at the facility.

Once granted interim status, the facility may not treat, store or dispose of hazardous waste that is not specified in their Part A application. In addition, the facility may not employ any process not identified in the Part A, or exceed the design capacities of the units specified in the Part A. During interim status, owners and operators of these facilities must comply with the standards found in 25 Pa. Code Chapter 265a. and 40 CFR Part 265.

During interim status a facility may revise the Part A application to add additional waste streams, increase capacity, or change the type of processing activities conducted at the facility, only with Departmental approval. Interim status will terminate when final administrative disposition of an application is made or when the owner or operator fails to comply with 40 CFR 270.10 (e)(5), which requires an applicant to submit a Part B application by a certain date.

Detailed specifics governing the termination of Interim Status can be found at 40 CFR 270.73.

H. Biennial Reports

The Bureau mailed approximately 1,200, 1999 Biennial Report booklets, in the first quarter of 1999. The list of recipients was determined by using the list of companies that reported in 1997 and removing those that indicated that their report was the result of a one-time activity, and those that have closed. By analyzing the department's PWIMS data, DEP

staff will be able to identify and add to the list those companies generating waste in reportable quantities under the biennial report system.

DEP has contracted to host a server at a remote location to receive electronic submittals via a smart form over the Internet. The department will have a hyperlink from the department's web site to the contractor and potential submitters of the Biennial Report will obtain this information in the Biennial Report booklet. Sites will then have the ability to enter their data online or download the software and complete the report offline. They will also have the option of importing data from a database they already have into the system. Hard copy reports will be entered into the system by data entry staff as in previous years.

Quality assurance of the data, and responding to questions and follow-up with non-responders generally takes place the year after the department receives the reports.

I. Enforcement-General Inspections

DEP is the authorized agency for enforcement of the Resource Conservation and Recovery Act (RCRA) in Pennsylvania. Under this authorization, the department must maintain a program at least as stringent as that maintained by EPA in other states. The department must therefore inspect treatment, storage or disposal facilities on a frequency mandated by EPA.

The department is required to conduct a Comprehensive Evaluation Inspection (CEI) of 50 percent of all permitted treatment or storage facilities and at all land disposal facilities annually. A CEI inspection is a routine inspection of hazardous waste facilities to evaluate compliance with the requirements of RCRA. CEI's encompass a file review prior to the site visit that includes an on-site examination of generation, treatment, storage or disposal areas and a review of records. The department generally conducts more than one CEI inspection at active treatment, storage or disposal facilities every year.

The routine review of closure cost estimates, the verification of financial assurance mechanisms and the review of annual facility reports of hazardous activities are also conducted during these inspections. In addition, the Division of Certification, Licensing and Bonding in the Management and Technical Services Deputate is responsible for the maintenance of bonds and other financial assurances.

In addition to CEI inspections, the department also is required to conduct a Comprehensive Groundwater Monitoring Evaluation (CME) at one-third of all treatment, storage or disposal facilities every year. CME's are sampling inspections that are conducted to ensure groundwater monitoring systems are designed and function properly at RCRA facilities.

If as a result of inspections conducted by the department, the permittee is found in violation of environmental statutes or regulations, the department may take any of the following actions to bring about correction of the violation:

- **Verbal Notice** - The inspector informs the operator of the violation during the inspection and the violation is corrected. This may be the only action taken for minor violations.
- **Inspection Report Notice** - The operator is informed of the violation verbally, and the violation is subsequently noted on an inspection report. For violations of a minor nature, this again may be the only action taken.
- **Notice of Violation** - This is a formal written notice of violations found during the inspection. This will generally follow verbal notice and inspection report notice for the violations. The Notice of Violation will be in letterform and mailed to the facility. The notice will generally indicate the violations found, the citation of the regulation or statute violated and a recommended method and timeframe for correction. A formal Notice of Violation is generally issued for violations that are more severe in nature and pose a threat to human health or the environment.
- **Escalated Enforcement Actions** - Legal actions initiated by the department that require an action be taken by the operator of the facility (i.e. Order, Adjudication, Consent Decree, etc.). The operator may be directed to correct a violation, institute corrective action for a problem, etc. An escalated enforcement action may or may not include civil penalty provisions. A Notice of Violation or another form of notice generally precedes escalated actions.

J. Groundwater Monitoring Inspections

Pennsylvania performs Comprehensive Ground Water Monitoring Evaluation inspections (CME) at RCRA Land Disposal Facilities. There are 60 facilities that are inspected as part of this program. A facility receives a CME inspection once every three years.

These facilities had at one time handled and disposed of hazardous wastes in a surface impoundment, landfill or other treatment units. At the present time these units are closed and the facilities no longer dispose of hazardous wastes. The CME inspections are conducted to evaluate the adequacy of ground water monitoring systems and the condition of ground water at those sites. Approximately one-third of these Land Disposal Facilities are inspected each year by the DEP Regional Offices.

K. Waste Minimization/Pollution Prevention Program

DEP's Bureau of Land Recycling and Waste Management provides focused support to industry and staff for Hazardous Waste Minimization, and the Office of Pollution Prevention and Compliance Assistance provides broader multi-media pollution prevention support. The Hazardous Waste Program negotiates specific activities for each year with EPA Region 3 during the RCRA grant negotiations.

1. EPA's Waste Minimization Goals

The department works cooperatively with EPA Region 3 to implement waste minimization strategies designed to achieve reduction of the generation of the most persistent, bioaccumulative and toxic (PBT) chemicals in hazardous waste streams, as well as hazardous wastes in general. DEP provide information via the RCRIS and Biennial Report System for the purposes of establishing baseline information from which to measure accomplishments in this area. DEP also makes available to EPA Region 3, its analysis of hazardous waste generation data, which provides information on waste minimization efforts already undertaken by the regulated community.

2. The following specific activities are considered for incorporation into ongoing waste minimization activities:

- Staff training and development, particularly technical training in industrial activities that are contributing hazardous wastes identified on the PBT Chemical List;
- Targeting for outreach and assistance of waste minimization opportunities to those facilities which are contributing the highest quantities of the wastes identified on the PBT Chemical List;
- Participation in the EPA Region 3 Waste Minimization Implementation Team (WMIT), including conference calls, meetings, and reporting of state activities. DEP also supports EPA Region 3 efforts in identifying measurement tools, conducting a recognition program, developing a PBT Chemical List, documenting waste minimization activity, assisting with Waste Minimization assessments, and supporting conferences and other EPA Region 3 generator outreach activities;
- Providing outreach and assistance to industry on waste minimization opportunities related to industrial processes and industry sectors which are contributing wastes identified on the PBT Chemical List; and
- Investigating further opportunities for regulatory integration, as well as furthering waste minimization opportunity information provided by DEP's compliance and permitting staff to generators during routine inspection and permitting activities.

Hazardous Waste Minimization contacts have been established in each of the Regional Offices to coordinate efforts associated with The Waste Minimization National Plan between the regulated community, the regions and Central Office.

3. DEP's Waste Management Hierarchy

The DEP supports EPA's emphasis on source reduction (reducing waste at its source, before it is even generated) and environmentally sound recycling, over waste treatment and

disposal. Use of the source reduction or recycling approach results in the prevention of pollution, the conservation of natural resources, and a reduction in the amount of waste being landfilled which thereby saves disposal capacity. The benefits to industry include reduced costs, reduced impacts of RCRA requirements, better community relations, the exhibition of environmental leadership, and improvement in human health and the environment. While encouraging source reduction and recycling, DEP aims to prevent transfers of chemical releases from one medium (air, water, or land) to another.

Use of the waste minimization hierarchy provides a framework for the development of policies and regulations within the waste programs. For example, fees are structured in such a way as to give economic incentives to reducing wastes. Similarly, the Hazardous Waste Facilities Plan plans future capacity based on preferred methods of management.

4. Small Business Pollution Prevention Program

In December 1996, the Small Business Pollution Prevention program was created under the authority of Act 190. This new program includes the following elements:

- Adopting the goal of achieving zero discharge of pollutants into the air, water and land as the official policy of the Commonwealth;
- Authorizing DEP to provide small businesses, with 100 employees or less, with technical assistance and education programs on pollution prevention either directly or through independent third parties;
- Authorizing DEP to provide funds to counties to operate pollution prevention and waste reduction programs for local businesses;
- Expanding the existing household hazardous waste collection programs to also include small quantity generators of hazardous waste, to provide a less expensive method of disposing of hazardous waste for small businesses;
- Authorizing DEP, through the normal budget process, to request up to \$2 million a year from the Recycling Fund and Hazardous Sites Cleanup Fund to support the Small Business Pollution Prevention Program.

5. Source Reduction Strategy Requirements (Appendix O)

After January 17, 1994, DEP's hazardous waste regulations required generators of more than 1,000 kilograms of hazardous waste in any given month to prepare a source reduction strategy. The strategy is a written summary of how the generator proposes to reduce waste generation based on the results of internal studies and evaluation of waste sources, equipment, costs and available technologies. For each type of waste generated, the strategy describes source reduction activities during the past five years unless DEP establishes, in writing, a different period for the individual generator.

6. Pollution Prevention/Energy Efficiency Site Visits

This non-regulatory program offered by DEP's Office of Pollution Prevention and Compliance Assistance combines the common-sense benefits of pollution prevention and energy efficiency. The program is being carried out at the regional level through utilization of the regional waste, water and air specialists. Visits are conducted at small- and medium-sized businesses and industries, which are furnished with information tailored to assist them in preventing pollution, saving energy and reducing costs.

L. Availability of Information Procedures

The state is not seeking authorization for this program element at this time. See the justification presented in Section II A.2.(b)

40 CFR 260.2 (relating to availability of information) was not incorporated by reference into the department's regulations. The department utilizes its own policy and procedure for the public review of files and information relating to RCRA facilities. Each Regional Office maintains the permanent files for each facility for which RCRA information is maintained.

Although 40 CFR 270.12 (relating to confidentiality of information) has also not been incorporated by reference into the department's regulations, 25 Pa. Code § 270a.12 contains the department's requirements of asserting claims of confidentiality. Although the department makes confidential information available to any state or federal agency for the purpose of administration of any state or federal law, information designated as confidential is not made available to the public, and is maintained in a separately designated file from the general facility information.

M. Appeal Procedures

Any action of the department, including permit decisions, is subject to an appeal process that has been established by which any person aggrieved by the department's actions, such as a decision on a permit application, may appeal that action. The appeal process is conducted pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 Pa. C.S. Chapter 5A. Standard language relating to appeals is included in all written correspondence relative to any department action. The appeal language states that "(a)ny person aggrieved by an action of the department may appeal to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of the department's action unless the appropriate statute provides a different time period."

SECTION VI. COMPLIANCE AND ENFORCEMENT PROGRAM

A. Identification of Members of the Regulated Community

1. Revisions that have the potential to significantly increase the size of the RCRA universe.

Authorization for these additional hazardous waste program elements is not expected to add any new members to the regulated community. Department inspectors already inspect all segments of the regulated community. Some of the classifications for the facilities may change, but the actual number of facilities will not increase.

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

Pennsylvania will continue to rely on monthly updates from EPA's database (RCRIS or RCRAInfo) as the major source for identification of new members of the regulated community. These come from the notifications to EPA as newly regulated entities. Additional entities may be added as a result of complaint investigations or notice as a result of inspections or investigations.

B. Inspection and Analysis Workload

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

No additional types of inspections are expected to be required of staff as a result of additional authorization. Pennsylvania inspectors already conduct CEI Inspections, Sampling Inspections, Record Reviews, CMEs, follow-up inspections and other evaluations (for those inspections that do not fit the previous categories).

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

Pennsylvania has its own Bureau of Laboratories. Department inspectors send samples to the laboratory for analysis, and the Bureau of Laboratories bills the RCRA program for the time and analyses used. The Bureau of Laboratories has the capability to perform waste, water and air analysis. In short Pennsylvania is able to perform all regular analyses required by department personnel for meeting RCRA requirements.

If the state laboratory is not able to perform the required analyses, the department will contract with certified independent laboratories to perform necessary analyses. Pennsylvania has used EPA contract laboratories in the past, and will continue to rely on these laboratories if necessary for special sample types or emergency situations.

3. Impact of compliance monitoring on existing program

There will be no new compliance monitoring initiatives as a result of authorization for the new programs. Pennsylvania inspectors will not be doing any type of inspection that they

are not now doing. There will not be a decrease in the compliance monitoring of the existing program because of the additional activities. The compliance monitoring workload will remain the same. The existing inspection efforts already include all phases of the program for which authorization is being sought. These inspections have been done to monitor the federal requirements as grant workshare activities since soon after their effective date at the federal level.

Pennsylvania's inspection priorities are determined through annual negotiation with EPA Region 3. The priorities for fiscal year 2000 include:

- All federal facilities;
- All land disposal facilities which were not inspected in fiscal year 1999;
- All treatment/storage facilities which were not inspected in fiscal year 1999;
- 20% of all large quantity generators;
- Transportation facilities, which include 15 stand alone transporters;
- Five incinerators and five BIFs (which include small quantity burners).

In addition to the media specific priorities, for FFY 2000 Pennsylvania is committed to doing 20 per cent of its inspections as geographical, community and sector based inspections. These categories include:

- Chesapeake Bay – any handler in the Susquehanna or Potomac River watersheds;
- Great Lakes – any handler in the Lake Erie watershed;
- Petroleum refining industries in the Meadville and Conshohocken Regions;
- Auto repair and auto body repair shops;
- Primary nonferrous metal industries;
- Metal finishers (in support of the Common Sense Initiative and the Waste Minimization National Plan).

No changes in the inspection priorities are anticipated as a result of authorization. Future years' priorities may be changed through the RCRA Grant negotiations with EPA Region 3 and new initiatives in industrial or geographic sectors.

C. Data Management

The program revisions will not impact data management. Pennsylvania is currently developing a new oracle-based database, Foundation for Information Exchange (FIX), which will be used for data management for the RCRA program, as well as all other DEP program areas. This system will be used to supply data to the federal database system (RCRIS/RCRAInfo). Inspection information is currently sent to EPA for entry into RCRIS. The department's FIX database will have inspection and enforcement data entered by department staff, and Pennsylvania will supply the data to update RCRIS. Other than RCRIS/RCRAInfo, FIX will be the only data management system used by Pennsylvania.

Pennsylvania's manifest tracking will not be impacted as a result of this authorization.

D. Compliance Monitoring Resources

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

(a) Increased Technical Expertise

The department does not need any increase in staff technical proficiency since most of the elements of the program areas for which the state is seeking authorization have already been implemented in Pennsylvania. DEP inspectors have recently been trained in methods for inspecting Subparts AA, BB and CC. In addition all field staff have been trained in the nuances of how the department's regulations changed with the May 1, 1999 amendments. This training is ongoing in Pennsylvania. RCRA specific training courses are also made available to field staff throughout the year. One source of such courses is the Northeast Environmental Enforcement Project (NEEP). Additional hazardous waste courses offered through the department are listed in Appendix P.

In addition to training programs for current staff, DEP also has the option to obtain contractor assistance, if necessary, for aspects of the program that staff are not equipped to implement. At this time, the need for contractor assistance is not anticipated.

(b) Additional laboratory support

A major increase in the need for laboratory support is not anticipated. The department's Bureau of Laboratories is equipped to perform all necessary testing required by the RCRA program staff. The laboratory is operated similar to a private enterprise, in that the laboratory has the ability to bill the appropriate department program (i.e. RCRA) for those analyses performed as part of the program monitoring. If, necessary, the department also has the ability to obtain contractor services for any laboratory work.

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

Authorization of these additional authorities will not result in any new program areas. State inspectors already inspect or assist through work sharing with EPA Region 3, with all program areas. Pennsylvania has sufficient resources to implement all phases of the new program areas.

(a) Plans for training staff

All department RCRA staff have already been trained in the recently enacted regulations. Central office staffs have provided basic introductory training to staff in the Regional Offices. The training included oral and visual presentations along with guidance binders for staff. The department will continue to train inspection and

permitting staff at least annually on regulatory amendments or new programs that have been incorporated into the existing program. For example, universal waste training has been provided to Regional Office staff based on recent regulatory changes.

The EPA Region 3 has provided training of all department field staff in Parts AA, BB and CC. Field staff continually take advantage of training provided by EPA. The Northeast Environmental Enforcement Project (NEEP) which Pennsylvania supports, is also a good source for on-going training for inspection and permitting staff.

The department also has ongoing training. For example, there is an annual Inspector Academy

(b) Plans for hiring additional staff

Pennsylvania has no specific plans for hiring additional staff at this time to implement the program. No new program areas will result from the authorization, and therefore no new staff will be required.

(c) Agreements with other State agencies

Section III describes the other programs/agencies that DEP will utilize to assist with administering the hazardous waste program in Pennsylvania. Formal agreements with these other programs are not necessary in order to accomplish a cooperative working arrangement.

(d) State plans for contractor assistance

Pennsylvania has obtained a contractor to develop compliance assistance manuals and fact sheets about specific areas of the new regulations. Also, contractor assistance is presently required for translation of data standards between the RCRIS and FIX databases, and the use of a contract laboratory in the future is also a possibility.

E. Enforcement Process

1. Enforcement procedures

Violations come to the attention of Bureau staff through inspections, citizens' complaints, permit applications, plan and record reviews, sampling inspections, and investigations. The most frequent pathway of detecting violations at a hazardous waste management facility is through field inspection/sampling and inspections/record reviews of manifests, reports or analyzed data, all of which are a routine part of DEP's regulatory oversight of industry. The violations are detected when the inspector (solid waste specialist or technical staff) evaluates the facility or its operation against the applicable statutes, standards, regulations, permits or orders. Deviation from the statutes, standards, regulations, permits or orders is by definition a violation. The owner/operator is verbally notified of observed violations by the field inspector or technical staff (i.e., hydrogeologist) person at the

time of the site visit. These violations are also noted on the specified department inspection report. A copy of the field inspection report is given to the owner/operator at the time of inspection (or mailed certified if he is not present). The inspector and Regional Office maintain additional copies of this report. Case files are maintained on all permitted and interim status facilities, generators, and non-routine cases such as noted above. Citizen complainants are made aware of the results of our investigations and importantly their identity is held confidential.

It is normally the field inspector or technical staff person who makes the initial determination of a violation by determining that the facility/operation is deviating from the statute, regulation or permit conditions. This violation determination is overseen by the field supervisor, and many unique questions regarding violations are referred to the Regional Solid Waste Manager and/or Central Office Bureau of Land Recycling and Waste Management. Any violation detected by a Regional Facility Section is referred for enforcement or remedial action.

Violations are discussed with the inspector, the field supervisor and the compliance specialist. It is at this time that use of an escalated enforcement action is decided. The compliance specialist will issue a consent assessment of civil penalty or other such assessment to penalize the violator and enhance compliance. These documents are issued in conjunction with department attorneys as will be discussed later in this document.

Litigation is utilized in the enforcement process after an initial attempt by the department's technical staff has been unsuccessful in achieving compliance or a legally enforceable schedule for compliance (Administrative Consent Order and Agreement). Under Pennsylvania law, Administrative Orders issued pursuant to the Solid Waste Management Act, the Clean Streams Law and the Administrative Code constitute final appealable actions of the department which gives right to an appeal and can be independently enforced by the department in a civil proceeding in State court.

The Regional Office makes the request for legal action to the Office of Chief Counsel. These requests are made through the "Request for Legal Action" form. A copy of the form is found in Appendix Q. The case is then assigned to an attorney who consults with regional solid waste staff. The actual decision as to the nature of the litigation is made jointly by the litigation attorney and the program staff. It is based upon the seriousness of the violation, the likelihood of success in the particular forum, complexity of the factual and legal issues and the likely speed of a result. Often an Administrative Order is issued followed by a civil action to enforce the Order in order to simplify the issues into one forum while retaining the complex factual issues before the Environmental Hearing Board.

The action is initiated in accordance with the Enforcement Response Timeline in Appendix R of this document.

The department's attorneys are organized within the Office of Chief Counsel, an office independent of the Office of Attorney General as established by the Commonwealth Attorney General's Act (Act 164 of 1980) 71 P.S. Sections 732-101 et seq. The Office of Attorney General has delegated to the Office of General Counsel (and therefore to the

department's Chief Counsel) authority to institute certain civil cases, including all state court equity actions. The Commonwealth Attorneys' Act provides that, even without delegation, the department's attorneys have responsibility for handling initial appeals brought by a regulated entity or a citizen to the Environmental Hearing Board (EHB). The EHB is an independent, quasi-judicial body consisting of up to five positions, as Members/Administrative Law Judges who adjudicate appeals of all department actions and hears civil penalty cases. Department attorneys have also been delegated the authority to represent the department in any appeal of any adjudication of the EHB that is brought in Commonwealth Court.

In addition to civil actions, the Solid Waste Management Act provides for criminal penalties, including summary criminal citations and misdemeanors and felonies. Summary criminal proceedings are brought in certain cases after an attorney for the department has reviewed the form of the citation and the evidence supporting the charges.

Misdemeanor and felony actions are brought, for the most part, by the Attorney General's Environmental Crimes Section. The members of the Office of Attorney General staff usually bring prosecution. Specific delegation to a department attorney is needed for a misdemeanor or felony case.

Civil Penalty Assessments are initially instituted as department actions subject to appeal by the regulated entity to the EHB. Failure to appeal within thirty days after receipt of notice of the action renders the action final and enforceable. (The Civil Penalty Assessment Process is found in Appendix S.)

Administrative actions that are instituted by the department, such as administrative orders, are also immediately enforceable subject to the right of an affected party to apply to the EHB for a supersedeas (to stay the effect of the Order pending appeal).

Appeals of Administrative actions to the EHB may take up to 1-1.5 years from the date of filing of an appeal to the adjudication by the Board. However, this does not relieve the party from complying with the Order pending the litigation unless a supersedeas is obtained. During the course of an administrative appeal, pre-hearing discovery is often conducted, pre-hearing memoranda are filed and argued, hearings are held, transcripts are then filed followed by briefs and finally the adjudication by the EHB occurs. Failure to initially file a timely appeal of a department action precludes an appeal.

The department may employ a number of enforcement tools to insure that a defendant complies with an administrative order during the time that it may be under appeal (provided that a Supersedeas has not been granted). In these cases, the department has available all administrative measures provided for by law, including summary actions, Civil Penalty assessments, administrative orders, complaints in equity, etc. The department may petition the court to enforce the terms of an Order. This results in a court order, which is enforceable by state or local authorities.

Court actions and their appeals can be either criminal or civil. Criminal actions are brought as follows: Charges are filed before a District Justice. A preliminary hearing is then

held within 3 to 10 days after the charges are filed, except for a corporation. The District Justice determines at the preliminary hearing whether probable cause exists to bind over the defendant over for court. If the District Justice determines probable cause exists, the case is transferred to the Court of Common Pleas where the case is assigned a number. The Commonwealth attorney then files an Information with the Court concerning the charges. The judge will hold an arraignment where the defendant is advised of their rights, a plea is taken and a trial date set. The Defendant can waive the arraignment and the parties can proceed directly to trial, pleas or sentencing. A trial is held and after verdict but prior to sentencing, post-trial motions may be filed. After sentencing, appeals may be filed. The Commonwealth is required, unless waived by the Defendant, to bring the matter to trial within 180 days of the filing of charges.

Pennsylvania also has the Investigating Grand Jury Act, 42 Pa. C.S.A. Section 4541 et seq. which provides for the Attorney General to petition the Supreme Court to appoint a multi-county grand jury to investigate organized crime and public corruption. The Supreme Court may then convene the grand jury, and appoint a supervising judge. After the grand jury is convened, a grand jury notice is issued, which then would empower the grand jury to hold proceedings, hear evidence of specific cases, compel attendance of persons, and document the receipt of evidence through its power of subpoena. The Attorney General may also request immunity to testify. The Judge is empowered to punish the refusal to appear, the failure to produce documents and the failure to testify by finding a party in contempt. At the termination of an investigation, the Grand Jury may issue a presentment that amounts to a recommendation to the Attorney General to file charges. The presentment itself has no legal significance. Upon acceptance, charges are prepared and filed and the above procedure is followed. This investigative grand jury has been used by the Commonwealth's Environmental Crimes Section of the Attorney General's Office for investigation of cases and to bring charges.

Civil action can take the form of equity actions, where the department is seeking a preliminary or permanent injunction (Section 604 of Solid Waste Management Act), or seeking to find a party in contempt of an administrative order issued under the Act (Section 603). These actions can be brought in either the Court of Common Pleas of the county where the violation occurred or the Commonwealth Court. In most instances the action is brought in the Commonwealth Court which has statewide jurisdiction.

Hearings are often scheduled quickly on a motion for Preliminary Injunction or a petition for contempt. An equity action for a permanent injunction takes much longer to come to trial. Usually, the defendant has 20 days after receipt of service of Complaint to a file a response. A hearing is often scheduled rapidly in preliminary injunction matters. A defendant can file preliminary objections prior to proceeding on the merits of the department's action. Courts often dispose of the preliminary objections quickly for the purpose of hearing the preliminary injunction action. Otherwise a court en banc (panel of judges) hears the preliminary objections which cause further delays. After discovery, pre-trial motions and stipulations may be filed and a hearing will follow. It is often impossible to ascertain how long after the complaint is filed that a final court order will be forthcoming. The Court calendar is yet another constraint on the time frame for achieving a result.

Appeals may also complicate the process, especially if a stay is granted by an Appellate Court.

Litigation is often used as the first enforcement response where the merits of the case, the extent of the environmental or health hazard, and the nature of the violation necessitates that response.

While formal litigation reports are not prepared, the decisions with respect to litigation, as well as draft pleadings, are submitted to the Regional Solid Waste Manager and his technical staff, the attorney, Director of the Regional Office of Chief Counsel, the Litigation Coordinator and the chief Counsel for review. This report, when accompanied by a copy of a complaint does not require significant time to prepare and review. It identifies the factual situation, the possible effects of the problem, the need for action and the anticipation of the legal issues that may arise in the course of the litigation.

Attorney General involvement in enforcement actions varies due to the nature of the action. The Office of Attorney General Environmental Crimes Unit usually brings criminal actions, such as felonies and misdemeanors. The Attorney General Office also delegates to department attorneys on a case-by-case basis the right to represent the Commonwealth in criminal actions. The Office of Attorney General has also given the Office of General Counsel, and therefore the department's attorneys, a general delegation for Civil Actions and Bankruptcy Actions involving environmental problems. The department's attorneys from one of the six regional litigation offices bring all such actions.

The responsibilities of the legal staff include the litigation described above as well as counseling the department on various programs that the department regulates pursuant to various state statutes, including the Solid Waste Management Act. Attorneys in the Regulatory Counsel Bureau of the Office of Chief Counsel draft and review regulations and draft legal opinions for the program staff. Consultation with the department's legal staff is continuous both in the Central Office and in the Regional Offices.

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

Pennsylvania is not seeking authorization for the Corrective Action Program at this time. The department will continue to work with EPA in a worksharing format to assist EPA Region 3 in implementing this program in Pennsylvania.

3. Penalties and Violations

Pennsylvania will continue to employ the Compliance/Enforcement Penalty Matrix adopted for its base program authorization. A copy of the matrix is attached in Appendix S.

4. Formal enforcement actions

- (a) Target response times for formal enforcement:** The attached timeline (Appendix R) depicts the target response times for enforcement pursuant to

RCRA. The timeline establishes target response times for three types of formal enforcement: (1) final or consent orders; (2) unilateral orders; and (3) referrals to the Attorney General's Office. The timeline delineates separate response times for formal enforcement and the escalation to formal enforcement from informal enforcement.

- Final or consent orders are those documents for which no appeal remains before the Environmental Hearing Board (EHB). These orders represent the agreement of the parties involved or the decision of the EHB.
- Unilateral or initial orders are issued by DEP and assert DEP's position that violations have occurred. However, the respondent/defendant is afforded the opportunity to appeal DEP's determination of violations to the EHB.
- For the purpose of this document, a referral to the Attorney General's Office occurs when the matter is officially transmitted to those offices for action. The signature of the referral package by the Attorney General or designee initiates the referral.

(b) Exceedance of formal enforcement response time: The response times articulated in the document in Appendix R will be adhered to by DEP to the greatest extent possible. However, there are recognized circumstances that may dictate an exceedance of the standard response times. These circumstances include:

- Cases involving violations of two or more media; (e.g., environmental protection statutes)
- Cases involving more than one facility;
- Potential criminal conduct which is under investigation;
- National enforcement initiatives;
- Cases involving nationally significant issues;
- Novel legal issues or defenses;
- Site abandonment/bankruptcy;
- Additional sampling or information requests are required to confirm the violation(s);
- Need for outside technical experts.

There are certain instances when standard enforcement response timelines will or must be exceeded for various reasons. For example, the department might issue an enforcement document called a Consent Order and Agreement (CO&A). A CO&A might allow a handler to correct existing violations over a time period that extends beyond the scope of formal response timelines. In this type of document, an enforcement action will be taken, but the time for correction of the violations might well exceed a full calendar year. The CO&A mandates that certain corrections be made on a milestone schedule, to ensure that the handler is working toward correcting the violations. In addition to the protracted length of

time designated for the correction of the violations, the actual time spent on negotiating the CO&A might itself exceed the timelines in complicated cases.

The issuance of this type of document (which exceeds normal response timelines) does not occur very frequently within the Commonwealth. These exceptions account for much less than 20% of all of the enforcement actions issued by the department (generally less than 10%). The department's FIX database will be used to track these actions as all enforcement actions must be entered in the database. An exceedance can also be determined from monthly reports that can be generated by the FIX database.

(c) Priority enforcement action:

The DEP recognizes that circumstances may arise where the enforcement response times specified may be insufficient to prepare and initiate the appropriate enforcement response as set forth in this document. It is also recognized that instances may occur where immediate action is appropriate. The DEP will take priority enforcement action in the following situations:

- Where a release or other violation poses an immediate threat to human health or the environment.
- Where activities of the owner/operator must be stopped or redirected, such as cases in which DEP seeks to immediately halt improper construction or installation of a regulated unit.
- Where the threat of a dissipation of assets would undermine closure, post-closure, or corrective action activities.
- Where there is an imminent statute of limitations deadline or bankruptcy deadline.

5. Informal Enforcement Response Time

Once a determination is made to utilize an informal enforcement mechanism, a violator is given notice of its non-compliance and the inspector will establish a date by which all violations should be corrected. The objectives of an informal enforcement response are to compel the violator to cease its non-compliant activities and ensure that full physical compliance is achieved in the shortest possible time frame.

At the time a violator is formally notified of the violation determination it is given a compliance date by which the violator should correct all known violations. A correction period during which a violator should correct all known violations should not exceed 90 days. For a violator to be considered a candidate for informal enforcement, violations must be of a nature that will permit such a prompt return to compliance with all applicable rules and regulations. Violators addressed through an informal enforcement response will not have a history of recalcitrant or non-compliant conduct.

Violators that will require an extended compliance schedule in order to achieve full physical compliance are addressed through a formal enforcement response. The compliance date reflects the minimum period of time necessary for the violator to return to full physical

compliance. A violator that has corrected its violations on or before the assigned compliance date is officially deemed to have returned to compliance.

If a violator is unable to meet the assigned compliance deadline they must immediately notify DEP and provide documentation supporting the inability to correct violations by the prescribed compliance date. A decision to extend the compliance date will be made only when supported by sufficient documentation. Failure to achieve full physical compliance by the compliance date or a failure to notify DEP of the inability to correct violations will result in escalation to formal enforcement. The first day in exceedance of compliance date is to be considered the evaluation date for the purpose of escalating the action to a formal enforcement response. For liability and penalty assessment purposes, however, nothing in this document will preclude the assessment of penalties for any violations that occur during the correction period.

PA DEP has the primary responsibility for ensuring compliance with the RCRA program requirements in Pennsylvania. However, DEP recognizes that EPA retains the authority to take independent enforcement action in authorized states in accordance with Section 3008(a)(2) of RCRA. Pursuant to this Section, EPA may take direct action after notice to DEP.

DEP recognizes that EPA may generally take civil enforcement actions under the following circumstances:

- PA DEP requests that EPA pursue a federal action and provides justification based on unique, case specific information;
- PA DEP is not authorized to take action or its authority is limited;
- PA DEP fails to take timely and/or appropriate action;
- Cases involving issues that could establish a legal precedent or in which federal involvement is needed to ensure national consistency;
- Cases involving multi-state, multi-regional "national violators;"
- Cases involving interstate pollution problems associated with watersheds, air basins or other geographic units that cross state lines; or
- Cases brought to prevent non-complying companies from obtaining economic advantages over their competitors, thereby maintaining a "level playing field" for the regulated community.

The DEP recognizes that EPA may take civil enforcement actions under some specific circumstances, such as when DEP requests that EPA take the action. This will not affect DEP's ability to take additional enforcement actions. The DEP will always take the enforcement action that it deems appropriate for the situation involved. The EPA will only be asked to take an enforcement action when only federal regulation is violated, or when a particularly difficult case arises in an area where EPA has more expertise (AA, BB, LDR, etc.). DEP might also ask EPA to take an enforcement action on cases that would cross state borders, or have national implications. In all other instances, DEP will initiate the enforcement action.

6. Non-Compliance / Enforcement Response

Classifications of non-compliance: Violators are classified based on an analysis of the facility's overall compliance with RCRA, which includes prior recalcitrant behavior, or a history of non-compliance. Two categories of violators have been established: Significant Non-Compilers (SNC) and other Secondary Violators (SV).

- (a) **Significant Non-Compilers (SNCs)** are those facilities which have caused actual exposure or a substantial likelihood of exposure to hazardous waste or hazardous waste constituents; are chronic or recalcitrant violators; or deviate substantially from the terms of a permit, order, agreement or from RCRA statutory or regulatory requirements. The actual or substantial likelihood of exposure should be evaluated using facility specific environmental and exposure information whenever possible. This may include evaluating potential exposure pathways and the mobility and toxicity of the hazardous waste being managed. However, it should be noted that environmental impact alone is sufficient to cause a facility to be a SNC, particularly when the environmental media affected require special protection (e.g., wetlands or sources of underground drinking water). Facilities should be evaluated on a multi-media basis; however, a facility may be found to be a chronic or recalcitrant violator based solely on prior RCRA violations and behavior.
- (b) **Secondary Violators** are violators that do not meet the criteria listed above for SNCs. Secondary Violators (SV) are typically first time violators and/or violators which pose no actual threat or a low potential threat of exposure to hazardous waste or constituents. A facility classified as a SV should not have a history of recalcitrant or non-compliant conduct. Violations associated with a SV should be of a nature to permit prompt return to compliance with all applicable rules and regulations.

7. Definitions

- (a) **Enforceable** means the instrument creates an independent, affirmative obligation to comply and imposes sanctions for the prior failure to comply.
- (b) **Evaluation Date** is the first day of the inspection or record review during which a violation is identified, regardless of the duration of the inspection or the stage in the inspection at which the violation is identified.
- (c) **Formal Enforcement** is an action that mandates compliance and initiates a civil, criminal, or administrative process, which results in an enforceable agreement or order.
- (d) **Informal Enforcement** is an action, other than formal enforcement, that notifies the facility of its non-compliance and establishes a date by which that non-compliance is to be corrected.

- (e) Facilities will be deemed to have **returned to compliance** when they are in full physical compliance with regulatory and/or statutory requirements or when they are in full compliance with a compliance schedule established in a formal enforcement action (either an order or an agreement).
- (f) **Sanctions** include penalties as well as other tangible obligations, beyond returning to compliance, that are imposed upon the owner/operator.

8. Enforcement resources

Compliance and enforcement is an integral part of the department's organizational structure. In both the Central and Regional offices, there are specific Compliance and Monitoring Sections or groups of individuals whose duties include enforcement or compliance.

The Central Office, Bureau of Land Recycling and Waste Management has a Compliance Section which oversees, coordinates, and gives direction regarding RCRA commitments for the Hazardous Waste Enforcement/Compliance Program which is carried out through the six Regional Offices.

The Regional Offices are presently divided into two sections under the management of the Regional Solid Waste Manager. These are the Facilities Section and the Operations Section. The Operations Section is responsible for compliance and enforcement. Laterally attached to the Regional Manager is the Hazardous Waste Coordinator (all regions have a Hazardous Waste Coordinator). The Hazardous Waste Coordinator maintains records of all enforcement/compliance related matters within the region and may be involved to a limited extent with enforcement action or site compliance monitoring.

The Operations Section, through the duties of the Solid Waste Specialists (i.e. field inspectors), conducts the field evaluation inspections and sampling. Within the Operations Section, there is a Regional Operations Manager and subordinate Field Supervisors. The Supervisor oversees the day-to-day inspection/compliance/enforcement actions of their Solid Waste Specialist Staff. The Supervisor maintains a Violation Docket, which lists all facilities that are presently in non-compliance and the reason why. They also assure that the field staff carries out all RCRA grant commitments within the prescribed time frames. Most enforcement actions are initiated through the Operations Sections and are precipitated as the result of routine inspections, record or file reviews, sampling inspections, or compliance investigations. The Operations Supervisors are responsible for overseeing the initial development of all enforcement actions.

All enforcement actions escalated above Notices of Violation are handled in coordination with the Regional attorneys.

9. Enforcement agreements

The Hazardous Waste Compliance/Enforcement Strategy was developed to fulfill a grant commitment, and has been adopted as the Bureau's policy for compliance and enforcement. Under this enforcement strategy, formal enforcement actions including

Administrative Orders and judicial actions will be mandated for certain classes of violations at hazardous waste facilities on specific timetables. Civil penalty assessment is obligatory for the more egregious violations.

SECTION VII. ESTIMATED REGULATED ACTIVITIES (40 CFR 271.6(g))

Pennsylvania's hazardous waste program effectively controls the current generation, treatment and safe disposal of hazardous wastes through statutory and regulatory initiatives. Also, in order to assure that there are adequate ways to manage future hazardous wastes generated in Pennsylvania, Act 97 directs the department "to develop, prepare and modify the Pennsylvania Hazardous Waste Facilities Plan," and states that the Plan "...shall address the present and future needs for the treatment and disposal of hazardous waste in this Commonwealth." DEP completed the most recent update to the Pennsylvania Hazardous Waste Facilities Plan in July 1998. This plan used information for 1991, 1993 and 1995 which was taken from the U.S. EPA's Biennial Reporting System database. A copy of the Plan can be found in Appendix T.

The Facilities Plan shows that about 49.7 million tons of recurrent hazardous waste were generated in Pennsylvania in 1995. Almost 49.0 million tons were comprised of wastewater and about 751,000 tons were comprised of nonwastewater. Of the recurrent nonwastewater, about 55.0 percent were organic liquids, 18.1 percent inorganic solids, and 12.9 percent inorganic liquids. The major generators of the recurrent nonwastewater were: chemicals and allied products (SIC code 28), 48.0%; primary metal industries (SIC code 33), 30.5% and; electronic and other electrical equipment (SIC code 36), 10.5%.

Data from EPA's 1998 biennial report system (Table 3) indicates that the department regulated the following permitted facilities (in the case of transporters, licensed) in 1998:

Table 3

Boilers and Industrial Furnaces (BIF's)	4
Hazardous Waste Incinerators	4
Thermal Treatment Units subject to Subpart X	4
Land Disposal Units	53
Large Quantity Generators	1,625
Small Quantity Generators	12,382
Transporters	300
Treatment, Storage or Disposal Facilities	58
'Other' facilities	11,516

The practices used for managing the hazardous wastes produced by these facilities include: captive treatment; solvent recovery and commercial treatment. During 1995, about 53.0 million tons of hazardous waste was managed at captive facilities, where almost 52.5 million tons were comprised of wastewater and about 533,000 tons were nonwastewater.

Solvent recovery accounted for 64.9 percent of captive nonwastewater management. Another 8.4 percent was managed through energy recovery and 11.9 percent through other recovery.

About 548,000 tons of waste from generators in Pennsylvania was managed commercially. Of this waste, 23.9 percent was managed through aqueous treatment, 17.7 percent was managed through metals recovery, 16.5 percent through stabilization and 10.7 percent by aqueous organic treatment.

Generators in Pennsylvania sent about 293,000 tons of hazardous waste to out-of-state facilities. Out-of-state generators sent almost 359,000 tons to facilities in Pennsylvania.

Commercial facilities in Pennsylvania managed about 564,000 tons of hazardous waste. Metals recovery was the largest management category, accounting for over 243,000 tons of this waste.

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